

BRIEFING FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 139TH SESSION (9 OCTOBER 2023 - 3 NOVEMBER 2023), WITH RESPECT TO VIOLENCE AGAINST WOMEN IN: IRAN *Submitted by Strategic Advocacy for Human Rights (SAHR), August 2023*



Strategic Advocacy
Human Rights

This thematic report¹ considers the legality of violence against women in Iran, in particular in relation to sexual violence. In light of the obligation under international human rights treaties to prohibit all violence against women, the global commitment to ending violence against women and girls in the public and private spheres in the context of the 2030 Agenda for Sustainable Development, previous recommendations of the Committee to Iran, the recommendations of the UN Secretary General’s Study on Ending Violence Against Women, and those made to Iran during the Universal Periodic Review in 2019, it is our hope that the Committee will:

- **raise the issue of violence against women in its List of Issues Prior to Reporting for Iran, in particular asking what progress is being made on drafting and enacting legislation to prohibit all violence against women in all settings, in particular by reference to the UN Model Rape Law; and**
- **in its concluding observations on Iran’s State Party Report, recommend that legislation is drafted and enacted as a matter of priority to prohibit all violence against women in all settings, in particular by reference to the UN Model Rape Law.**

¹ This report was compiled based on information that was publicly available in the English language only. It may not be complete and does not constitute legal advice.

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1. INTRODUCTION

Strategic Advocacy for Human Rights (SAHR)², is a peer-led non-governmental organization by and for human right defenders, working to equip a movement of human rights defenders with knowledge and tools to end gender-based violence through litigation, policy, and law reform.

We submit this written contribution for State parties under review for consideration by the Committee, reporting before the 139th Session (9 October 2023 - 3 November 2023).

This report highlights key legal inequalities that women face in Iran (the “**State party**”) in relation to violence against women, along with suggested questions to be posed to the State party. Our analysis benchmarks the legislation and practices in Iran against the UN Model Law on Rape³, published by the former UN Special Rapporteur on Violence against Women, Ms. Dubravka Šimonović, to harmonise national criminal justice responses with accepted international standards.

The aim of this report is to aid and encourage the UN Human Rights Committee (the “**Committee**”), the State party and stakeholders, to review national criminal laws and systems and practice with international standards on rape and sexual violence, particularly the UN Model Law on Rape that updates best practices based on the lived realities and recommendations of civil society and survivors.

We hope that the Committee will utilize this report as a key resource in the course of developing its list of issues for Iran.

2. KEY ISSUES OF CONCERN

2.1 Domestic Violence

(a) *Background*

- (i) In paragraph 11 of its concluding observations report dated 29 November 2011 (the “**2011 Concluding Observations**”), the Committee stated its concern regarding the absence of specific provisions on domestic violence within the New Islamic Penal Code of Iran (2013) (the “**Iran Islamic Penal Code**”), and accordingly, the lack of investigation, prosecution, and punishment of perpetrators of domestic violence. The Committee identified as a particular matter of concern the fact that, under the Iran Islamic Penal Code, a husband is exempted from punishment for voluntary manslaughter in the event that he murders his wife on suspicion of adultery.
- (ii) The Committee recommended that the State party adopt legislation criminalizing domestic violence and take steps to ensure that victims of domestic violence have immediate access to means of redress and protection. The Committee also recommended that the State party should ensure that acts of domestic violence are effectively investigated and that perpetrators are prosecuted and sanctioned. The Committee also recommended that the State party should also ensure that a husband is not exempted from punishment for voluntary manslaughter, in the event that he murders his wife on suspicion of adultery.

(b) *State party’s response*

² Website: <https://www.sa-hr.org/>. Email: connect@sa-hr.org

³ United Nations General Assembly, A framework for legislation on rape (model rape law), 15 June 2021, available at <https://digitallibrary.un.org/record/3929055?ln=en>

- (i) In paragraph 183 of the Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, received by the Committee on 23 August 2021 (“**Fourth Periodic Report**”), the State party referenced measures identified in the previous report and stated that there were other positive developments during the reporting period. Specifically, the State party referenced the Iran Islamic Penal Code, Family Protection Law (2012), the Crime Prevention Law (2015), Articles 54 and 91 of the Charter of Civil Rights, Article 66 of the Code of Criminal Procedure (2013), the Law on the Protection of Children and Adolescents, Articles from the bill amending the Penal Code (1397(2018)) and the final draft of the National Document on the Security of Women and Children in Social Relations (1394(2015)). Although the State party had, in its Fourth Periodic Report, cited such laws and various other legislative changes and policies which seek to confer protection for women and children from violence and to strengthen the position of women in family and public spaces, little elaboration was provided on the ability and effectiveness of those laws and other legislative changes to shield women from domestic violence. As discussed below, there are still areas of Iranian law which reinforce the patriarchal social construct of husbands having rights over their wives and take a permissive attitude towards domestic violence.
- (ii) In paragraph 184 of the Fourth Periodic Report, the State party also stated that the Social Affairs and Crime Prevention Department of the Judiciary, in order to combat violence, including domestic violence, has established the National Committee for the Prevention of Violence at the National Level (2015) which has pursued several measures since its establishment. In this regard, the organization has developed and published guidelines for specialized interventions in safe houses to support women under domestic violence, as well as a guide for specialized interventions in cases of child abuse.
- (iii) In paragraph 185 of the Fourth Periodic Report, the State party addressed the Committee’s concluding comments relating to a husband being exempted from punishment for voluntary manslaughter in the event that he murders his wife on suspicion of adultery. The State party noted that this defence under Article 630 of the Iran Islamic Penal Code did not include “suspicion of an illegitimate relationship”, and according to the law, suspicion is not a sufficient reason – only if the act of infidelity was done in front of the husband would he have the right to react. The State party also noted that an inquiry of the judiciary had found there had been no cases under Article 630 in recent years, and this Article should be deemed as abolished-in-practice. However, the mere existence of this provision sanctions the perpetration of violence against women in such circumstances⁴. Furthermore, in recent times, there has been reports of an increase in the prevalence of honour killings in Iran and in the number of perpetrators that have allegedly gone unpunished by the judiciary⁵.
- (iv) However, the responses of the State party in its Fourth Periodic Report have not been adequate. The Committee, in its list of issues in relation to the Fourth Periodic Report of the Islamic Republic of Iran, requested in paragraph 8 for the State party to comment on the compatibility of the State party’s laws with the Covenant of the “Protection, Dignity and Security of Women against

⁴ Middle East Institute, Iranian women campaign to stop the rise in “honor killings”, 26 August 2021, available at: <https://www.mei.edu/publications/iranian-women-campaign-stop-rise-honor-killings>

⁵ NCRI Women Committee, Honor killings and femicide are on the rise in Iran, 8 July 2023, available at: <https://women.ncr-iran.org/2023/07/08/honor-killings-and-femicide-iran/>

Violence” bill (the “**Bill**”), particularly articles 31, 66, 71 and 77 therein, which may increase a woman’s risk of exposure to violence. The Committee also noted the State party’s failure to define domestic violence and criminalize marital rape in the Bill.

(c) *Analysis of the State party’s legislation*

(i) The Bill is not effective in outlawing, and providing an avenue for protection against, and remedy to domestic violence or marital rape, which is inconsistent with articles 2, 3, 6, 7, and 9 of the International Covenant on Civil and Political Rights (the “**Covenant**”). Some areas of misalignment between the Bill and the Covenant are highlighted below:

(A) No definition of domestic violence and no offence of marital rape: While the Bill defines violence against women broadly and criminalizes various forms of violence, it does not define and criminalize specific forms of gender-based violence, such as marital rape and domestic violence. The Bill also does not amend the limited and problematic definition of “*zina*” under the Iran Islamic Penal Code, which is defined as sexual intercourse of a man and a woman who are not married to each other. Furthermore, under Article 222 of the Iran Islamic Penal Code, claiming that he is or has been married to the woman is a defence to the offence of *zina*. The nature of the offence thus explicitly excludes marital rape.

(B) Use of alternative dispute resolution for sexual violence cases: The Bill provides in Article 63 that for the crimes referred to in the Bill, if the perpetrator is the woman’s father, mother or husband, the court has the discretion to impose alternative sentences. The Bill also provides that in cases in which a father or husband is accused, the authorities should refer the case to the local dispute resolution council for peace and reconciliation for a month, returning the case to the judiciary if it is not resolved. Mediation removes cases from judicial scrutiny and the mediation period can also create further barriers for victims of domestic violence to obtain immediate protection through a protection order, which may only be granted by the court subject to a criminal complaint⁶.

(C) Insufficient protection of victims: Although the Bill provides for certain protection orders for victims of domestic violence, they are only obtainable if the victim files a criminal complaint, and the court deems that there is a serious threat of beating or further harm⁷. The UN Women Handbook For Legislation on Violence Against Women (“**UN Women Handbook**”) has recommended that domestic violence survivors be able to seek protection orders without pursuing other legal proceedings, such as criminal charges or divorce⁸.

(D) Lack of legislation against discrimination: The Bill also does not tackle a number of discriminatory laws including personal status laws that

⁶ Human Rights Watch, *Iran: Adopt Draft Law to Protect Women*, 4 December 2020, available at: <https://www.hrw.org/news/2020/12/04/iran-adopt-draft-law-protect-women>. [Accessed on 26 June 2023]

⁷ *Ibid.*

⁸ United Nations Department of Economic and Social Affairs: Division for the Advancement of Women, *Handbook for Legislation on Violence against Women* (ST/ESA/329)

lawyers have said leave women more vulnerable to domestic violence⁹. For instance, the Civil Code of the Islamic Republic of Iran (the “**Civil Code**”) accords husbands control over a woman’s movements, including where the woman lives and what occupations she may pursue (i.e., she may be prevented from pursuing particular occupations if he deems them against “family values”).¹⁰

- (ii) Despite the opportunity accorded by the Bill to update the law, the State party has also retained the provision that exempts a husband from punishment for voluntary manslaughter in the event that he murders his wife on suspicion of adultery in Article 630 of the Iran Islamic Penal Code. Although according to the State party, it is not actively enforced, the mere existence of the provision signals the inequality and permissive attitude the state takes in relation to violence towards women in the domestic context.

(d) *Issues regarding practical application of State party’s laws at community level*

- (i) Lawyers who have represented women in cases involving domestic violence believe that law enforcement and prosecutors’ lack of familiarity with best practices to address domestic violence cases, and hesitation to intervene and prosecute what they treat as “family disputes,” and not as crimes, leave women at risk of domestic violence¹¹. For example, the police often do not insist on entering private homes and checking on potential victims¹². In this regard, the Bill does require the police to establish specialized units responsible for protecting women, where necessary to have female policers handle cases, and to refer women for legal and medical services, and shelter where necessary.
- (ii) Furthermore, lawyers have also stated that judges often have unrealistic evidentiary standards, which makes it extremely difficult to prove allegations of domestic violence, and while the Bill sets out training for certain authorities in forensic medicine, it fails to provide for other forms of evidence that should be made admissible in cases of violence against women¹³. The UN Women Handbook recommends that the law should provide that medical and forensic evidence is not required to convict an abuser and that prosecution and conviction of an offender can be “based solely on the testimony of the complainant/survivor.”¹⁴
- (iii) Under the Bill, the Ministry of the Interior has been obliged to facilitate the creation of organizations to support and empower women who have been subjected to violence. However, in recent years, the Ministry of the Interior has also shut down the only NGOs that were active in supporting women and children under violence¹⁵. The Ministry of Intelligence and the Revolutionary

⁹ Human Rights Watch, *Iran: Adopt Draft Law to Protect Women*, 4 December 2020, available at: <https://www.hrw.org/news/2020/12/04/iran-adopt-draft-law-protect-women>. [Accessed on 26 June 2023]

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Al Arabiya, *Women's Protection Bill When Legislator Promotes Violence*, 2 February 2023. Available at <https://farsi.alarabiya.net/views/2023/02/02/%D9%84%D8%A7%DB%8C%D8%AD%D9%87-%D8%AD%D9%85%D8%A7%DB%8C%D8%AA-%D8%A7%D8%B2-%D8%B2%D9%86%D8%A7%D9%86%D8%9B-%D9%88%D9%82%D8%AA%DB%8C-%D9%82%D8%A7%D9%86%D9%88%D9%86-%DA%AF%D8%B0%D8%A7%D8%B1-%D8%AE%D8%B4%D9%88%D9%86%D8%AA-%D8%B1%D8%A7->

Guards Intelligence Organization, in collaboration with the Judiciary, have also prosecuted civil society activists working in this field, such as the "Imam Ali Charitable Society" or "Khaneh of the Sun", some of Iran's most well-known and reliable safe houses, both of which were closed down¹⁶. Thus, although the Bill mandates government bodies to increase capacity to deal with women who are victims of domestic violence, it remains to be seen how the provisions of the Bill would be implemented in practice.

Suggested List of Questions for the State Party

- Please confirm if there is any intention to amend the Bill to define and criminalize specific forms of gender-based violence, such as marital rape and domestic violence, and to better address these issues for the protection of the interests of women and children exposed to the risk of such violence.
- Please report on the status of, and confirm what procedures are in place for, the implementation of the Bill, and other measures taken or proposed to be taken to support the fight against domestic violence, including measures for the protection, care, and support of victims of domestic violence.
- Please provide information on cases of domestic violence and marital rape reported, with information on whether and how they have been investigated and prosecuted. Has there been a substantial increase in the reporting of rape as a result of the passing of the Bill?
- Please indicate measures undertaken or proposed to be undertaken to sensitize law enforcement and prosecutors to domestic violence issues and promote best practices to deal with domestic violence cases.
- Please indicate measures undertaken or proposed to be undertaken to ensure accessibility, safety, and procedural justice when victims of domestic violence seek help from the justice system, including how domestic violence may be proven in court.
- Please comment on reports of the State party shutting down NGOs and safe houses supporting women and children under violence, and how the State party intends to better support organizations for domestic violence victims (including shelters).

2.2 Trafficking of Women and Children

(a) Background

- (i) In paragraph 20 of the 2011 Concluding Observations, the Committee expressed concern about the persistent trafficking in women and children, and in particular, young girls from rural areas, often facilitated by temporary marriages (*siqueh*). Please also see section 2.3 (*Forced and Early Marriages of Young Girls*) of this report for more information.
- (ii) The Committee recommended that the State party should take steps to combat and prevent trafficking and the sales of persons under 18 years of age. The Committee also requested that the State party provide in its next periodic report with statistics, on an annual basis, the number of arrests and convictions under

[%D8%AA%D8%B1%D9%88%DB%8C%D8%AC-%D9%85%DB%8C-%D8%AF%D9%87%D8%AF.](#)

[Accessed 26 June 2023]

¹⁶ *Ibid.*

the 2004 Law on Combating Human Trafficking (“**2004 Law**”) to combat trafficking.

(b) *State party’s response*

- (i) In paragraph 49 of the Fourth Periodic Report, the State party responded to paragraph 20 of the 2011 Concluding Observations. The State party produced a table showing that in the years 2018 to 2020, a total of only 5 cases of trafficking of women and 65 cases of trafficking of children led to arrests and convictions. The State party did not provide further background to these numbers, including how many cases of trafficking did not lead to arrests, or led to arrests but not to convictions.¹⁷

(c) *Analysis of the State party’s laws*

- (i) Currently, Iranian law addresses the trafficking of women predominantly through laws that protect against trafficking in general, laws that protect children, and other labour laws. For instance, the 2004 Law criminalizes trafficking in persons by means of threat or use of force, coercion, abuse of power, or abuse of a victim’s position of vulnerability for purposes of prostitution, slavery, or forced marriage.¹⁸ The 2002 Law to Protect Children and Adolescents also criminalises the buying, selling, and exploiting of children. In addition, the Iranian labour code criminalizes forced labour and debt bondage.
- (ii) In November 2021, the State party reported that it was drafting an amendment to the 2004 Law, which would focus on expanding the definition of trafficking and would include aggravating punishments for crimes against women and children, bringing the legislation closer to international standards such as the UNODC Model Law against Trafficking in Persons. However, there have been no further updates regarding this amendment.¹⁹
- (iii) While there are laws in place that tackle the issue of trafficking, these laws are not sufficiently comprehensive.
- (A) Inadequate prevention: The State party has consistently not made efforts to reduce the demand for commercial sex acts or child sex tourism. The legality of temporary marriages (*siqueh*), for example, allows men to marry women for a pre-determined period of time, have intimate relations with them, and then leave them without consequences.²⁰ This system creates a loophole for prostitution. The State party has not provided any transparency on the efforts to police and monitor these types of temporary marriages. Additionally, the State party has provided no information on how many personnel within the police force or within the government are dedicated to tackle the issue

¹⁷ Iran, *Fourth Periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant*, 23 August 2021

¹⁸ U.S. Department of State, *2022 Trafficking in Persons Report: Iran*, available at <https://www.state.gov/reports/2022-trafficking-in-persons-report/iran/> [accessed 22 June 2023].

¹⁹ U.S. Department of State, *2023 Trafficking in Persons Report: Iran*, available at <https://www.state.gov/reports/2023-trafficking-in-persons-report/iran/> [accessed 26 June 2023].

²⁰ Fariba Parsa, *Temporary marriage in Iran and women's rights*, 13 January 2021, available at <https://www.mei.edu/publications/temporary-marriage-iran-and-womens-rights> [accessed 25 June 2023].

of trafficking, through law enforcement or additional study and the gathering of statistics.²¹

(d) *Issues regarding practical application of State party's laws at community level*

- (i) In practice, corruption has caused the State party's government to be complicit in many trafficking crimes. For instance, the Basij militia is a branch of the Iran's Islamic Revolutionary Guard Corps, who frequently work alongside the police when suppressing protests.²² There has also been extensive media coverage of the prosecution of traffickers. For instance, on May 20, 2023, the State party's judiciary announced that it had executed the head of a network that trafficked Iranian women to neighbouring countries for prostitution.²³ However, it has been suggested that certain arrests have been politically motivated. In September 2022, the State party government convicted and sentenced two LGBTQI+ female activists to death on the charges of human trafficking and "corruption on earth", a term used to describe attempts to undermine the State party government.²⁴ Media sources and other international non-profit organizations have condemned this ruling and describe the two women as local activists who helped other LGBTQI+ persons leave Iran to escape persecution.²⁵

(e) *Breach of the ICCPR Covenant*

- (i) The trafficking of women and children violates Article 8 of the Covenant, which states that "No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited" and "No one shall be held in servitude".²⁶ As women and children are trafficked for sex, domestic servitude and marriage, victims are often held in servitude for extended periods of time.
- (ii) The trafficking of women and children is also in violation of Article 23 of the Covenant, which states that "No marriage shall be entered into without the free and full consent of the intending spouses."²⁷ Temporary marriages (*siqeh*) as a means of trafficking women strips victims of their right of entering into marriages of their own free will.
- (iii) Additionally, the trafficking of women and children also violates Articles 9 and 11 of the Covenant, which hold that "Everyone has the right to liberty and

²¹ U.S. Department of State, *2023 Trafficking in Persons Report: Iran*, available at <https://www.state.gov/reports/2023-trafficking-in-persons-report/iran/> [accessed 26 June 2023].

²² Foundation for Defense of Democracies, *Iran Using Minors to Suppress Protests in Iran*, available at <https://www.fdd.org/analysis/2022/10/24/iran-using-minors-to-suppress-protests-in-iran/> [accessed 24 June 2023].

²³ Laila Afifa, *Iran Executes Leader of Women Trafficking Network*, available at <https://en.tempo.co/read/1727958/iran-executes-leader-of-women-trafficking-network> [accessed 26 June 2023].

²⁴ NBC News, *Iran sentences LGBTQ activists to death for 'human trafficking'*, 6 September 2022, available at <https://www.nbcnews.com/nbc-out/out-news/iran-sentences-lgbtq-activists-death-human-trafficking-rcna46385> [accessed 22 June 2023].

²⁵ U.S. Department of State, *2023 Trafficking in Persons Report: Iran*, available at <https://www.state.gov/reports/2023-trafficking-in-persons-report/iran/> [accessed 26 June 2023].

²⁶ United Nations Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights*, 23 March 1976.

²⁷ United Nations Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights*, 23 March 1976.

security of person” and that “Everyone shall be free to leave any country, including his own.” Victims of trafficking are often stripped of their rights to leave the country they marry into, or are trafficked into, and thereby are stripped of their rights to liberty and freedom.

Suggested List of Questions for the State Party

- Please provide updates with regards to the proposed amendments to the 2004 Law.
- In addition to the statistics shown in the Fourth Periodic Report, please provide more details regarding the cases of trafficking that have been prosecuted. What are the details of these cases and what are the outcomes of the prosecution? Were any remedies provided to the victims?
- What legislation is in place to prevent the use of temporary marriages (siqeh) as a way to traffic women and children? Are there procedures to police and monitor these marriages and to prevent women from becoming victims of trafficking through this loophole in the system?
- What forms of support do victims of trafficking have within the communities? What forms of healthcare are made available to these victims and what other forms of welfare assistance is there to support these victims, both in physical health and mental health?
- What efforts have the State party made to prevent victims of trafficking to fall into the hands of traffickers again? Are there any law enforcement mechanisms in place and if so, what are they?
- Please provide information on any initiatives within law enforcement to encourage more active investigations and arrests of trafficking crimes.
- Please provide information on any initiatives within communities to encourage more civilian monitoring and reporting of possible trafficking crimes that are occurring within their communities?

2.3 Forced and Early Marriages of Young Girls

(a) Background

- (i) In paragraph 28 of the 2011 Concluding Observations, the Committee expressed concern about the practice of forced and early marriages of young girls, in contravention of Articles 23 and 24 of the Covenant – see analysis at section 2.3(d) below.
- (ii) The Committee recommended that Iran should eliminate discrimination on the basis of sex with regard to the minimum age for marriage, ensure that the minimum age complies with international standards, and adopt active measures preventing forced and early marriages of girls.

(b) State party’s response and analysis of State party laws

- (i) In its Fourth Periodic Report, the State party acknowledged and responded to the above concerns of the Committee.²⁸ However, as analysed below, the State party's responses have not adequately addressed the issue of forced and early marriages in Iran, which is still sanctioned by State party laws in an egregious manner.
- (ii) Low minimum legal age of marriage: In its Fourth Periodic Report, the State party rejected the imposition of a higher minimum age for marriage, citing concerns such as the incidence of sexual relations outside of marriage. Currently, under Article 1041 of the Civil Code²⁹, only marriage before the age of puberty is prohibited. With permission of their guardian and approval of the relevant court, marriage of girls below 13 years of age is also legal (Article 1041 of the Civil Code, as amended in 2002). In stark contrast, UNICEF considers any marriage involving at least one person under the age of 18 a child marriage.³⁰ The State party has not ensured that the minimum age for marriage complies with international standards as recommended in the Committee's 2011 Concluding Observations.
- (iii) Legal reform: Prior to the Fourth Periodic Report, attempts at legal reform had in fact been attempted, but these have been unsuccessful. A draft bill (the so-called "child spouse" bill), first introduced in Parliament in 2016, proposed to increase the minimum age of marriage to 16, require a judge's permission for marriage of girls between the ages of 13 and 16, and place an absolute ban on the marriage of girls under 13.³¹ While still far-reaching from international standards, this was a positive step forward. However, the proposed bill faced stiff opposition amongst conservative lawmakers and religious figures, and in 2018, Iran's parliamentary judicial commission had rejected the bill.³²
- (iv) Discrimination with regards to the minimum age for marriage: In its Fourth Periodic Report, the State party left entirely unaddressed the Committee's concerns regarding discrimination on the basis of sex with regards to the minimum age for marriage under the State party's laws. In comparison to the minimum age of marriage of 13 years for girls, per Article 1041 of the Civil Code, the minimum age of marriage for boys is 15 years. Even under legal reform such as the "child spouse" bill, the proposed minimum age of marriage for girls was still lower than boys (where an absolute ban on marriage under 16 and court permission to marry between ages 16 to 18 was proposed³³).
- (v) Forced and non-consensual marriages:

²⁸ Iran, *Fourth Periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant*, 23 August 2021

²⁹ Iran, *The Civil Code of the Islamic Republic of Iran*, available at: <https://faolex.fao.org/docs/pdf/ira206827.pdf> [accessed 24 June 2023]

³⁰ UNICEF, *Child marriage*, May 2023, available at: <https://www.unicef.org/protection/child-marriage> [accessed 24 June 2023]

³¹ Center for Human Rights in Iran, *Bill to Ban Child Marriages in Iran Facing Implacable Opposition by Religious Conservatives*, 21 December 2018, available at: <https://iranhumanrights.org/2018/12/bill-to-ban-child-marriages-in-iran-facing-implacable-opposition-by-religious-conservatives/> [accessed 24 June 2023]

³² Human Rights Watch, *Iran: Child Protection Law Positive, but Insufficient*, 23 June 2020, available at: <https://www.hrw.org/news/2020/06/23/iran-child-protection-law-positive-insufficient> [accessed 24 June 2023]

³³ Center for Human Rights in Iran, *Bill to Ban Child Marriages in Iran Facing Implacable Opposition by Religious Conservatives*, 21 December 2018, available at: <https://iranhumanrights.org/2018/12/bill-to-ban-child-marriages-in-iran-facing-implacable-opposition-by-religious-conservatives/> [accessed 24 June 2023]

- (A) While Article 1070 of the Civil Code states that consent of the marrying parties is a condition to the enforcement of the marriage contract, girls entering marriage at young ages are not capable of giving meaningful consent. Article 1070 also adds the clarification that reluctance is not sufficient – in fact, the marriage contract will be binding “*unless the reluctance is so acute that the reluctant person cannot be considered as having been in possession of any intention*”. Such a high threshold stretches the notion of consent beyond its ordinary meaning and is in clear violation of Article 23.3 of the Covenant which emphasises that no marriage shall be entered into without “free and full consent”.
- (B) Further, for girls only, under Article 1043 of the Civil Code, marriage is dependent on the permission of the father or paternal grandfather (even after the age of majority). To marry a person of her choice without permission, a girl would need to seek approval from the Special Civil Court of Iran. Such additional legislative barriers rob women and girls of their choice of marriage partner in contravention with Article 23 of the Covenant, and is a form of violence and oppression against women.

(c) *Practical Application*

- (i) The State party asserted in its Fourth Periodic Report that on a practical level, the average age of marriage is increasing due to cultural, social, and economic change in Iran’s cities.³⁴ This however does not address the realities and continued prevalence of child marriage in Iran, and if anything supports the argument that legislation should move on with the times.
- (ii) Statistics from the National Organization for Civil Registration records that around 1,100 girls under the age of 12 are married in a year (data from 2017-2018)³⁵. Out of every thousand registered marriages, in two to three cases, girls 12 years or younger were married *through a judge’s ruling* (via Article 1041 of the Civil Code). In fact, figures for child marriage have increased in recent years – e.g., according to the Statistics Center of Iran, the marriage rate of girls aged 10 to 14 in 2020 increased by 10.5% compared to 2019.³⁶
- (iii) Yet these statistics only reflect state sanctioned child marriages which are officially registered with Iran’s Civil Registry Office, with the actual numbers of young marriages believed to be significantly higher.³⁷ Moreover, per the Committee’s recommendation in its 2011 Concluding Observations, the minimum age for marriage should align with international standards (as discussed above). In Iran, more than a fifth of marriages registered between

³⁴ Iran, *Fourth Periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant*, 23 August 2021

³⁵ IranWire, *Twenty Percent of Marriages in Iran are Child Marriages*, 9 February 2020, available at: <https://iranwire.com/en/features/66695/> [accessed 24 June 2023]

³⁶ Radio Free Europe/Radio Liberty, *Iran Reports Increase in Child Marriages*, 20 August 2021, available at: <https://www.rferl.org/a/iran-child-marriages/31420642.html> [accessed 24 June 2023]

³⁷ *Ibid.*

March 2018 to March 2019 involved a bride aged 17 or less³⁸, being child marriages by international measure³⁹.

(d) *Breach of the ICCPR Covenant*

- (i) Forced and early marriages violate the general right to marry with free and full consent under Article 23 of the Covenant, in particular sub-paragraph 3. The Committee's general comment No. 19 (1990) of the Committee on Article 23 of the Covenant notes that while the Covenant does not establish a specific marriageable age for either men or for women, that age should be such as to enable each of the intending spouses to give their free and full personal consent.⁴⁰ This is not the case in Iran, where marriages for girls below the age of 13 can be legal.
- (ii) Forced and early marriage of young girls also contravenes the child's right to special measures of protection under Article 24 of the Covenant. Early and forced marriages are a form of violent treatment of girls that usually leads to sexual abuse of a female child.⁴¹ Marriage and subsequent life in marriage then becomes a prolonged form of violence and oppression against those young girls.

Suggested List of Questions for the State Party

- Please provide information on statutory and policy measures to protect the consent of both parties as a fundamental condition to entering into marriage, and measures to protect against unwilling marriages arranged by guardians of women and girls.
- Please provide an update on the State party's progress on the reform of legislation concerning the minimum age for marriage for girls, and information on measures taken by the State party to ensure the successful passage of such legislation reform in the Parliament of the State party.
- Please provide information on any legislative initiatives or proposed reform to tackle the issue of forced marriages of females in Iran and bolster the concept of free and full consent as a requirement for a valid marriage.
- Please provide all available data on the early marriages of young girls in Iran in recent years, along with all data or reports of forced or non-consensual marriages of young girls.
- Please provide information on any ongoing initiatives, policy measures or awareness campaigns conducted by the State party to discourage early and forced marriages and change mindsets of parents and others who accept the practice of child marriage, particularly in light of the number of child marriages increasing in certain years.

³⁸ IranWire, *Twenty Percent of Marriages in Iran are Child Marriages*, 9 February 2020, available at: <https://iranwire.com/en/features/66695/> [accessed 24 June 2023]

³⁹ UNICEF, *Child marriage*, May 2023, available at: <https://www.unicef.org/protection/child-marriage> [accessed 24 June 2023]

⁴⁰ Human Rights Committee, *General Comment No. 19: Article 23 (The family)*, 1990, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FGEC%2F6620&Lang=en [accessed 24 June 2023]

⁴¹ Amnesty International, *Iran: Joint Statement on the status of violence against women in the Islamic Republic of Iran*, 29 November 2012, available at: <https://www.amnesty.org/en/documents/mde13/074/2012/en/> [accessed 24 June 2023]

3. LEGISLATIVE PROTECTION AGAINST SEXUAL VIOLENCE

3.1 Background context

(a) *Rape and Sexual and Gender Based Violence in Iran*

- (i) Rape, sexual and gender-based violence are some of the most prevalent issues of crime in Iran. At the same time, there does not appear to be any official statistics on the number of reported rape cases in Iran⁴². According to one of the only nationwide surveys on violence against women, carried out in 2004 by the Ministry of Internal Affairs, *more than half* of the participants had been subjected to varying forms of abuse, including mental, physical, social, financial and sexual abuse, by their husbands.⁴³ More recently, an online cross-sectional study conducted on 203 Iranian women in 2020 aimed at assessing the frequency of domestic violence against women during the COVID-19 pandemic showed that a majority (52.7%) of participants experienced moderate levels of domestic violence.⁴⁴
- (ii) State action is sparse, and in fact, it has even been suggested that sexual assault and rape might be used as a means of suppression by government forces in Iran. News reports have shown Iranian government and security forces sexually assaulting female protestors on the streets.⁴⁵ Iran's prison service has also long faced and denied allegations of widespread sexual assault of women behind bars, to which an Iran judicial officer had finally ordered an inquiry into in January 2023.⁴⁶

(b) *Legislation relating to rape and sexual and gender-based violence in Iran*

- (i) Legislation relating to rape, sexual and gender-based violence in Iran is highly problematic, as discussed in section 2.1 and as set out below in section 3.2. Even whilst acknowledging attempts at legislative updates, such as the “child-spouse” bill discussed at section 2.3(b)(iii), or the “Protection, Dignity and Security of Women against Violence” bill discussed at sections 2.1 and 3.2, Iran is far from achieving progress. Proposed legislative updates are weak, do not even criminalise marital rape and child marriage, and worse, face an

⁴² Nadia Aghtaie, *Chapter 7, Breaking the silence: rape law in Iran and controlling women's sexuality*, April 2011, available at <https://academic.oup.com/policy-press-scholarship-online/book/21114/chapter/180713762> [accessed on 21 June 2023].

⁴³ Amnesty International, *Statement submitted by Amnesty International, Association for Women's Rights in Development, BAOBAB for Women's Human Rights, Center for Women's Global Leadership, International Alliance of Women and Italian Association for Women in Development, non-governmental organizations in consultative status with the Economic and Social Council*, 2012, available at <https://www.amnesty.org/en/wp-content/uploads/2021/06/mde130742012en.pdf> [accessed on 12 July 2023].

⁴⁴ Arezoo Yari, Hosein Zahednezhad, Reza Ghanei Gheshlagh and Amanj Kurdi, “*Frequency and determinants of domestic violence against Iranian women during the COVID-19 pandemic: a national cross-sectional survey*”, 23 September 2021, available at <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-021-11791-9> [accessed 24 July 2023]

⁴⁵ Lucy Watson, “*It has to end*”: *Protesters tell ITV News of sexual violence at hands of Iranian regime*, 10 January 2023, available at <https://www.itv.com/news/2023-01-10/protesters-tell-itv-news-of-sexual-violence-at-hands-of-iranian-regime> [accessed on 24 June 2023].

⁴⁶ Alarabiya News, *Iran judiciary official orders probe into rape in jails*, 5 January 2023, available at <https://english.alarabiya.net/News/middle-east/2023/01/05/Iran-judiciary-official-orders-probe-into-rape-in-jails-> [accessed on 18 July 2023].

unlikely and uphill battle to be passed into law by the Parliament (as demonstrated by both bills referenced above).

3.2 Material deviations in Iran's current laws against UN Model Rape Law

(a) *Gaps between Iran's legislation and UN Model Rape Law*

We highlight below the key gaps in Iran's legislation and material deviations from the UN Model Rape Law.

(i) No clear definition of rape

There is no specific definition of rape under Iran's laws. Rape is classified under the category of *zina*, which is defined as "sexual intercourse of a man and a woman who are not married to each other". The legal principles that are related to *zina*, including its definition, punishment, and strict rules of evidence, are also applied to rape.⁴⁷

The definition of *zina* is problematic because:

- (A) the focus is not on the lack of consent, but on sex outside of marriage;
- (B) there is an exclusion for mistake; and
- (C) it only covers "sexual intercourse" but not all forms of vaginal, anal, or oral penetration.

Due to the alignment of rape and *zina* under Iranian law, a victim who claims that she has been raped and who is not able to prove the lack of consent may be convicted for committing *zina* if sex occurred outside of marriage. An accused can also easily plead his innocence by claiming a lack of knowledge or intention.

Zina is also limited to when the penis, up to the point of circumcision, enters into the vagina or anus of a woman, and does not cover other forms of non-consensual penetration.

(ii) No concept of marital rape

As *zina* provides only for sex outside of marriage, married women do not have any rights if they are raped in Iran by their spouses. This goes against the UN Model Rape Law's guidelines that consent cannot be inferred by "the victim's status, occupation or *relationship* [*emphasis added*] to the accused".

Consensual sexual relations is criminalised so long as it is done outside of marriage, which departs from Article 3(b) of the UN Model Rape Law.

⁴⁷ Atuosa Onsi, *Secondary Victimization of Rape Victims in Iran – An Analysis of Legal and Sociocultural Systems*, available at <https://www.diva-portal.org/smash/get/diva2:1486119/FULLTEXT01.pdf> [accessed on 20 June 2023].

Iranian law also deters most victims of non-marital rape from reporting to the authorities, as they can face prosecution for crimes such as adultery (punishable by execution), “indecentry,” or “immoral behavior.”⁴⁸

(iii) No clear definition of consent

Note 2 to Article 224 of the Iran Islamic Penal Code only states that anyone who commits *zina* with a woman who did not consent to engage in *zina* with him, while she is unconscious, asleep, or drunk, shall be regarded as *zina* committed by coercion (i.e., rape). It is not clear whether these circumstances are exhaustive as to when there is a lack of consent.

Further, Iran does not appear to have laws that provide for the age of consent to engage in sexual intercourse, which is inconsistent with Article 3 of the UN Model Rape Law. The Iran Islamic Penal Code also legalises non-consensual sex within marriage, even in instances where a girl is underaged. There is no presumption of lack of consent in the event of penetration by force, or by threat of force or coercion, or an abusive relationship or position of power and/or authority over the victim.

(iv) Death penalty is imposed for rape. No sentencing guidelines appear to be available.

Under Article 224 of the Iran Islamic Penal Code, the default sentence for *zina* appears to be the death penalty. This goes against Article 7(d) of the UN Model Rape Law. While such a severe punishment may appear to prevent potential offenders from committing such a crime, the lack of proportionality between the rape crime and its punishment is one of the reasons why so many judges dismiss rape cases.⁴⁹ This sentencing inflexibility restricts judges from imposing different punishments, which goes against Article 7(a) of the UN Model Rape Law. This could have caused victims to not speak up about what had happened to them and to bring lawsuits against the perpetrators because they do not believe that such a harsh punishment is just.⁵⁰

If a case of *zina* by coercion or force is not made out, the victim may be accused of *ihsan* if she is married. This carries a severe penalty of stoning to death under Article 225 of the Iran Islamic Penal Code. It has been reported that most sentences of death by stoning for adultery are levelled against women.⁵¹

(v) Criminalisation of false reporting of sex outside of marriage (including rape)

The false accusation of *zina* or *livat* against someone is known as *qazf* and is a criminal offence, which carries a punishment of 80 lashes for an adult Muslim. This severe punishment deters rape victims to report such crimes for fear of

⁴⁸ United Against Nuclear Iran, Iran’s War on Women, available at <https://www.unitedagainstnucleariran.com/irans-war-on-women> [accessed on 21 June 2023].

⁴⁹ Onsi (n 46).

⁵⁰ Nilopufar Lari, *Why Breaking the Silence on Rape is so Risky in Iran*, available at <https://iranwire.com/en/features/67798/> [accessed on 21 June 2023].

⁵¹ United Against Nuclear Iran (n 48).

being charged for this offence if the crime is not proven. This also discourages witnesses from testifying in court.⁵²

In addition, the standard of proof for testimony for *zina* and *livat* is four adult male witnesses. This high evidentiary burden which is gender biased makes it almost impossible for female victims of rape to report the crime if there are only female witnesses or the number of male witnesses is less than four. Further, all or some of the witnesses may be unwilling to testify for fear of being charged with *qazf*.

(vi) Aggravating factors do not appear to be considered

The Iran Islamic Penal Code does not appear to take into account any aggravating factors that are listed in the UN Model Rape Law. As discussed above, the sentence for *zina* or *livat* appears to be death. There is little discretion for the judge to decide on other penalties if *zina* is proven. In addition, if the rape is committed by a married man against another woman who is married, it is possible that the conditions of *ihsan* (adultery) is met. The penalty for *ihsan* is stoning to death or hanging. Therefore, the court appears to take into account extraneous circumstances or factors, such as the marriage status of the perpetrator and victim.

(vii) Mitigating circumstances do not appear to be considered for most instances of rape

Under Article 223 of the Iran Islamic Penal Code, a person who claims that he or she is or has been married to the other party or has engaged in intercourse as a result of mistake will have his or her claim accepted without resorting to any other testimonies or oaths. This goes against the spirit of the UN Model Rape Law, which focuses on the non-consensual element of rape. Also, the court could allow for repentance by the offender before the commission of the offense is proven to reduce the sentence from the death penalty to *ta'zir* imprisonment or flogging or both.

Article 155 of the Iran Islamic Penal Code also provides for an exception to criminal responsibility if the court finds that it is reasonably impossible for him/her to become aware of the law, or if ignorance about the law is considered an acceptable excuse under Shari'a. Article 173 of the Iran Islamic Penal Code also provides that the denial after confession shall reduce the death penalty to one hundred lashes in the case of *zina* and *livat*.

The above are not mitigating circumstances under the UN Model Rape Law.

In addition, under Article 231 of the Iran Islamic Penal Code, if the woman is a virgin, the offender is required to pay compensation for virginity, in addition to a *mahr-ul-methl* (a type of *mahr* that shall be paid to a woman at the rate payable for other women in a similar position). This additional compensation wrongly values and emphasises the importance of virginity over other more relevant criteria for non-consensual sex. This also reinforces societal pressures for a victim to be a virgin, as a victim who is not a virgin may be deemed to have not suffered too much harm by rape.⁵³

⁵² Onsi (n 46).

⁵³ *Ibid*.

According to an Al-Monitor article⁵⁴, Mehrangiz Kar, a prominent women's rights activist, said that "there are many factors that influence a judge's decision in a rape case. If a woman had gone to the house or place of work of a man and was raped there, or if a woman accepts to live with a man and is raped by him, the court would not consider these as rape cases. The courts would claim that such incidents were consensual because there should be no reason for a woman to be in the residence of a man who is a stranger." Therefore, the court has taken into account mitigating circumstances that are prohibited under Article 9 of the UN Model Rape Law, such as the behaviour and location of the victim. According to Atlas Torbati⁵⁵, the media and government try to link sexual assault to women's own behaviour and lack of observing cultural and religious norms and practices, such as wearing manteau – the medium-length light jacket and scarf, and are expected to be modest in order to protect the family honour. Therefore, those who become the victims of sexual assault are blamed for lack of observance of these norms. According to Shadi Sadr⁵⁶, in almost all cases, the man is set free because judges traditionally look for signs in the behavior and clothing of the woman in order to explain away the act of rape. According to Farajiha & Azari⁵⁷, in a patriarchal society such as Iran, a victim's outfit and behaviour are usually judged in the court, and as a result the victim might be blamed for provoking the perpetrator and asking for rape. Therefore, in order for a victim to be believed, she should show some physical injuries and marks of violence to prove that the act has taken place without her consent⁵⁸.

(viii) Lack of victim-centred approach

The Iran Islamic Penal Code does not appear to provide for a victim-centred approach.

According to Iravanian⁵⁹, the police in Iran are not properly trained to deal with rape victims and are unskilled in treating and interviewing such victims. Therefore, due to the lack of skill and resources, victims' needs and concerns are not considered important by the police. Due to the negative attitudes and stereotypes toward rape and rape victims, the police have made victims feel humiliated and unsure. The acceptance of rape myths has resulted in the categorisation of "real rape" by the police, as elaborated below. The police in Iran usually perceive "real rape" as a rape in which the rapist is a stranger who uses a weapon to overcome the victim. The stereotypes about what a "real rape" would look like affects how the police approaches the rape victims. Thus,

⁵⁴ Al-Monitor, *Rape of young girl in Iran met with muted response*, 24 July 2015, available at <https://www.al-monitor.com/originals/2015/07/iran-rape-11-year-old.html> [accessed on 23 June 2023].

⁵⁵ Atlas Torbati, *The hidden reality of sexual assault in Iran*, 26 September 2018, available at <https://policystudies.blogs.bristol.ac.uk/2018/09/26/the-hidden-reality-of-sexual-assault-in-iran/> [accessed on 23 June 2023].

⁵⁶ Shadi Sadr, *Women in Iran Deem Rape Laws Unfair*, 21 December 2003, available at <https://womensenews.org/2003/12/women-iran-deem-rape-laws-unfair/> [accessed on 23 June 2023].

⁵⁷ Farajiha M, Azari H, (2011) *تيامد کيفرى از زنانى نابارقه اجتوز به فذء در وقءق اريان*, *A Critical approach to the criminal protection of female rape victims under Iranian law*. Social Welfare Quarterly, 11 (40), 287-314.

⁵⁸ *Ibid.*

⁵⁹ Iravanian A, (2010) *ابز آببسد دى گدء ابنا بر قن ى سنج در رتسد خساپ هاى المءءء و اءنم دعاءء كيفرى*, *Revictimity of sexual victims in the context of the community's response and criminal justice system*. The Quarterly Journal of Public Law, 29(1), 1-24.

a simple rape case which does not involve rape stereotypes will not be viewed as a “real rape” by the police. The acceptance of rape myths by the police also affects the way police officers interview the victims. In this case, police usually behave or ask questions in a way that blame the victims and perceive them as guilty and responsible for the crime.

According to Shahali⁶⁰, forensic medicine in Iran only collects and documents physical evidence and injuries such as body fluid samples, bruising, and rupture of hymen, and they do not pay attention to the psychological and mental injuries caused by rape. Hence, what matters for forensic medicine is detecting and investigating visible evidence, rather than invisible and mental injuries. The presence of physical injuries as an indicator of non-consent is detrimental to most victims, as many do not resist due to a lack of physical strength.

(ix) Absence of legislation regarding investigation of rape

There is an absence of legislation in the Iran Islamic Penal Code which prescribes how investigators and police officers should conduct the investigation of alleged rape crimes. According to Hesami⁶¹, research has shown that general exposure to violence has led to insensitivity by the police toward rape victims.

Moreover, the prevalence of a masculinity culture among police officers causes the officers to support traditional gender roles. In fact, most of the police officers in Iran believe that a “good woman” should behave in certain ways, based on social values. Therefore, if a woman gets raped, the police show sexist and negative attitudes towards her, since she fails to fit in the definition of a “good woman” created by the police and the society⁶². These sexist and negative ideas towards rape victims by the police can easily be seen in the case of a gang rape that took place in a town near the city of Isfahan. After news of the event had been widely published, officials accused and blamed the victims for not wearing a proper hijab at the party and behaving in an un-Islamic manner. For example, the Chief of Police Department's Detective Bureau in Isfahan, Hossein Hosseinzadeh, said that “*If the women at the party had worn their hijab properly, they might not have been persecuted*”⁶³.

Additionally, police are legally banned from investigating rape and adultery cases. In Iran, prosecution and investigation of rape cases are the courts’ obligations and police are only allowed to file a complaint regarding rape, and refer the complaint to the court. This causes long and unnecessary delays in the process of rape cases due to the large numbers of cases in courts. Moreover, the delay in investigating the cases has led to loss of evidence that the police

⁶⁰ Shahali S, Mohammadi E, Lamyian M, Kashanian M, Eslami M, Montazeri A, (2016) *Barriers to healthcare provision for victims of sexual assault: A grounded theory study*. Iranian Red Crescent Medical Journal, 18(3), 1-7.

⁶¹ Hesami S, (2006) *Protection of women victims of domestic violence in police investigation*. The Judiciary Law Journal, 52, 253-286.

⁶² *Ibid.*

⁶³ Radio Free Europe, *Iranian police, cleric blame victims in Isfahan gang rapes*, 14 June 2011, available at https://www.rferl.org/a/iran_police_cleric_blame_victims_in_isfahan_rapes/24234921.html#:~:text=Iran%27s%20chief%20prosecutor%2C%20Gholamhossein%20Mohseni,RFE%2FRL%27s%20Radio%20Farda%20reports, [accessed on 23 June 2023].

could have collected earlier. Delay in prosecuting rape cases is attributed to fear of reprisal, and other traumas.⁶⁴

(x) Non-objective and gender-sensitive assessment of evidence in rape

In Iran, there are complicated laws that make it very difficult for women to prove they have been raped. In some cases, as discussed above, these laws can lead to rape victims being punished.

For example, to fulfil the witness requirements for the crime of *zina*, it is necessary for four adult male witnesses or three just men and two just women to provide testimony. This goes against the UN Model Rape Law recommendation that there is no requirement for the testimony of the witness to be corroborated in order for it to be considered credible, reliable, and sufficient as a basis for conviction. The reason for two women witnesses instead of just only one is that, under the Iran Islamic Penal Code, a woman's testimony is worth half of a man's. This is biased and makes it extremely difficult for female victims to prove *zina* if there are only female witnesses. Further, an admissible witness must meet several requirements, including (a) faith, (b) legitimacy of birth and (c) someone who has not chosen beggary as his/her occupation. The witness must also have personally seen the act by which *zina* or *livat* has occurred. These unduly onerous requirements make it difficult for witnesses to come forth and testify against the accused.

Additionally, the content of witness testimonies cannot differ in relation to the facts and conditions which are effective in proving the offense. Where testimonies are contradictory or are not about the same subject matter, they are not admissible under Shari'a rules.⁶⁵

(b) *Current situation and legislative update(s) with reference to UN Model Rape Law*

It does not appear that there are any recent or proposed legislative updates for the Iran Islamic Penal Code in relation to rape laws.

A draft law on violence against women, entitled "Protection, Dignity and Security of Women against Violence" bill, that offers limited protections for survivors of domestic violence, was put before the parliament for a vote and approved in April 2023.⁶⁶ This legislation criminalizes any act or behavior that causes "physical or mental harm" to women "as a vulnerable gender," or "deprives them of their legal rights and freedoms."⁶⁷ The draft law defines violence against women broadly as "any behavior inflicted on women due to sexuality, vulnerable position or type of relationship, and inflicts harm to their body, psyche, personality and dignity, or restricts or deprives them of legal rights and freedoms"⁶⁸. It also obligates the judiciary to create offices to support victims of violence and hold educational courses for judges and other judiciary staff, and envisages the formation of a fund by the judiciary to support victims of violence

⁶⁴ Azari H (n 60).

⁶⁵ Onsi (n 46).

⁶⁶ Human Rights Watch (n 5).

⁶⁷ Islamic Republic News Agency, *Iranian MPs approve bill to protect women's dignity*, 9 April 2023, available at <https://en.irna.ir/news/85078310/Iranian-MPs-approve-bill-to-protect-women-s-dignity> [accessed on 21 June 2023]

⁶⁸ Maziar Motamedi, *Iran gov't approves bill to combat violence against women*, 4 January 2021, available at <https://www.aljazeera.com/news/2021/1/4/irans-government-passes-bill-to-combat-violence-against-women> [accessed on 24 June 2023]

and help imprisoned women, among other things.⁶⁹ Law enforcement and prison organizations are among other entities that will have to increase their efforts as part of the vision laid out in the legislation.⁷⁰ However, the bill does not yet criminalize marital rape and child marriage. It also does not amend the criminal code's limited and problematic definition of rape.

Suggested List of Questions for the State Party

- Please report whether there are ongoing initiatives to have a separate definition of rape and consent (including presumptions of lack of consent) in the Iran Islamic Penal Code, and to have a separate section in the Iran Islamic Penal Code that deals with rape as a crime, outside of *zina* or *livat*.
- Please report if there are ongoing initiatives that would give equal weight to testimony to both male and female witnesses.
- Please report if there are ongoing initiatives to introduce discretionary sentencing for rape based on any aggravating and/or mitigating circumstances under which the crime was committed, and to institute clear guidelines as to what constitute aggravating or mitigating circumstances.
- Please report if there are ongoing initiatives to abolish the death penalty for rape.
- Please report if there are ongoing initiatives to introduce objective, gender-sensitive assessment of evidence of rape cases, including removing any adverse inference from the lack of evidence of resistance such as physical injuries or a victim's sexual history.
- Please report if there are ongoing initiatives to ensure that investigations are conducted properly and promptly with adequate processes and protocols to safeguard the interests of the victim.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

ANNEX – COMPARISON: UN MODEL LAW ON RAPE AND STATE LEGISLATIVE FRAMEWORK

In addition to the above observations, we annex a table comparing the State's law on rape and sexual violence with the UN Model Law on Rape.

UN Model Rape Law	Corresponding Legislative Provisions of State	Included in below report issues list?
A. Criminalization of rape		
<p>Article 1. Definition of rape</p> <p>16. A person (the perpetrator) commits rape when they:</p> <p>(a) engage in non-consensual vaginal, anal or oral penetration of a sexual nature, however slight, of the body of another person (the victim) by any bodily part or object; or</p> <p>(b) cause non-consensual vaginal, anal or oral penetration of a sexual nature, however slight, of the body of another person (the victim) by a third person; or</p> <p>(c) cause the victim to engage in the non-consensual vaginal, anal or oral penetration of a sexual nature, however slight, of the body of the perpetrator or another person.</p>	<p>Article 217 of the Iran Islamic Penal Code⁷¹</p> <p>In cases of offenses punishable by <i>hadd</i>, the offender shall be liable only if, in addition to having knowledge, intention, and meeting the requirements for criminal responsibility, is aware of the prohibition of the conduct committed under Shari'a rules.</p> <p>Article 218 of the Iran Islamic Penal Code</p> <p>In the cases of offenses punishable by <i>hadd</i>, if the accused claims that s/he, at the time of commission of the offense, did not have the knowledge or intention [to commit the offense], or [if s/he claims that] one of the obstacles to criminal liability exists, in the case that there is the likelihood of veracity of the claim, or if s/he claims that his/her confession has been made under threat or fear or torture, the claim shall be accepted without [resorting to] testimonies and oaths.</p> <p>Article 221 of the Iran Islamic Penal Code</p> <p><i>Zina</i> is defined as sexual intercourse of a man and a woman who are not married to each other, and also provided that the intercourse is not done by mistake.</p>	<p>YES</p>

⁷¹ Iran Human Rights Documentation Center, *English Translation of Books I & II of the New Islamic Penal Code*, available at <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/> [accessed on 14 June 2023].

	<p>Note 1- A sexual intercourse occurs when the sex organ (penis) of a man, up to the point of circumcision, enters into the vagina or anus of a woman.</p> <p>Note 2- If both parties or one of them are non-pubescent, zina occurs but for the non-pubescent [party(parties)] the <i>hadd</i> punishment shall not be given, but instead they shall be sentenced to security and correctional measures mentioned in the first book of this law.</p> <p>Article 223 of the Iran Islamic Penal Code</p> <p>Where a person who is charged with <i>zina</i>, claims that s/he has been married to the other party or he has engaged in intercourse as a result of a mistake, his/her claim shall be accepted without [resorting to] testimonies and oaths, unless it is proved otherwise by an ultimate proof that meets the requirements under Shari'a.</p> <p>Article 233 of the Iran Islamic Penal Code</p> <p><i>Livat</i> is defined as penetration of a man's sex organ (penis), up to the point of circumcision, into another male person's anus.</p> <p>Article 242 of the Iran Islamic Penal Code</p> <p>Procuring/pandering is defined as [the act of] connecting two or more people together in order to commit <i>zina</i> or <i>livat</i>.</p> <p>Note 1- The <i>hadd</i> punishment for procuring/pandering is subject to commission of the <i>zina</i> or <i>livat</i>; otherwise, the offender shall be punishable by the ta'zir punishment prescribed in article 244 of this law.</p> <p>Note 2- In procuring/pandering, reoccurrence of the act shall not be necessary for commission of the offense.</p>	
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<p>Article 2. On consent</p> <p>17. Consent must be given voluntarily and must be genuine and result from the person’s free will, assessed in the context of the surrounding circumstances, and can be withdrawn at any moment. While consent need not be explicit in all cases, it cannot be inferred from:</p> <p>(a) silence by the victim;</p> <p>(b) non-resistance, verbal or physical, by the victim;</p> <p>(c) the victim’s past sexual behavior; or</p> <p>(d) the victim’s status, occupation or relationship to the accused.</p>	<p>Article 222 of the Iran Islamic Penal Code</p> <p>Sexual intercourse with a dead person shall be regarded as <i>zina</i>, unless a husband has sexual intercourse with his deceased wife, which is not <i>zina</i>; but, shall be punishable by thirty one to seventy four lashes of ta’zir punishment of the sixth grade.</p> <p>Article 223 of the Iran Islamic Penal Code</p> <p>Where a person who is charged with <i>zina</i>, claims that s/he has been married to the other party or he has engaged in intercourse as a result of a mistake, his/her claim shall be accepted without [resorting to] testimonies and oaths, unless it is proved otherwise by an ultimate proof that meets the requirements under Shari’a.</p> <p>Article 224 of the Iran Islamic Penal Code</p> <p>Note 2- The conduct of anyone who commits <i>zina</i> with a woman who did not consent to engage in <i>zina</i> with him, while she is unconscious, asleep, or drunk, shall be regarded as <i>zina</i> committed by coercion [i.e., rape]. In cases of <i>zina</i> by deceiving and enticing a non-pubescent girl, or by abducting, threatening, or intimidating a woman, even if she surrenders herself as a result of that, the abovementioned rule shall apply.</p>	<p>YES</p>
<p>Article 3. Age of consent</p> <p>(a) A person is considered incapable of giving genuine consent when they are a person below the age of 16.</p>	<p>Article 1041 of the Iran Civil Code⁷²</p> <p>Marriage of girls before reaching the age of 13 full solar years and boys before reaching the age of 15 full solar years is subject to the permission of the Guardian and on condition of taking the child’s best interest into consideration and approval of the relevant court.</p>	<p>YES</p>

⁷² United States Institute of Peace, *The Iran Primer, Part 3: Iranian Laws on Women*, available at <https://iranprimer.usip.org/blog/2020/dec/08/part-3-iranian-laws-women> [accessed on 14 June 2023].

<p>(b) Consensual sexual relations between children younger than 16, or between a child younger than 18 years old and a child older than 14 and younger than 16 should not be criminalized.</p>	<p>Article 146 of the Iran Islamic Penal Code</p> <p>Non-mature children have no criminal responsibility.</p> <p>Article 147 of the Iran Islamic Penal Code</p> <p>The age of maturity for girls and boys are, respectively, a full nine and fifteen lunar years.</p> <p>Article 221 of the Iran Islamic Penal Code</p> <p>Note 2- If both parties or one of them are non-pubescent, <i>zina</i> occurs but for the non-pubescent [party(parties)] the <i>hadd</i> punishment shall not be given, but instead they shall be sentenced to security and correctional measures mentioned in the first book of this law.</p>	
<p>Article 4. On the incapability of giving genuine consent</p> <p>A person is considered incapable of giving genuine consent:</p> <p>(a) when they are unconscious, asleep, or seriously intoxicated as a result of drugs or alcohol consumed voluntarily, involuntarily or unknowingly;</p> <p>(b) when the perpetrator is an adult, 18 years old or older and the victim is a child related to the perpetrator by blood, marriage, adoption, fostering or other analogous familial affiliation.</p>	<p>Article 224 of the Iran Islamic Penal Code</p> <p>Note 2- The conduct of anyone who commits <i>zina</i> with a woman who did not consent to engage in <i>zina</i> with him, while she is unconscious, asleep, or drunk, shall be regarded as <i>zina</i> committed by coercion [i.e., rape]. In cases of <i>zina</i> by deceiving and enticing a non-pubescent girl, or by abducting, threatening, or intimidating a woman, even if she surrenders herself as a result of that, the abovementioned rule shall apply.</p>	YES
<p>Article 5. Use of force, threat or coercion</p> <p>Lack of consent is presumed where penetration was committed by force, or by threat of force or coercion. There is a broad range of coercive circumstances, including, but not limited to, circumstances in which:</p>	<p>Article 224 of the Iran Islamic Penal Code</p> <p>Note 2- The conduct of anyone who commits <i>zina</i> with a woman who did not consent to engage in <i>zina</i> with him, while she is unconscious, asleep, or drunk, shall be regarded as <i>zina</i> committed by coercion [i.e., rape]. In cases of <i>zina</i> by deceiving and enticing a non-pubescent girl, or by abducting, threatening, or intimidating a woman, even if she surrenders herself as a result of that, the abovementioned rule shall apply.</p>	YES

<p>(a) the victim was subject to abuse, violence, duress, deceit, detention or psychological oppression or intimidation that contributed to the victim’s subjugation or acquiescence; or</p> <p>(b) the victim was subject to a threat (expressed or implied) of present or future physical or non-physical harm to the victim or a third person.</p>		
<p>Article 6. On presumed lack of consent</p> <p>Lack of consent is presumed when:</p> <p>(a) The victim was intoxicated as a result of drugs or alcohol consumed voluntarily, involuntarily or unknowingly;</p> <p>(b) When an illness, bodily injury, or other particular vulnerability has an impact of the victim’s ability to consent; or</p> <p>(c) When the perpetrator is in a position of power, trust, influence or dependency over the victim and may have taken advantage of that position to force participation.</p> <p>Lack of consent is also presumed when the perpetrator abuses a relationship or position of power or authority over the victim. The positions and relationships listed below include, but are not limited to, situations in which the perpetrator is in a position of power or authority, influence or dominance over the victim:</p> <p>(a) in a school, hospital, religious, correctional or care facility setting;</p> <p>(b) in a professional or occupational setting;</p> <p>(c) in a residential care facility, community home, voluntary home, children’s home or orphanage;</p> <p>(d) in the context of providing the victim medical, psychological or psycho-social support or treatment;</p> <p>(e) in a guardian-ward relationship;</p>	<p>Article 224 of the Iran Islamic Penal Code</p> <p>Note 2- The conduct of anyone who commits <i>zina</i> with a woman who did not consent to engage in <i>zina</i> with him, while she is unconscious, asleep, or drunk, shall be regarded as <i>zina</i> committed by coercion [i.e., rape]. In cases of <i>zina</i> by deceiving and enticing a non-pubescent girl, or by abducting, threatening, or intimidating a woman, even if she surrenders herself as a result of that, the abovementioned rule shall apply.</p>	<p>YES</p>

<p>(f) by acting as a member of law enforcement, worker, probation officer, sports coach, instructor, minister of religion, babysitter, child-minder or in any other position of welfare in relation to the victim; or</p> <p>(g) by otherwise being generally involved and responsible for the care, training or supervision of the victim.</p>		
<p>B. Sentencing, aggravating and mitigating circumstances</p>		
<p>Article 7. Sentencing</p> <p>(a) States should ensure that sanctions for offences of rape are effective, proportionate, dissuasive and commensurate with the gravity of the crimes.</p> <p>(b) States should develop sentencing guidelines to ensure consistency in sentencing outcomes.</p> <p>(c) States should not allow conditional sentences and/or community service or fines alone as sanctions.</p> <p>(d) The death penalty should never be imposed for rape.</p>	<p>Article 224 of the Iran Islamic Penal Code</p> <p>In the following cases the <i>hadd</i> punishment for <i>zina</i> is the death penalty:</p> <p>(a) <i>Zina</i> with blood relatives who are prohibited to marry.</p> <p>(b) <i>Zina</i> with a step-mother; in which case, the man who committed <i>zina</i> shall be sentenced to the death penalty.</p> <p>(c) <i>Zina</i> of a non-Muslim man with a Muslim woman; in which case, the man who committed <i>zina</i> shall be sentenced to the death penalty.</p> <p>(d) <i>Zina</i> committed by coercion or force [i.e., rape]; in which case, the man who committed <i>zina</i> by coercion or force shall be sentenced to the death penalty.</p> <p>Note 1- Punishment of the woman who has committed <i>zina</i> in paragraphs (b) and (c) shall be in accordance with other provisions of <i>zina</i>.</p> <p>Note 2- The conduct of anyone who commits <i>zina</i> with a woman who did not consent to engage in <i>zina</i> with him, while she is unconscious, asleep, or drunk, shall be regarded as <i>zina</i> committed by coercion [i.e., rape]. In cases of <i>zina</i> by deceiving and enticing a non-pubescent girl, or by abducting, threatening, or intimidating a woman, even if she surrenders herself as a result of that, the abovementioned rule shall apply.</p>	<p>YES</p>

	<p>Article 225 of the Iran Islamic Penal Code</p> <p>(a) <i>Ihsan</i> of a man is defined as a status that a man is married to a permanent and pubescent wife and has had vaginal intercourse with her whilst he has been sane and pubescent and can have vaginal intercourse with her whenever he so wishes.</p> <p>(b) <i>Ihsan</i> of a woman is defined as a status that a woman who is married to her permanent and pubescent husband and the husband has had vaginal intercourse with her whilst she was sane and pubescent and she is able to have vaginal intercourse with her husband.</p> <p>Article 226 of the Iran Islamic Penal Code</p> <p><i>Ihsan</i> shall be established for both men and women according to the following:</p> <p>(a) <i>Ihsan</i> of a man is defined as a status that a man is married to a permanent and pubescent wife and has had vaginal intercourse with her whilst he has been sane and pubescent and can have vaginal intercourse with her whenever he so wishes.</p> <p>(b) <i>Ihsan</i> of a woman is defined as a status that a woman who is married to her permanent and pubescent husband and the husband has had vaginal intercourse with her whilst she was sane and pubescent and she is able to have vaginal intercourse with her husband.</p> <p>Article 227 of the Iran Islamic Penal Code</p> <p>The parties to a marriage shall not meet the conditions of <i>ihsan</i> [mentioned in article 226] during periods such as travel, imprisonment, menstruation, lochia, any illness that prevents sexual intercourse, or any illness that puts the other party at risk such as AIDS and syphilis.</p>	
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	<p>Article 228 of the Iran Islamic Penal Code</p> <p>In the case of a <i>zina</i> with blood relatives who are prohibited to marry and a <i>zina</i> that the offender meets the conditions of <i>ihsan</i>, if the woman who has committed <i>zina</i> is pubescent and the man who has committed <i>zina</i> is non-pubescent, the woman shall only be sentenced to one hundred lashes.</p> <p>Article 229 of the Iran Islamic Penal Code</p> <p>If a man who is married to his permanent wife commits <i>zina</i> prior to any sexual intercourse [with his wife], he shall be sentenced to the <i>hadd</i> punishment of one hundred lashes and shaving his head, and banishment for one year.</p> <p>Article 230 of the Iran Islamic Penal Code</p> <p>In cases where the offender does not meet the conditions of <i>ihsan</i> [mentioned in article 227], the <i>hadd</i> punishment for <i>zina</i> shall be one hundred lashes.</p> <p>Article 231 of the Iran Islamic Penal Code</p> <p>In the case of <i>zina</i> committed by coercion or force [i.e. rape], if the woman is a virgin, the offender, in addition to the punishment provided, shall be convicted to pay the compensation for virginity and a <i>mahr-ul-methl</i> (a type of mahr that shall be paid to a woman at the rate payable for other women in a similar position); and if she is not a virgin, the offender shall be sentenced to the punishment and payment of a <i>mahr-ul-methl</i>.</p> <p>Article 232 of the Iran Islamic Penal Code</p> <p>Where a man or woman confesses to <i>zina</i> less than four times, s/he shall be sentenced to thirty-one to seventy-four lashes of <i>ta'zir</i> punishment of the sixth grade. The same punishment</p>	
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	<p>mentioned in this article shall be applicable in the cases of <i>livat</i>, <i>tafkhez</i>, and <i>musaheqeh</i>.</p> <p>Article 234 of the Iran Islamic Penal Code</p> <p>The <i>hadd</i> punishment for <i>livat</i> shall be the death penalty for the insertive/active party if he has committed <i>livat</i> by using force, coercion, or in cases where he meets the conditions for <i>ihsan</i>; otherwise, he shall be sentenced to one hundred lashes. The <i>hadd</i> punishment for the receptive/passive party, in any case (whether or not he meets the conditions for <i>ihsan</i>) shall be the death penalty.</p> <p>Note 1- If the insertive/active party is a non-Muslim and the receptive/passive party is a Muslim, the hadd punishment for the insertive/active party shall be the death penalty.</p> <p>Note 2- <i>Ihsan</i> is defined as a status that a man is married to a permanent and pubescent wife and whilst he has been sane and pubescent has had a vaginal intercourse with the same wife while she was pubescent, and he can have an intercourse with her in the same way [vaginal] whenever he so wishes.</p> <p>Article 242 of the Iran Islamic Penal Code</p> <p>Procuring/pandering is defined as [the act of] connecting two or more people together in order to commit <i>zina</i> or <i>livat</i>.</p> <p>Note 1- The <i>hadd</i> punishment for procuring/pandering is subject to commission of the <i>zina</i> or <i>livat</i>; otherwise, the offender shall be punishable by the <i>ta'zir</i> punishment prescribed in article 244 of this law.</p> <p>Note 2- In procuring/pandering, reoccurrence of the act shall not be necessary for commission of the offense.</p> <p>Article 243 of the Iran Islamic Penal Code</p>	
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	<p>The <i>hadd</i> punishment for procuring/pandering is seventy-five lashes for men; and if committed for the second time, in addition to the <i>hadd</i> punishment of seventy-five lashes, [the offender] shall be sentenced to banishment from [his] area for a period of up to one year at the discretion of the judge, and it is only seventy-five lashes for women.</p> <p>Article 244 of the Iran Islamic Penal Code</p> <p>Anyone who connects two or more non-pubescent persons together in order to commit <i>zina</i> or <i>livat</i> shall not be punishable by a <i>hadd</i> punishment but shall be sentenced to thirty-one to seventy-four lashes and a <i>ta'zir</i> imprisonment of the sixth degree.</p>	
<p>Article 8. Aggravating circumstances</p> <p>The presence of aggravating factors increase the gravity and severity of rape and States should ensure that aggravating circumstances are taken into account and factored into penalties.</p> <p>The following non-exhaustive list of circumstances should be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offence of rape:</p> <p>(a) the relationship between victim and perpetrator, when there is a power imbalance that makes the victim particularly vulnerable:</p> <ul style="list-style-type: none"> (i.) the offence was committed against a former or current spouse or partner; (ii.) the offence was committed by a member of the family or a person cohabiting with the victim; (iii.) the perpetrator took advantage of any kind of relationship of trust, kinship, authority or other unequal power relationship with the victim; 	<p>Based on research conducted for this report, legislation specifically addressing aggravating circumstances specific to the crime of rape was not identified.</p>	<p>YES</p>

<p>(iv.) the perpetrator is an agent or contractor of the State, or has authorization, support or acquiescence from one or more agents or contractors of the State;</p> <p>(b) conditions of the victim or context that make them particularly vulnerable to sexual violence:</p> <p>(i.) the offence was committed against a victim who for any reason is imprisoned or detained;</p> <p>(ii.) the offence was committed against a child or against an older person;</p> <p>(iii.) the offence was committed against or in the presence of relatives of the victim or any child;</p> <p>(iv.) the perpetrator took advantage of a person in a position of particular vulnerability, including but not limited to in times of armed conflict, political violence or other social disturbance, during human trafficking or migration, labour exploitation, sexual exploitation or natural disasters;</p> <p>(v.) the offence was committed with an additional discriminatory motive against a victim because of their race, caste, ethnicity, sexual orientation, gender identity, disability, age, migrant or refugee or other status;</p> <p>(vi.) the offence was committed against a pregnant person;</p> <p>(c) the ways in which the offence is carried out:</p> <p>(i.) the offence was committed by two or more people acting together;</p> <p>(ii.) the offence, or related offences, were committed repeatedly;</p>		
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<p>(iii.) the offence was preceded or accompanied by extreme levels of violence or threats of or attempts to cause extreme levels of violence;</p> <p>(iv.) the offence was committed with the use or threat of use of a weapon;</p> <p>(v.) the offence was committed including by causing the victim to take, use or be affected by drugs, alcohol or other intoxicating substances to maintain control over the victim;</p> <p>(vi.) the perpetrator had previously been convicted of offences of a similar nature;</p> <p>(vii.) the offense was filmed or photographed by the perpetrator;</p> <p>(d) the consequences of rape to the victim:</p> <p>(i.) the offence resulted in severe physical or psychological harm or disability for the victim;</p> <p>(ii.) the offence resulted in death, pregnancy or the communication of a sexually transmitted infection or disease.</p>		
<p>Article 9. Mitigating circumstances</p> <p>States should not permit in rape cases the use of extenuating and mitigating circumstances that are based on culture, religion, customs, traditions or so-called honour that are contrary to international human rights law in cases of rape.</p> <p>(a) States should ensure that the perpetrator cannot be exempt from punishment or subjected to reduced punishment by reaching any form of settlement (financial or otherwise) with the victim or the victim's family;</p> <p>(b) States should ensure that the perpetrator cannot be exempt from punishment or subjected to reduced punishment for subsequently</p>	<p>Article 37 of the Iran Islamic Penal Code</p> <p>If there is one, or more, mitigating factor(s), the court may mitigate or replace the <i>ta'zir</i> punishment as explained below in a way which is in the interest of the accused:</p> <p>(a) Reducing the imprisonment period from one to three degree(s)</p> <p>(b) Replacing the confiscation of properties with a fine of the first to fourth degree</p>	<p>YES</p>

<p>marrying the victim and the law should not provide that the perpetrator is required to marry the victim.</p> <p>Mitigating circumstances that should be prohibited include, but are not limited to:</p> <p>(a) if the perpetrator marries or desires to or attempts to reconcile with the victim.</p> <p>(b) the wish of the perpetrator, or the perpetrator's family or community, to compensate for the harm.</p> <p>(c) character or reputation of the perpetrator;</p> <p>(d) prior history of behaviour to insinuate blame on the part of the victim.</p>	<p>(c) Replacing the permanent dismissal to temporary suspension from five to fifteen years</p> <p>(d) Reducing one or two degrees of the same or other types of punishments for other <i>ta'zir</i> punishments</p> <p>Article 38 of the Iran Islamic Penal Code</p> <p>Mitigating factors are:</p> <p>(a) Forgiveness by complainant or private claimant</p> <p>(b) Effective cooperation of the accused in recognition of accomplices and accessories to the offense and in finding the proceeds of the offense or discovering the properties and goods resulted from, or the means used in commission of, the offense</p> <p>(c) Specific circumstances under the influence of which the accused has committed the offense; such as: inflammatory conduct or talk of the victim or honorable motive for committing the offense</p> <p>(d) Statement of the accused prior to prosecution, or his/her effective confession during investigation and prosecution</p> <p>(e) Regret, good reputation or specific condition of the accused such as his/her age or illness</p> <p>(f) Efforts by the accused in order to reduce the effects of the offense and his/her measures to compensate the loss resulting from it</p> <p>(g) When the loss imposed to the victim of the offense or the consequences of the offense are slight</p> <p>(h) Slight contribution of accomplice or accessory to the offense in commission of the offense</p>	
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	<p>Article 114 of the Iran Islamic Penal Code</p> <p>In the case of offenses punishable by <i>hadd</i>, with the exception of <i>qazf</i> and <i>moharebeh</i>, if the accused repents anytime before the commission of the offense is proved, and his/her regret and correction is certain in the eyes of the judge, the <i>hadd</i> punishment shall not be given. In addition, if the abovementioned offenses, except for <i>qazf</i>, are proved by confession, if the offender repents, even after the commission of the offense is proved, the court, through the Head of Judiciary, can apply for pardon of the offender by the Leader.</p> <p>Note 1- If a <i>mohareb</i> repents before s/he is arrested or held under control, the <i>hadd</i> punishment shall not be given.</p> <p>Note 2- In the cases of <i>zina</i> and <i>livat</i>, when the offense is committed by force or coercion or deception of the victim, if the offender repents and the [<i>hadd</i>] punishment is not given according to this article, s/he shall be sentenced to <i>ta'zir</i> imprisonment or flogging, or both, of the sixth degree.</p> <p>Article 115 of the Iran Islamic Penal Code</p> <p>In the case of <i>ta'zir</i> offenses of the sixth, seventh, or eighth degree, if the offender repents and his/her regret and correction is certain in the eyes of the judge, the punishment shall not be given. In other <i>ta'zir</i> offenses, [if the offender repents], the court can apply the provisions relating to mitigation of the punishment.</p> <p>Note 1- The provisions relating to repentance shall not be applied on individuals to whom the provisions of re-offending of <i>ta'zir</i> offenses are applicable.</p> <p>Note 2- Provisions of this article, as well as paragraph (b) of article 7 and paragraphs (a) and (b) of article 8, and also articles 28, 39, 40, 45, 46, 92, 93, and 105 of this law shall not be applicable on <i>ta'zir</i> offenses prescribed in Shari'a.</p>	
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	<p>Article 117 of the Iran Islamic Penal Code</p> <p>In cases where the repentance of the accused removes or reduces the punishment, his/her repentance and correction and regret must be established and the mere assertion of the offender shall not suffice. If after the provisions regarding repentance are applied, it is proved that the offender has pretended that s/he has repented, the removal and mitigation of the punishment given shall be annulled and the sentence shall be executed. In this case, if the sentence is a <i>ta'zir</i> punishment, the offender shall be sentenced to the maximum <i>ta'zir</i> punishment provided.</p> <p>Article 154 of the Iran Islamic Penal Code</p> <p>Drunkenness and indetermination resulting from voluntary consumption of alcoholic beverages, narcotic and psychedelic drugs, and the like, shall not prevent punishment, unless it is proved that the offender has totally lost his will. However, if it is proved that such substances were consumed in order to commit the offense, or with the knowledge that the offense would occur, and the intended offense [actually] occurs, the offender shall be punished for both offenses.</p> <p>Article 155 of the Iran Islamic Penal Code</p> <p>Ignorance about the matter of law shall not prevent the punishment of the offender, unless it is reasonably impossible for him/her to become aware [of the law], or if ignorance about the law is considered an acceptable excuse under Shari'a.</p> <p>Note- Ignorance about the type or amount of the punishment shall not prevent the punishment.</p> <p>Article 158 of the Iran Islamic Penal Code</p>	
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	<p>In addition to the cases mentioned in previous articles, committing conduct which is considered by law as an offense, shall not be punished in the following cases:</p> <p>(a) If the commission of the conduct is mandated or permitted by law.</p> <p>(b) If the commission of the conduct is necessary for enforcement of a more important law.</p> <p>(c) If the conduct is committed upon the lawful order of a competent authority and the aforementioned order is not against Shari'a.</p> <p>(d) The acts committed by parents and legal guardians of minors and insane people in order to chastise or protect them provided that such actions are exercised within the customary limits and religious limits for chastisement and protection.</p> <p>(e) Athletic exercises and the accidents arising from them, provided that the causes of the accidents are not the violation of relevant rules of that sport, and such regulations do not violate the rules of Islamic Shari'a.</p> <p>(f) Every legitimate surgical or medical operation which is done by the consent of the patient or his/her parents or natural or legal guardians, or legal representatives, with due consideration given to technical and medical and governmental regulations. In emergency cases obtaining consent is not required.</p> <p>Article 159 of the Iran Islamic Penal Code</p> <p>When an offense is committed in compliance with an unlawful order of an official authority, both the commanding official and the offender shall be sentenced to the punishment provided by law. But for the offender who has committed the act in reliance on an acceptable mistake and on the assumption</p>	
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that it was lawful, s/he shall not be punished but the provisions of diya and financial compensation are applicable.

Article 173 of the Iran Islamic Penal Code

The denial after confession shall not result in removal of the punishment except for confession to an offense which is punishable by stoning or the death penalty as a *hadd* punishment, in which case, at any stage, even during the execution, the aforementioned sentence shall be removed and, instead, one hundred lashes in the case of *zina* and *livat*, and a *ta'zir* imprisonment of the fifth degree in other offenses, shall be given.

Article 243 of the Iran Islamic Penal Code

The *hadd* punishment for procuring/pandering is seventy-five lashes for men; and if committed for the second time, in addition to the *hadd* punishment of seventy-five lashes, [the offender] shall be sentenced to banishment from [his] area for a period of up to one year at the discretion of the judge, and it is only seventy-five lashes for women.

Article 244 of the Iran Islamic Penal Code

Anyone who connects two or more non-pubescent persons together in order to commit *zina* or *livat* shall not be punishable by a *hadd* punishment but shall be sentenced to thirty-one to seventy-four lashes and a *ta'zir* imprisonment of the sixth degree.

Article 630 of the Iran Islamic Penal Code

When a man sees her wife committing *zina* with another man, provided that he is certain that his wife is willing [to have sex], he can kill both of them in the same position; however if he knows that his wife acts under coercion, he may only kill the

	man [i.e., her rapist]. The same rule applies to assault and battery.	
<p>Article 10. Withdrawal of parental rights</p> <p>States should take legislative measures to allow for the withdrawal of parental rights of perpetrators in relation to the children conceived as a result of rape, taking into consideration their best interests:</p> <p>(a) Where a person is subject to a criminal proceeding for the crime of rape, parental rights to the child conceived as a result of the alleged rape will be suspended until a final decision is determined in the criminal process.</p> <p>(b) Where a person is convicted of the crime of rape, there should be a presumption against parental rights to a child conceived as a result of rape, taking into consideration the best interest of the child, while alimony and compensation should be granted irrespective of such withdrawal of parental rights. Incidents of violence against women should be taken into account when deciding on parental rights.</p> <p>(c) Where a person is convicted of the crime of rape, there should be a presumption against parental rights to any child conceived by that person, taking into consideration the best interest of the child, while alimony and compensation should be granted irrespective of such withdrawal of parental rights. These provisions are without prejudice to the child's right to enjoy any benefit accruing from their paternity.</p>	Based on research conducted for this report, legislation specifically addressing withdrawal of parental rights specific to the crime of rape was not identified.	YES
C. Investigation, prosecution and trial		
<p>Article 11. Victim-centred approach</p> <p>(a) A victim-centred approach places the victim at the centre of all responses, including by ensuring that they are kept informed about their rights, the legal process and progress of the case and are supported throughout the process, and free legal aid is available where appropriate;</p>	Based on research conducted for this report, legislation specifically addressing victim-centred approach for the crime of rape was not identified.	YES

<p>(b) The number of interviews of the victim should be kept to a minimum and interviews carried out only where strictly necessary for the purposes of the criminal investigation;</p> <p>(c) Examinations to collect medico-legal evidence are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings;</p> <p>(d) Victims should be able to be accompanied by their legal representative(s) and support persons of their choice, unless a reasoned decision has been made to the contrary.</p>		
<p>Article 12 – Child victims and witnesses of rape</p> <p>(a) Every child victim or witness of rape has the right to have his or her best interests given primary consideration.</p> <p>(b) Every child victim or witness of rape shall be treated according to the following general principles:</p> <p style="padding-left: 40px;">(i.) A child victim or witness of crime shall be treated in a caring and sensitive manner that is respectful of his or her dignity throughout the legal proceedings, taking into account his or her personal situation and immediate and special needs, age, gender, disabilities if any and level of maturity.</p> <p style="padding-left: 40px;">(ii.) Interference in the child’s private life shall be limited to the minimum necessary as defined by law in order to ensure high standards of evidence and a fair and equitable outcome of the proceedings.</p> <p style="padding-left: 40px;">(iii.) The privacy of a child victim or witness shall be protected.</p> <p style="padding-left: 40px;">(iv.) Information that would tend to identify a child as a witness or victim shall not be published without the express permission of the court.</p>	<p>Based on research conducted for this report, legislation specifically addressing child victims and witnesses of rape was not identified.</p>	<p>YES</p>

<p>(v.) A child victim or witness shall have the right to express his or her views, opinions and beliefs freely, in his or her own words, and shall have the right to contribute to decisions affecting his or her life, including those taken in the course of the justice process.</p> <p>(c) A child victim or witness shall be assigned a lawyer by the State free of charge throughout the justice process in the following instances:</p> <ul style="list-style-type: none">(i.) At his or her request;(ii.) At the request of his or her parents or guardian;(iii.) At the request of the support person, if one has been designated;(iv.) Pursuant to an order of the court on its own motion, if the court considers the assignment of a lawyer to be in the best interests of the child. <p>(d) If at any stage in the justice process the safety of a child victim or witness is deemed to be at risk, the competent authority shall arrange to have protective measures put in place for the child. Those measures may include the following:</p> <ul style="list-style-type: none">(i.) Avoiding direct contact between a child victim or witness and the accused at any point in the justice process;(ii.) Requesting restraining orders from a competent court;(iii.) Requesting a pretrial detention order for the accused from a competent court, with “no contact” bail conditions;(iv.) Requesting an order from a competent court to place the accused under house arrest;		
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<p>(v.) Requesting protection for a child victim or witness by the police or other relevant agencies:</p> <p>(vi.) Making or requesting from competent authorities other protective measures that may be deemed appropriate</p>		
<p>Article 13. Investigation</p> <p>(a) Investigators/police officers should not delay investigation nor refuse to record the crime or initiate an investigation solely based on delayed reporting of the crime;</p> <p>(b) Investigators/police officers should promptly give the victim written acknowledgement of receipt of their complaint;</p> <p>(c) Investigators/police officers should promptly and effectively record and investigate all allegations/reports made by the victim or other witnesses/organizations and ensure that the official report of the complaint is filed in all cases;</p> <p>(d) Investigators/police officers should promptly respond to requests for assistance and protection, advise the victim of their rights, and support the victim in filing a complaint and in accessing relevant services;</p> <p>(e) Investigators/police officers should conduct initial interviews in a gender-sensitive and trauma-informed manner and with due respect for the right to privacy.</p> <p>(f) Investigators/police officers should conduct interviews of victims without unjustified delay after the rape complaint has been made to the competent investigative authority, in a language understood by the victim and with the support of an interpreter, if necessary;</p> <p>(g) Investigators should conduct risk assessments, considering the seriousness of the situation and the risk of repeated rape or lethal violence, including possession of firearms by the perpetrator and issue</p>	<p>Based on research conducted for this report, legislation specifically addressing the conduct of investigation for the crime of rape was not identified.</p>	<p>YES</p>

<p>effective protection orders including ex parte protection orders or other measures to protect the victim and their family as necessary;</p> <p>(h) There should be a complaint mechanism accessible to victims who were mistreated by the police or if their case was mishandled.</p>		
<p>Article 14. Ex officio prosecution</p> <p>(a) The investigation and prosecution of rape should be conducted ex officio. The State has the obligation to carry out an effective investigation and prosecute the crime, which should not be wholly dependent on a report or accusation made by the victim and may continue even if the victim has withdrawn their statement;</p> <p>(b) Any prosecutor who discontinues a rape case should provide a formal and timely written explanation to the victim of the reasons why the case was dropped.</p>	<p>Article 12 of the Iran Islamic Penal Code</p> <p>Imposing and executing a punishment or security and correctional measures shall be carried out by a competent court and in accordance with the law and subject to conditions and requirements specified in the law.</p>	NO
<p>Article 15. Timely and without undue delay</p> <p>(a) Investigations and judicial proceedings should be carried out in a timely manner without undue delay, while taking into consideration the rights of the victim during all stages of the criminal proceedings;</p> <p>(b) All reports of rape should be taken seriously and investigated promptly, thoroughly and impartially;</p> <p>(c) All evidence properly collected and decision on cases that should be prosecuted without any prejudicial stereotypical views of the victim or any other reason which would deny effective access to justice to victims.</p>	<p>Article 40 of the Iran Islamic Penal Code</p> <p>In <i>ta'zir</i> offenses of the sixth to eighth degree, after the accused is found guilty, the court, subject to the following conditions and considering his/her personal, family, and social conditions and backgrounds and the circumstances that resulted in commission of the offense, may postpone the deliverance of the judgment from six to two years:</p> <p>(a) Existence of mitigating factors</p> <p>(b) Foreseeable correction of the offender</p> <p>(c) Compensation of, or taking appropriate measures to compensate, the loss</p> <p>(d) Lack of effective criminal record</p> <p>Article 41 of the Iran Islamic Penal Code</p>	YES

	<p>Note- An effective conviction is a conviction that deprives the convict from social rights following the execution of the sentence in accordance with article 25 of this law.</p> <p>Postponement [of deliverance of the judgment] has two forms: simple and supervised.</p> <p>(a) In simple postponement, the offender shall promise in writing that in the period determined by the court, s/he will not commit any crime, and it is believed from his/her behavior that s/he will not commit any crime in the future too.</p> <p>(b) In supervised postponement, in addition to the conditions mentioned for simple postponement, the offender promises to comply with and execute the orders and measures set by the court during the period of postponement.</p> <p>Note 1- The court cannot issue the warrant of postponement of deliverance of judgment in absentia.</p> <p>Note 2- If the accused is in custody, the court, after issuing the warrant of postponement of deliverance of judgment, shall immediately order his/her release. In such cases the court can obtain an appropriate guarantee. In any event, however, obtaining the guarantee shall not result in detention of the offender.</p> <p>Article 46 of the Iran Islamic Penal Code</p> <p>In <i>ta'zir</i> crimes of the third to eighth degree, the court can suspend execution of all or part of the punishment from one to five years, subject to the [same] requirements provided for postponement of deliverance of judgment. Also, the public prosecutor or judge in charge of execution of criminal judgments, after execution of one third of the punishment, can ask the court to suspend [execution of the punishment]. Also, the convict, after spending one third of the punishment, subject to legal requirements, can request suspension through</p>	
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	the Public Prosecutor or Prosecutor in charge of execution of criminal judgments.	
<p>Article 16. Evidentiary requirements, rape shield provisions</p> <p>States should ensure an objective, gender-sensitive assessment of the evidence in rape cases:</p> <p>(a) Introduction of evidence regarding the victim’s past sexual history or behaviour should be generally prohibited at all stages of the legal process, including cross-examination; and should be permitted only when relevant and necessary;</p> <p>(b) There should never be an absolute requirement that any specific piece of evidence be available for a prosecution to go ahead, such as medical evidence, which may not be available, particularly after a delay in reporting, or if there is a delay in starting the investigation;</p> <p>(c) There should be no requirement for the testimony of the victim to be otherwise corroborated in order for that testimony to be considered credible, reliable and sufficient as a basis for conviction, considered in the context of the particular case;</p> <p>(d) Lack of evidence of resistance such as physical injuries to the body must never, in and of itself, be taken as proof of consent to the sexual act.</p> <p>(e) No adverse inference shall be drawn from a delay of any length between the alleged commission of rape and the reporting thereof.</p>	<p>Article 120 of the Iran Islamic Penal Code</p> <p>If there is any doubt or hesitation about commission of a crime or any of its elements or any of the requirements for criminal liability and no evidence is found to remove that, the offense, or the requirement in question, whichever is applicable, shall not be proved.</p> <p>Article 121 of the Iran Islamic Penal Code</p> <p>In the case of crimes punishable by <i>hadd</i>, with the exception of <i>moharebeh</i>, <i>efsad-e-fel-arz</i>, theft, and <i>qazf</i>, with a mere doubt or hesitation and without any need for further evidence, the offense, or the requirement in question, whichever is applicable, shall not be proved.</p> <p>Article 162 of the Iran Islamic Penal Code</p> <p>Where the relevant evidence does not meet the requirements provided in law and Shari’a, they can be used as judicial signs [hearsay evidence] provided that, together with other circumstantial and hearsay evidences, they result in the knowledge of the judge.</p> <p>Article 172 of the Iran Islamic Penal Code</p> <p>Confession for one time shall be enough for all offenses, except for the following offenses which require [a different standard] as explained below:</p> <p>(a) Four times in the cases of <i>zina</i>, <i>livat</i>, <i>tafkhez</i>, and <i>musahqeh</i></p> <p>(b) Two times in the cases of consumption of intoxicants, procuring/pandering, <i>qazf</i>, and a theft punishable by <i>hadd</i></p>	YES

	<p>Note 1- In order to prove the non-criminal aspects of all offenses, a confession made only one time shall suffice.</p> <p>Note 2- In cases where confession for more than one time is required, the confession can be made in one or more session(s).</p> <p>Article 175 of the Iran Islamic Penal Code</p> <p>An admissible testimony under Shari'a is one recognized by the lawmaker as valid and ultimate proof, whether or not it results in the knowledge [of the judge].</p> <p>Article 177 of the Iran Islamic Penal Code</p> <p>An admissible witness under Shari'a rules shall meet the following requirements:</p> <ul style="list-style-type: none">(a) Puberty(b) Reason(c) Faith(d) Justice(e) Legitimacy of birth [born in wedlock](f) Not being a beneficiary to the claim(g) Not being in conflict with any or both of the parties(h) Not chosen beggary as his/her occupation(i) Not being a vagrant <p>Article 181 of the Iran Islamic Penal Code</p>	
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	<p>A just person is a person that in the eyes of the judge, or the [third] person who testifies to confirm his/her justice, is not sinful. Testimony of a person who is infamous for corruption, or commits capital sins or insists on commission of minor sins, shall not be accepted, until it is confirmed that s/he had changed his/her behavior and there is no doubt about his/her competence and just nature.</p> <p>Article 182 of the Iran Islamic Penal Code</p> <p>Regarding admissible testimony under Shari'a rules, if there is more than one witness, it is necessary that they testify about the same subject matter, and the contents of their testimonies show no difference in relation to the facts and conditions which are effective in proving the offense. Where the contents of the testimonies are contradictory or are not about the same subject matter, it shall not be accepted as an admissible testimony under Shari'a rules.</p> <p>Article 185 of the Iran Islamic Penal Code</p> <p>If two testimonies which are admissible under Shari'a are contradictory none of them shall be admissible.</p> <p>Article 185 of the Iran Islamic Penal Code</p> <p>Offenses punishable by <i>hadd</i> and <i>ta'zir</i> cannot be proved by a hearsay testimony; however, <i>qisas</i>, <i>diya</i>, and financial liability [resulting from an offense] can be proved by it.</p> <p>Article 199 of the Iran Islamic Penal Code</p> <p>The standard [of proof] for testimony in all offenses shall be two male witnesses; unless in <i>zina</i>, <i>livat</i>, <i>tafkhez</i>, and <i>musahhegeh</i> which shall be proved by four male witnesses. In order to prove a <i>zina</i> punishable by the <i>hadd</i> punishment of flogging, shaving [of head] and/or banishment, testimony of two just men and four just women shall be sufficient. If the punishment provided is other than the above, testimony of at</p>	
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	<p>least three men and two women shall be required. In such cases, if two just men and four just women testify for the offense, only the <i>hadd</i> punishment of flogging shall be given. Bodily offenses punishable by <i>diya</i> shall also be proved by one male witness and two female witnesses.</p> <p>Article 200 of the Iran Islamic Penal Code</p> <p>Regarding testimony in the cases of <i>zina</i> or <i>livat</i>, the witness must have personally seen the act by which <i>zina</i> or <i>livat</i> occurs, and if their testimonies are not based on eye-witnessing, and also if the number of witnesses does not meet the number required [by law], such testimonies in the cases of <i>zina</i> and <i>livat</i> shall be considered as <i>qazf</i> and punishable by a <i>hadd</i> punishment.</p> <p>Article 218 of the Iran Islamic Penal Code</p> <p>Note 2- Confession shall be admissible only if made before the judge in the court.</p> <p>Article 232 of the Iran Islamic Penal Code</p> <p>Where a man or woman confesses to <i>zina</i> less than four times, s/he shall be sentenced to thirty-one to seventy-four lashes of <i>ta'zir</i> punishment of the sixth grade. The same punishment mentioned in this article shall be applicable in the cases of <i>livat</i>, <i>tafkhez</i>, and <i>musaheqeh</i>.</p> <p>Article 245 of the Iran Islamic Penal Code</p> <p><i>Qazf</i> is defined as a false accusation of <i>zina</i> or <i>livat</i> against someone else, even a dead person.</p> <p>Article 246 of the Iran Islamic Penal Code</p> <p><i>Qazf</i> must be clear and unambiguous and the accuser must be aware of the meaning of the word and have the intention to</p>	
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	<p>accuse, even though the victim, or listener, to the <i>qazf</i>, are not aware of its content at the time of commission of the <i>qazf</i>.</p> <p>Note- In addition to oral and written, a <i>qazf</i> can be committed by electronic means as well.</p> <p>Article 250 of the Iran Islamic Penal Code</p> <p>The <i>hadd</i> punishment for <i>qazf</i> is eighty lashes.</p> <p>Article 250 of the Iran Islamic Penal Code</p> <p><i>Qazf</i> shall result in the <i>hadd</i> punishment when the person who is the subject of the <i>qazf</i> is pubescent, sane, Muslim, specified [by the offender], and it is not evident that s/he commits <i>zina</i> or <i>livat</i>.</p> <p>Note 1- If the person who is the subject of the <i>qazf</i> is non-pubescent, insane, non-Muslim, or unspecified [by the offender], the offender shall be sentenced to thirty-one to seventy-four lashes of <i>ta'zir</i> flogging of the sixth grade; however, it is not punishable to commit <i>qazf</i> against someone where it is evident that s/he commits <i>zina</i> or <i>livat</i>.</p> <p>Note 2- In the commission of <i>qazf</i> against someone where it is evident that s/he commits <i>zina</i> or <i>livat</i>, if s/he is accused of what is not evident about him/her, shall be punishable by the <i>hadd</i> punishment, such as accusing someone of <i>livat</i> while it is evident that he commits <i>zina</i>.</p> <p>Article 253 of the Iran Islamic Penal Code</p> <p>Anyone who accuses another person of <i>zina</i> or <i>livat</i> which are not punishable by <i>hadd</i>, such as <i>zina</i> or <i>livat</i> under coercion or while s/he was non-pubescent, shall be sentenced to thirty-one to seventy-four lashes of <i>ta'zir</i> flogging of the sixth degree.</p>	
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<p>Article 17. Statutory Limitations</p> <p>(a) The prosecution of rape should not be subject to any period of limitation in any circumstances, whether carried out in times of peace or conflict;</p> <p>(b) If statutes of limitation are in place, in the case of child victims, statutes should allow sufficient time for the initiation of proceedings after the victim has reached the age of majority.</p>	<p>Article 105 of the Iran Islamic Penal Code</p> <p>Lapse of time shall cease prosecution of the following <i>ta'zir</i> offenses only if the prosecution has not been commenced from the date of the commission of the offense until the following fixed times, or if since the last prosecutorial or investigative action until the following fixed times, it has not resulted in deliverance of the final judgment:</p> <p>(a) <i>Ta'zir</i> offenses of the first to three degree, after a lapse of fifteen years</p> <p>(b) <i>Ta'zir</i> offenses of the fourth degree, after a lapse of ten years</p> <p>(c) <i>Ta'zir</i> offenses of the fifth degree, after a lapse of seven years</p> <p>(d) <i>Ta'zir</i> offenses of the sixth degree, after a lapse of five years</p> <p>(e) <i>Ta'zir</i> offenses of the seventh and eighth degrees, after a lapse of three years</p> <p>Article 106 of the Iran Islamic Penal Code</p> <p>In the case of forgivable <i>ta'zir</i> offenses, if the victim of the offense does not make a complaint after one year from the date s/he has become aware of the offense, his/her right to make a criminal complaint shall be ended unless s/he has been under domination of the accused or if for any reason out of his/her control has not been able to make the complaint, in which case the abovementioned time shall be calculated from the date that the obstacle is removed. If the victim of the offense dies before the end of the abovementioned time and there is no evidence that s/he has decided not to make a complaint, then any of his/her heirs has the right to make a complaint within six months after his/her death.</p>	<p>NO</p>
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	<p>Note- In cases other than when the complainant has been under domination of the accused, the complainant's, or his/her heirs', complaint shall be dealt with only if the offense in question has not been subject to the lapse of time prescribed in article 105 of this law.</p> <p>Article 107 of the Iran Islamic Penal Code</p> <p>Lapse of time shall cease the execution of final <i>ta'zir</i> sentences, and it shall be commenced from the date the judgment of conviction becomes final as described below:</p> <p>(a) <i>Ta'zir</i> offenses of the first to three degree, after a lapse of twenty years</p> <p>(b) <i>Ta'zir</i> offenses of the fourth degree, after a lapse of fifteen years</p> <p>(c) <i>Ta'zir</i> offenses of the fifth degree, after a lapse of ten years</p> <p>(d) <i>Ta'zir</i> offenses of the sixth degree, after a lapse of seven years</p> <p>(e) <i>Ta'zir</i> offenses of the seventh and eighth degrees, after a lapse of five years</p> <p>Note 1- If execution of the whole or the rest of the sentence is halted for a limited time or subject to removal of an obstacle, the lapse of time shall be calculated from the specific time or removal of the obstacle.</p> <p>Note 2- Lapse of time for execution of foreign judgments in relation to Iranian citizens shall be dealt with under this law subject to legal provisions and agreements</p>	
Article 18. Jurisdiction and Cooperation between States	Article 3 of the Iran Islamic Penal Code	YES

<p>States should:</p> <ul style="list-style-type: none"> i. Establish jurisdiction over offences of rape, when the offence is committed: ii. in their territory; or iii. on board a ship flying their flag; or iv. on board an aircraft registered under their laws; or v. by one of their nationals. <p>(a) Ensure that their jurisdiction is not subordinated to the condition that the acts of rape are criminalised in the territory where they were committed.</p> <p>(b) Establish jurisdiction over offences of rape when the offence is committed in the context of conflict, war crimes, crimes against humanity, genocide, widespread or systematic attack, national disturbances or humanitarian crises.</p> <p>(c) States should endeavour to co-operate with each other, to the widest extent possible, for the purpose of preventing, investigating and prosecuting all rape cases, protecting and providing assistance to victims and providing mutual legal and other necessary assistance in criminal matters, extradition and enforcement of relevant civil and criminal judgments by judicial authorities of other States, including protection orders.</p>	<p>Iran's criminal laws shall apply to all persons who commit a crime within the territorial, maritime and aerial jurisdiction of the Islamic Republic of Iran, unless otherwise provided by law.</p> <p>Article 4 of the Iran Islamic Penal Code</p> <p>When part of an offense or its result occurred inside Iranian territory, the offense shall be deemed as having been committed inside the Islamic Republic of Iran.</p> <p>Article 7 of the Iran Islamic Penal Code</p> <p>In addition to the cases mentioned in the articles above, any Iranian national who commits a crime outside Iran and is found in, or extradited to, Iran shall be prosecuted and punished in accordance with the laws of the Islamic Republic of Iran, provided that:</p> <ul style="list-style-type: none"> (a) The committed conduct is deemed an offense under the law of the Islamic Republic of Iran. (b) If the committed crime is punishable by <i>ta'zir</i>, the accused person is not tried and acquitted in the place of the commission of the crime, or in the case of conviction the punishment is not, wholly or partly, carried out against him. (c) According to Iranian laws there is no basis for removal or discontinuation of prosecution or discontinuation or cancellation of execution of the punishment. <p>Article 9 of the Iran Islamic Penal Code</p> <p>Perpetrator of the offenses, which, according to a special law or international Conventions and laws shall be prosecuted in the country that he is found, if arrested in Iran shall be prosecuted and punished in accordance with the laws of the Islamic Republic of Iran.</p>	
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<p>Article 19. Prohibition of mandatory reconciliation or mediation</p> <p>The law should expressly prohibit any form of mandatory conciliation or mediation in cases of rape, both before and during legal proceedings.</p> <p>(a) Cases of violence against women, and particularly of rape and sexual violence, should not be referred to mandatory alternative dispute resolution procedures.</p> <p>(b) Plea bargains should be strongly discouraged in cases of rape and especially when the offence was committed against a victim who was a child at the time of the crime.</p>	<p>Based on research conducted for this report, legislation specifically prohibiting mandatory reconciliation or mediation specifically for the crime of rape was not identified.</p>	<p>YES</p>
<p>Article 20. Victim-centred protection measures</p> <p>States should take all necessary legislative measures to ensure that the rights and interests of victims are protected at all stages of the investigation and judicial proceedings, in particular by:</p> <p>(a) Providing for the protection of victims, their family members and witnesses from intimidation, retaliation and secondary victimization, including through physical protection of victims and their family members where necessary;</p> <p>(b) Ensuring avoidance of contact between a victim and the alleged perpetrator(s) within premises where criminal investigations or trials are conducted, including by providing separate waiting areas, entrances and exits and staggered arrival and departure times; by permitting victims to give evidence remotely or through the use of communication technology in a place the victim deems safe; or by utilizing witness protection boxes or screens in courtrooms to avoid visual contact between the victim and the alleged perpetrator(s);</p> <p>(c) Protecting the privacy of victims and preventing public dissemination of any information that could lead to the identification of the victim including by prohibiting the media from identifying victims of rape before conclusion of the trial and without the victims’</p>	<p>Based on research conducted for this report, victim-centred protection measures specifically for the crime of rape was not identified.</p>	<p>YES</p>

<p>consent afterwards, privacy when reporting to the police, closure of the courtroom during proceedings and the like;</p> <p>(d) Providing victims with adequate and timely information, in a language they understand throughout the criminal justice process, on their rights and available support services, the progress of the investigation and legal proceedings, their role therein and the outcome of the case;</p> <p>(e) Enabling victims to exercise their right to legal aid, interpretation and court support, including the right to be accompanied and represented in court by a specialized service or by any other independent support persons chosen by the victim.</p> <p>(f) Assessing the victim's specific needs to enable their effective participation in the criminal proceedings; and ensuring that child victims and victims with specific needs are afforded special support and protection measures to ensure they are able to participate as fully as possible in the proceedings at the same time as protecting their best interests. Such special measures may include but are not limited to:</p> <p style="padding-left: 40px;">(i.) ensuring that interviews with the victim are conducted in their home or residence or in premises specially designed or adapted for that purpose by an interviewer of the same sex without undue delay;</p> <p style="padding-left: 40px;">(ii.) ensuring the presence of parents or a person trusted by the child while recording a child's testimony, which could include representatives from specialist civil society organizations working to address or support victims of rape; and</p> <p style="padding-left: 40px;">(iii.) in the case of victims with physical, psychological, mental or intellectual impairment or disabilities, obtaining the assistance of a special educator, psychologist or other person familiar with appropriate communication techniques for example braille, sign language or other electronic and information technology accessible to people with specific</p>		
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<p>needs, before interviewing or recording the statement of the victim;</p> <p>(iv.) ensuring that interviews with the victim are carried out by or through professionals trained for that purpose;</p> <p>(v) ensuring interpretation and or translation services;</p> <p>(vi) ensuring psycho-social and legal support, and covering travel expenses incurred.</p> <p>(g) Ensuring that protection orders are efficient, available and easily accessible, could be issued ex parte and that victims are not subjected to undue delays in their applications for protection orders and other protective measures and that all allegations of rape are heard in a timely and impartial manner.</p>		
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