

Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/67/369 para 74

Full recommendation:

The Special Rapporteur concludes that specific attention must be paid to legislation that serves to attenuate and abrogate rights guaranteed by the five international instruments to which the Islamic Republic of Iran is a party. Impunity must also be addressed in order to facilitate accountability, provide redress for human rights violations and strengthen the rule of law, all of which are required to effectively promote respect for human rights in the country.

Assessment using Impact Iran human rights indicators¹

A) The Special Rapporteur concludes that specific attention must be paid to legislation that serves to attenuate and abrogate rights guaranteed by the five international instruments to which the Islamic Republic of Iran is a party.

Article 4 of the Iranian Constitution states that “All civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the wise persons of the Guardian Council are judges in this matter.”² Article 20 of the Iranian Constitution states that “All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.”³

According to Article 4 of the Constitution, the Guardian Council of the Islamic Republic of Iran is entrusted with defining and determining the framework of what constitutes “Islamic criteria” or standards applicable to it. Among the 12 non-elected members of the Guardian Council, only the six male clerics, directly appointed by the Supreme Leader, are responsible for such task. While Article 4 and Article 20 of the Constitution supposedly safeguard the human rights of women and protect them from discrimination, such legal guarantees exist only when they are in conformity with “Islamic criteria.” The opportunity for interpretation allowed under the qualifications such as “in conformity with Islamic criteria” has often resulted in legislation that discriminates, or has a discriminatory impact on various grounds, attenuating rights that are otherwise guaranteed under the five international instruments to which the Islamic Republic of Iran is a party.

¹ ESCR.2.2.S.1; ESCR.3.S.1; CCPR.6.1.S.2; CCPR.6.5.S.1; CCPR.7.1.S.1; CRC.37.1.S.2
ESCR.2.2.P.2; CCPR.6.1.P.1; CCPR.7.1.P.1;
ESCR.2.2.O.2 ; CCPR.6.5.O.1

² Constitution of the Islamic Republic of Iran, English translation, <https://irandatportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³ Constitution of the Islamic Republic of Iran, English translation, <https://irandatportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

For example, the Iranian Islamic Penal Code (2013) is largely based on the Government's interpretation of Islamic *Sharia* precepts and contains provisions which directly discriminate between girls and boys under the criminal justice system. One of the most telling examples is the age of criminal responsibility, which is set at nine lunar years for girls (equivalent to eight years, nine months) and fifteen lunar years for boys (equivalent of fourteen years, seven months).⁴ Additionally, a large number of provisions under the Iranian Civil Code are discriminatory towards women. These provisions notably include the legal age of marriage,⁵ the share of inheritance,⁶ and the right to divorce.⁷ In marriage, the Civil Code provides rights to the husband over those of the wife,⁸ notably by establishing that the position of the 'head of the family' as the exclusive prerogative of the husband. Under Iranian law, the husband is entitled to control aspects of his wife's life⁹ and demand that she performs her 'duties'.¹⁰ These deeply entrenched structural discriminations in the Iranian legal system ultimately translate to widespread discrimination against women, in all aspects of their lives.¹¹

Similarly, the stipulation of "Islamic criteria" excludes lesbian, gay and bisexual individuals from the Constitution's legal safeguards because same sex relations are penalized under the Iranian Islamic Penal Code.¹² The Penal Code of the Islamic Republic of Iran explicitly forbids sexual relations between same-sex partners, whether such relations are consensual or coerced, and in some cases sentences such acts with the death penalty.¹³ There are no official, readily available statistics on the number of executions for same-sex relations.¹⁴ However, NGO reports have shown that it occurs and suggest the incidence rate is high.^{15 16 17 18 19}

⁴ Criminal responsibility, Articles 140, 146 and 147 of the Islamic Penal Code, 2013 <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

⁵ Article 1041, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁶ Articles 861 to 948, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁷ Article 1133, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁸ Articles 1102 to 1119, 1133 to 1142, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁹ For instance, under Article 1117 of the Civil Code of the Islamic Republic of Iran "The husband can prevent his wife from occupations or technical work which is incompatible with the family interests or the dignity of himself or his wife." <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

¹⁰ Article 1108, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

¹¹ See more: Minority Rights, https://minorityrights.org/wp-content/uploads/2019/09/MRG_CFR_Iran_EN_Sept191.pdf

¹² Iran Human Rights Documentation Center, <https://iranhrdc.org/denied-identity-human-rights-abuses-against-irans-lgbt-community/#2>

¹³ Articles 233 to 237, Islamic Penal Code 2013, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹⁴ Small Media, 2018, https://smallmedia.org.uk/media/projects/files/BreakingTheSilence_2018.pdf

¹⁵ Amnesty International, 2017, <https://www.amnesty.org/en/latest/news/2016/08/iran-hanging-of-teenager-shows-brazen-disregard-for-international-law/>

¹⁶ Amnesty International, 2018, <https://www.amnesty.org.uk/urgent-alireza-arrested-15-tortured-confession-be-executed-tomorrow>

¹⁷ Iran Human Rights, 2019, <https://iranhr.net/en/articles/3611/>

¹⁸ Human Dignity Trust, <https://www.humandignitytrust.org/country-profile/iran/>

¹⁹ International Lesbian Gay Bisexual Trans and Intersex Association (ILGA), 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf

The Islamic Republic of Iran has made a reservation to the Convention on the Rights of the Child stipulating that: “The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the internal legislation in effect.”²⁰ On the justification of such reservation, the Islamic Republic of Iran has violated children’s rights otherwise protected under the Convention, notably by continuing to apply the death penalty for child offenders. Indeed, the Islamic Penal Code (2013) maintains the age of criminal responsibility for crimes punishable by *hudud* (punishments fixed by God) or *qisas* (punishment or retribution in kind), which carry mandatory punishments such as death, at the age of “maturity” that is 9 years old for girls and 15 years old for boys. Reportedly, four convicted child offenders were executed in 2019 in the Islamic Republic of Iran.²¹

Above-mentioned provisions are not the only Iranian laws attenuating and abrogating rights guaranteed by the five international instruments to which the Islamic Republic of Iran is a party.^{22 23}

²⁰ Reservation of the Islamic Republic of Iran to the Convention on the Rights of the Child, issued upon ratification (13 July 1994) available at: <http://treaties.un.org/doc/publication/unts/volume%201788/volume-1788-a-27531-english.pdf>

²¹ <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

²² See more : Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

²³ See more: 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

B) Impunity must also be addressed in order to facilitate accountability, provide redress for human rights violations and strengthen the rule of law, all of which are required to effectively promote respect for human rights in the country.

Reports have documented numerous acts of extrajudicial executions,^{24 25 26 27 28 29} enforced disappearances,^{30 31 32} and torture and ill-treatment^{33 34 35} in the Islamic Republic of Iran that were not independently and impartially investigated, thus there was no accountability of perpetrators or redress afforded for the victims. UN Human Rights Mechanisms, including the Working Group on Arbitrary Detention³⁶ and the UN Special Rapporteur on the Islamic Republic of Iran³⁷, have decried the absence of independent and impartial investigations into crimes, the lack of accountability for perpetrators in the Islamic Republic of Iran, and the insufficient redress for human rights violations.

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Article 90 Commission of the parliament (established based on Article 90 of the Constitution, offering a mechanism to citizens to file complaint against any of the three branches of power) and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence to suggest that complaints to these bodies are independently reviewed and investigated or that cases are adequately adjudicated.³⁸

²⁴ OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25812&LangID=E>

²⁵ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F43%2F61&Language=E&DeviceType=Desktop>

²⁶ Iran Human Rights, <https://www.iranhr.net/en/articles/4059/>

²⁷ Justice for Iran, <https://justice4iran.org/wp-content/uploads/2020/04/SHOOT-TO-KILL-Preliminary-Findings-of-Justice-for-Irans-Investigation-into-the-November-2019-Protests.pdf>

²⁸ Amnesty International, <https://www.amnesty.org/en/latest/news/2020/05/iran-details-released-of-304-deaths-during-protests-six-months-after-security-forces-killing-spree/>

²⁹ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1323082020ENGLISH.PDF>

³⁰ Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, July 2019,

https://www.ohchr.org/Documents/Issues/Disappearances/A_HRC_WGEID_118_1_Advance.pdf

³¹ Communications, cases examined, observations and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, May 2019,

https://www.ohchr.org/Documents/Issues/Disappearances/A_HRC_WGEID_117_1_ADVANCE.pdf

³² Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

³³ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, March 2018, <https://undocs.org/A/HRC/37/68>

³⁴ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/021/53/PDF/G2002153.pdf?OpenElement>

³⁵ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

³⁶ Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, July 2019,

https://www.ohchr.org/Documents/Issues/Disappearances/A_HRC_WGEID_118_1_Advance.pdf

³⁷ 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>

³⁸ 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

In light of the above, the Islamic Republic of Iran has not addressed impunity to facilitate accountability, has not provided redress for human rights violations and has not strengthened the rule of law.

Recommendation Status:

This recommendation has **NOT** been implemented.