

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/73/398 para 36

Full recommendation:

The Special Rapporteur calls upon the Government to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and urges the Government to enact laws prohibiting the punishments of flogging and amputations, as they represent cruel, inhuman or degrading punishments and violate articles 7 and 10 of the International Covenant on Civil and Political Rights.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur calls upon the Government to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

As of February 2021, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has not been ratified by the Islamic Republic of Iran. During the presidency of Mohammad Khatami (1997-2005), the Iranian government presented a bill to the parliament seeking the ratification of the Convention. The bill was passed by parliament however the Guardian Council, which has the final say on the adoption of laws, rejected the bill. There has been no other attempt to ratify the Convention since then.

B. The Special Rapporteur urges the Government to enact laws prohibiting the punishments of flogging and amputations

The Penal Code of the Islamic Republic of Iran imposes corporal punishment for a significant number of crimes. Articles 386 to 416 of the Code contain regulations permitting the imposition of a range of punishment under *qesas-e ozv* (retaliation for injured limb or body part).² Such punishments include the amputation of limbs, mutilation and blinding. Under Article 278 of the Penal Code, when certain conditions are met,³ the crime of theft can lead to the “amputation of the full length of four fingers of the right hand of the thief [...]”.⁴ In Iran, at least 149 crimes continue to be punishable by flogging, such as: consumption of alcohol, drug use and petty drug

¹ CCPR.2.2.S.1; CCPR.7.1.S.1; CCPR.7.1.P.1; CCPR.7.1.P.2; CCPR.7.1.O.1 ; CCPR.7.1.O.2

² Islamic Penal Code of the Islamic Republic of Iran (2013), <https://rc.majlis.ir/fa/law/show/845048>

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/>

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 stoning⁶ however, under the Islamic Penal Code (2013) it remains as a punishment for the act of adultery committed by a woman and a man who meet the condition of *ehsan*.^{7 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 cases sentenced to flogging rarely appear in the Iranian media, usually as they occur in small towns and villages.¹⁰ However, reports indicate that Iranian authorities have regularly resorted to corporal punishments, in particular to 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

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Parliament's Article 90 Commission (established under 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.¹⁶ Additionally, as corporal punishments are enshrined in Iranian law, avenues for redress and rehabilitation are severely limited.

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/>

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 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

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).¹⁷ Article 7 of the ICCPR states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” and does not permit any exception to this rule. 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.¹⁸

Recommendation status:

This recommendation has **NOT** been implemented

¹⁷ 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

¹⁸ 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>