

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/34/65 para 84

Full recommendation

The legislation of the Islamic Republic of Iran continues to authorize punishments such as flogging, blinding, amputation and stoning of individuals convicted of certain offences, in breach of the absolute prohibition of torture and other forms of ill-treatment. The Special Rapporteur recalls that the right to be free from torture or other cruel, inhuman or degrading treatment or punishment can never be limited or interfered with no matter what the circumstances, and urges the Government to abolish all provisions that authorize such punishments.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur recalls that the right to be free from torture or cruel, inhuman or degrading treatment or punishment can never be limited or interfered with whatever circumstances

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”.² 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 [...]”.³ 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.⁴ While Iranian law conditionally prohibits 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 under any circumstances,⁵ including by conflicting domestic laws. The

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; CCPR.7.1.O.3

² Constitution of the Islamic Republic of Iran English translation
http://www.iranchamber.com/government/laws/constitution_ch03.php

³ 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/>

⁴ 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/>

⁵ CCPR General Comment No. 20: Article 7, 10 March 1992, <https://www.refworld.org/docid/453883fb0.html>

Human Rights Committee explicitly stipulated that the ill-treatment of “persons against whom criminal charges are brought and to force them to make or sign, under duress, a confession admitting guilt violates both Article 7 of the Covenant prohibiting torture and inhuman, cruel or degrading treatment and Article 14, paragraph 3 (g) prohibiting compulsion to testify against oneself or confess guilt.”⁶

The Iranian legal framework does not adequately protect individuals from torture and other-ill-treatment and may well facilitate impunity. While Iranian laws provide for the accountability of officials and authorities who infringed 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 in itself 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.”⁷ 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 Protection of Citizenship Rights and provincial supervisory boards, conduct regular inspections and investigate any reports or complaints” with regard to allegations of torture.⁸ There is no readily available information that might indicate that complaints have been properly investigated and adjudicated either by the Board or the Secretariat.

Additionally, the Article 90 Commission of the Parliament is in charge of investigating complaints from citizens made against the operations of the Parliament itself, the Executive and the Judiciary.⁹ There is no publicly available information that might indicate the number of complaints against acts of torture received, investigated and adjudicated.

⁶ UN Human Rights Committee (HRC), *General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial*, 23 August 2007, CCPR/C/GC/32, available at <https://www.refworld.org/docid/478b2b2f2.html>

⁷ Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens’ Rights.

⁸ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

⁹ Iran Human Rights Documentation Center, <https://iranhrdc.org/internal-regulation-on-the-commission-of-article-90-of-the-constitution/>

Yet, reports of cases of torture in the Islamic Republic of Iran are regular.^{10 11} Amnesty International reported widespread and systematic use of torture by Iranian authorities against protestors during and after the November 2019 protests.¹² 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.

The right to be free from torture or cruel, inhuman or degrading treatment or punishment is limited and can be interfered with under Iranian law.

B. The Special Rapporteur urges the Government to abolish any provision which authorize punishments such as flogging, blinding, amputation and stoning of individuals convicted of certain offences

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).¹³ 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,¹⁴ is sentenced with “amputation of the full length of four fingers of the right hand of the thief [...]”.¹⁵ 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.¹⁶

In 2002 then-Head of the Judiciary Ayatollah Shahroudi issued a ban on stoning,¹⁷ but it remains a punishment for acts of adultery by a woman and a man who meet the condition of *ehsan*¹⁸

¹⁰ 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>

¹¹ 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>

¹² Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

¹³ 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>

¹⁴ 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/>

¹⁵ 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/>

¹⁶ For a list of acts punishable by flogging in Iranian law, see: Abdorrahman Boroumand Center <https://www.iranrights.org/library/document/3643>

¹⁷ European Parliament Report, 2003, <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A5-2003-0334+0+DOC+XML+V0//EN>

¹⁸ 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).¹⁹ The practice was reportedly upheld years after the issuance of the ban.²⁰

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, and they usually occur in small towns and villages.²¹ 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.^{22 23 24 25} In 2020 the Abdorrahman Boroumand Center documented 160 flogging sentences.²⁶

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).²⁷ 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.²⁸

The Islamic Republic of Iran has not abolished provisions which authorize punishments such as flogging, blinding, amputation and stoning of individuals.

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁹ 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/>

²⁰ Iran Human Rights, <https://iranhr.net/en/articles/603/>

²¹ 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

²² 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>

²³ Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3126> ; See also Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3270>

²⁴ See Amnesty International urgent action: <https://www.iranrights.org/library/document/3587>

²⁵ See Arya News Service, translated by the Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3190>

²⁶ Abdorrahman Boroumand Center, <https://www.iranrights.org/projects/flogging>

²⁷ 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

²⁸ 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>