

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/72/322 para 108

Full recommendation

The Special Rapporteur urges the Government to abolish any provision that authorizes any form of cruel, inhuman or degrading treatment or punishment, to address as a matter of priority the state of despair in its prisons and to investigate all allegations of torture and ill-treatment and hold accountable those found guilty.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur urges the Government to abolish any provision that authorizes any form of cruel, inhuman or degrading treatment or punishment

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).² 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,³ is sentenced with “amputation of the full length of four fingers of the right hand of the thief [...]”.⁴ 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.⁵

In 2002 then-Head of the Judiciary Ayatollah Shahroudi issued a ban on stoning,⁶ but it remains a punishment for the act of adultery by a woman and a man who meet the condition of *ehsan*⁷

¹ CCPR.7.1.S.1; CCPR.10.1.S.1; CCPR.7.1.P.1; CCPR.7.1.P.2; CCPR.7.1.O.1; CCPR.7.1.O.2; CCPR.7.1.O.3; CCPR.10.1.O.2; CCPR.10.1.O.3

² 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>

³ 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/>

⁴ 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/>

⁵ For a list of acts punishable by flogging in Iranian law, see: Abdorrahman Boroumand Center

<https://www.iranrights.org/library/document/3643>

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

⁷ 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/>

under the Islamic Penal Code (2013).⁸ The practice reportedly continued despite the issuance of the ban.⁹

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, usually occurring in small towns and villages.¹⁰ However, reports indicate that 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.^{11 12}
^{13 14} In 2020 the Abdorrahman Boroumand Center documented 160 flogging sentences.¹⁵

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).¹⁶ 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.¹⁷

B. The Special Rapporteur urges the Government to address as a matter of priority the state of despair of its prisons

Article 39 of the Constitution of the Islamic Republic of Iran stipulates that “All affronts to the dignity and repute of persons arrested, detained, imprisoned, or banished in accordance with the law, whatever form they may take, are forbidden and liable to punishment.”¹⁸

Iran’s Prison Regulations provide for the management and supervision of all prisons and detention centers in the country including supervision of the conditions of detentions such as access to adequate food, water and medical care for detainees, as well as visits and

⁸ 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/>

⁹ Iran Human Rights, <https://iranhr.net/en/articles/603/>

¹⁰ 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

¹¹ 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>

¹² Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3126> ; See also Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3270>

¹³ See Amnesty International urgent action: <https://www.iranrights.org/library/document/3587>

¹⁴ See Arya News Service, translated by the Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3190>

¹⁵ Abdorrahman Boroumand Center, <https://www.iranrights.org/projects/flogging>

¹⁶ 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

¹⁷ 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>

¹⁸ Constitution of the Islamic Republic of Iran, English Translation, Iran Data Portal, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

communications with the family. Prison regulations include the right for detainees to have a bed¹⁹ and stipulate that prisons should have enough showers to enable detainees to shower at least once a week.²⁰

The Iranian Prisons Organization, the governmental agency in charge of overseeing prisons in the country, has reportedly faced funding and investment challenges. In 2017, then-Head of the Organization stated in an interview that there were not enough funds to provide three adequate meals to prisoners.²¹ The Government of the Islamic Republic of Iran has been increasing the annual budget of the Organization²² and reports indicate the budget of the Organization is spent on the provision of food, clothing, and health care services.²³

However, despite the lack of readily official and available information, NGO reports suggest that investments to improve the conditions of detention are insufficient.

Reportedly, prisons in Iran lack showers and adequate sleep amenities for their detainees.²⁴ As reported by Amnesty International, as of June 2020²⁵ and according to recent official statements,²⁶ Iran's prison population was around 211,000, two and half times more than the official capacity of 85,000.²⁷

Numerous reports received by OHCHR indicate that detainees are regularly kept in poor conditions in Iranian prisons, notably due to overcrowding and a serious lack of basic hygiene, adequate food, water, and denial of access to medical care.^{28 29 30} The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran received numerous reports of abusive use of solitary confinement and torture to extract confessions, as well as withholding medical

¹⁹ Article 71, Regulatory Code of 11 Dec. 2005 (Governing the Prisons Organization and Security and Corrective Measures), available at <http://www.prisons.ir/index.php?Module=SMMPageMaster&SMMOp=View&PageId=27>

²⁰ Article 108, Regulatory Code of 11 Dec. 2005 (Governing the Prisons Organization and Security and Corrective Measures), available at <http://www.prisons.ir/index.php?Module=SMMPageMaster&SMMOp=View&PageId=27>

²¹ Aftab News, <https://aftabnews.ir/fa/news/499098/>

²² ILNA News, <https://www.ilna.news/fa/tiny/news-707499>

²³ Mehr News, www.mehrnews.com/xQMTN

²⁴ See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/rights-disregarded-prisons-in-the-islamic-republic-of-iran/#3.2.3>

²⁵ Amnesty International, <https://www.amnesty.org/en/latest/news/2020/07/iran-leaked-letters-reveal-state-denial-of-covid19-crisis-in-prisons/>

²⁶ <https://www.irna.ir/news/83819418/۲۱۱-هستند-های-کشور-هستند>

²⁷ <https://www.tasnimnews.com/fa/news/1398/02/25/2011935/داریم-داریم-ظرفیت-زندانی-داریم>

²⁸ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

²⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, July 2020, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F213&Language=E&DeviceType=Desktop>

³⁰ UN News, <https://news.un.org/en/story/2020/10/1074722>

treatment to coerce confession.³¹ Additionally, numerous reports have documented deaths and cases of ill-treatment of persons detained during the November 2019 protests.^{32 33}

A report published by the Abdorrahman Boroumand Center in partnership with the Human Rights Activists News Agency found that conditions of detentions have further deteriorated since the COVID-19 pandemic started. Prisons' overcrowding facilitated the proliferation of COVID-19 cases in several prisons.³⁴ Such concerns have been echoed by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran in his report published in July 2020³⁵ and January 2021.³⁶ Documents recently leaked to Amnesty International indicate that Iran's Ministry of Health has repeatedly ignored urgent appeals from the Prisons Organization to remedy the widespread shortages of the protective equipment, disinfectant products, and medical supplies needed to fight the pandemic.³⁷

In its 2019 National Report to the Universal Periodic Review, the Government of the Islamic Republic of Iran reported that the Citizenship Rights Watch Board carries periodic inspections within prisons and detention centres. According to the Government, the body has "received and handled 3,275 complaints and reports, through the complaint system, in relation with civil rights violations. Between 2015 and 2018, a number of 28,504 inspections were carried out to prosecutors' offices, prisons and detention centers."³⁸ There is no readily available information about the outcome of such inspections or whether they led to the improvements of detention conditions.

Above-mentioned information suggests that the Government of the Islamic Republic of Iran has not prioritized addressing the state of its prisons.

C. The Special Rapporteur urges the Government to investigate all allegations of torture and ill-treatment and hold accountable those found guilty

The Iranian legal framework does not adequately protect individuals from torture and other-ill-treatment and may well facilitate impunity.

³¹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

³² Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

³³ Amnesty International, <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

³⁴ HRANA, https://www.en-hrana.org/wp-content/uploads/2020/09/COVID19_FEAR_IN_IRANS_PRISONS_.pdf

³⁵ 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>

³⁶ 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>

³⁷ Amnesty International, <https://www.amnesty.org/en/latest/news/2020/07/iran-leaked-letters-reveal-state-denial-of-covid19-crisis-in-prisons/>

³⁸ National Report, UPR 2019, Islamic Republic of Iran, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

Article 38 of the Constitution of the Islamic Republic of Iran only prohibits torture and other ill-treatment when it is “used to extract an admission of guilt or to obtain information”.³⁹ Similarly, Article 578 of the Islamic Penal Code asserts “any civil servant or judicial or non-judicial agent who corporally mistreats and abuses an accused person in order to force him to confess shall be sentenced [...]”.⁴⁰ Such provision is reiterated under Article 60 of the Code of Criminal Procedure. Article 169 of the Prison Regulations prohibits “corporal punishment of the accused or convicts, and imposing violent, excruciating or humiliating punishments, in all penal institutions and prisons” and punishments are provided under Article 587 of the Islamic Penal Code.⁴¹ While Iranian law prohibits - conditionally - torture and certain abusive conducts during interrogations, it does not provide a definition of torture *per se*. Torture and other ill-treatment inflicted on an individual for purposes other than extracting confessions and/or information is not explicitly prohibited.

The prohibition of torture and other ill-treatment is a *jus cogens* norm under international law and cannot be restricted in any circumstances,⁴² including by conflicting domestic laws.

While Iranian laws provide for the accountability of officials and authorities who infringed upon individuals’ rights and punishes the use of torture in order to force confession, these provisions do not criminalize torture nor do they use the term “torture”. The absence of a crime of torture under Iranian law prevents prosecution, which is limited only to cases of torture provided under the law.

Despite the limited legal framework, there are mechanisms competent to receive and investigate complaints of torture and ill-treatment as provided under the law in the Islamic Republic of Iran. The Supervision and Inspection Board, established under the Law on Respect for Legitimate Freedoms and Safeguarding Citizen’s Rights, monitors the compliance of policies and conduct with the law. The Board’s missions include submitting “the complaints it receives to the relevant bodies and pursuing the investigation until it yields an outcome”; “deploying inspection groups to the bodies”; and “preparing reports on the implementation of laws in the country every three months and making them available to the public every three months.”⁴³ The Supervision and Inspection Board also set up a database enabling victims and witnesses to submit their complaints. On the occasion of its 2019 Universal Periodic Review, the Islamic Republic of Iran stated that “the prosecutors, through judges stationed in prisons as well as the Secretariat of the

³⁹ Constitution of the Islamic Republic of Iran English translation
http://www.iranchamber.com/government/laws/constitution_ch03.php

⁴⁰ Islamic Penal Code of the Islamic Republic of Iran (2013), English translation, Iran Human Rights Documentation Center,
<https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁴¹ Islamic Penal Code of the Islamic Republic of Iran (2013), English translation, Iran Human Rights Documentation Center,
<https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁴² CCPR General Comment No. 20: Article 7, 10 March 1992, <https://www.refworld.org/docid/453883fb0.html>

⁴³ Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens’ Rights.

Protection of Citizenship Rights and provincial supervisory boards, conduct regular inspections and investigate any reports or complaints” with regard to allegations of torture.⁴⁴ There is no readily available information that might indicate that complaints have been properly investigated and adjudicated either by the Board or the Secretariat.

Reports of cases of torture in the Islamic Republic of Iran are regular.^{45 46} Amnesty International reported widespread and systematic use of torture by Iranian authorities against protestors during and after the November 2019 protests.⁴⁷ As of November 2020, there is no readily available information that might indicate that Iranian authorities have opened investigations compliant with international standards into allegations of torture committed by police, security and intelligence agents and prison officials in the context of the November 2019 protests.

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.⁴⁸ Additionally and as aforementioned, the absence of a crime of torture in itself under Iranian law prevents prosecution, which is limited to cases of torture provided under the law, and therefore hinders access to justice for victims.

Considering the above, the Government of the Islamic Republic of Iran has not duly investigated complaints of torture and ill-treatment, and the shortcomings of the Iranian legal framework hinder accountability for perpetrators. There is no readily available information that might indicate that the Government of the Islamic Republic of Iran has taken measures to prevent the recurrence of acts of torture and ill-treatment, apart from the reported inspections and investigations into complaints.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁴⁴ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

⁴⁵ 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>

⁴⁶ 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>

⁴⁷ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

⁴⁸ 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