

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	497
Land:	Iran
Kilde:	Refugee Documentation Centre (Ireland)
Titel:	Information on the penalty under Iranian law for fornication between a single man and a married woman? Is this law widely implemented? Are there any reported convictions?
Udgivet:	11. september 2012
Optaget på baggrundsmaterialet:	17. december 2012



Iran – Researched and compiled by the Refugee Documentation Centre of Ireland on 11 September 2012

Information on the penalty under Iranian law for fornication between a single man and a married woman? Is this law widely implemented? Are there any reported convictions?

The 1991 *Islamic Penal Code of Iran*, in “Chapter 3: Types of Punishments for Adultery” (Article 82), states:

“The penalty for adultery in the following cases shall be death, regardless of the age or marital status of the culprit: (1) Adultery with one’s consanguineous relatives (close blood relatives forbidden to each other by religious law); (2) Adultery with one’s stepmother in which the adulterer’s punishment shall be death; (3) Adultery between a non-Muslim man and a Muslim woman, in which case the adulterer (non-Muslim man) shall receive the death penalty; (4) Forcible rape, in which case the rapist shall receive the death penalty.” (Islamic Republic of Iran (28 November 1991) *Islamic Penal Code of Iran*)

A *US Congressional Research Service* document, in a paragraph headed “Stonings”, states:

“In 2002, the head of Iran’s judiciary issued a ban on stoning. However, Iranian officials later called that directive ‘advisory’ and could be ignored by individual judges. On December 2, 2008, Iran confirmed the stoning deaths of two men in Mashhad who were convicted of adultery. A sentence of stoning against a 45-year-old woman (Sakineh Ashtiani) convicted of adultery and assisting in the murder of her husband was set aside for further review in July 2010. An Iranian parliamentarian said on January 17, 2011, the stoning sentence was dropped but she would serve 10 years in prison.” (US Congressional Research Service (23 March 2012) *Iran: U.S. Concerns and Policy Responses*)

A *UN Human Rights Council report*, in a section titled “Capital punishment” (paragraph 22), states:

“A number of individuals have been sentenced to death in recent years by stoning, despite announcements of a moratorium on stoning as a form of capital punishment by the judiciary. In its report on the subject, Amnesty International stated that at least 15 men and women are currently facing death by stoning sentences for ‘adultery while married’. The Special Rapporteur joins the Human Rights Committee in expressing its concern about the use of stoning as a method of execution, maintains that adultery does not constitute a serious crime by international standards; and strongly urges the Government to enforce its moratorium on stoning. The Special Rapporteur welcomes the fact that stoning has now been omitted from the new Penal Code and hopes all existing cases will be reviewed to ensure that such penalties are not carried out.” (UN Human Rights Council (6 March

2012) *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, p.8)

The 2011 *US Department of State* country report for Iran, in a section titled "Arbitrary or Unlawful Deprivation of Life", states:

"Adultery remained punishable by death by stoning, but there were no reported executions by stoning during the year. The law provides that a victim of stoning is allowed to go free if he or she escapes. It is much more difficult for women to escape as they are buried to their necks whereas men are buried only to their waists. According to AI, death sentences by stoning continued to be passed, but no stonings were known to be carried out. AI reported that at least 15 prisoners, mostly women, remained at risk of stoning." (US Department of State (24 May 2012) *2011 Country Reports on Human Rights Practices – Iran*)

In a section titled "Denial of Fair Public Trial" this report states:

"There were developments in a high-profile case from 2006. On January 17, Zohre Elahian, a Majlis member, stated that judiciary authorities commuted Sakineh Mohammadi-Ashtiani's sentence from death by hanging to 10 years in prison. In 2006, after having been convicted and punished with 99 lashes for involvement in her husband's murder, a court sentenced Ashtiani to death by stoning for adultery, suspended in September 2010. On June 22, the chief of the East Azerbaijan Justice Administration stated that Ashtiani had begun serving her prison term. However, he further announced that another sentence had not yet been determined. According to a July 8 report received by the International Committee against Stoning (ICAS), Ashtiani remained in Tabriz Central Prison, where she had attempted suicide as a result of psychological pressure from her incarceration, impending sentence, and deprivation of family visits." (ibid)

An article published by *The Times* states:

"Two years after *The Times* launched a campaign to save an Iranian woman sentenced to death by stoning for alleged adultery, her lawyer and other supporters say that the regime has abandoned its plans to execute her. They believe that Sakineh Mohammadi Ashtiani is now serving only a ten-year sentence for being an accomplice to her husband's murder, and could even be freed within the foreseeable future as she has been imprisoned since 2006. They attribute her survival to the international outcry at her plight. Governments, human rights organisations and luminaries around the world condemned Iran's 'barbaric' and 'inhuman' practice of stoning. Of a dozen other Iranians sentenced to death by stoning, none has been executed since the campaign began. 'From what I'm hearing the stoning sentence has been lifted and she could be released on parole before finishing her prison sentence,' said Mohammed Mostafaie, Ms Ashtiani's lawyer, who was forced into exile for publicising her case but still has contacts inside Iran. Mina Ahadi, co-ordinator of the International Committee Against Stoning, which championed Ms Ashtiani's cause, said: 'The Islamic regime has not officially said that the sentence has been overthrown but that seems to be the effect.' Naghi Mahmoudi, a lawyer forced to flee Iran for defending Houtan Kian, Ms Ashtiani's second lawyer who was arrested for representing her, added: 'It's very unlikely the stoning sentence will ever be carried out. All the international

publicity the case got has made it too costly for the regime.' Drewery Dyke, Amnesty International's Iran expert, said that he was not aware of the stoning sentence being lifted, but said: 'I'm greatly encouraged that it has not been carried out. That suggests to me that there's growing opposition within the judicial system to it ever being carried out.'" (The Times (25 June 2012) *Hope grows that Ashtiani's death sentence has been lifted*)

An *Amnesty International* submission document, in a section titled "The situation of women's rights in Iran", refers to a proposed new penal code as follows:

"Disappointingly, a new Penal Code, approved by parliament but which has not yet been enacted, would continue to discriminate against women, for example by valuing their testimony at half that of a man's. It would also continue to criminalize consensual sexual relations outside marriage even though stoning has been removed as a specified punishment. Stoning - a penalty which has a discriminatory impact on women - could still be imposed as Article 167 of Iran's Constitution requires judges to use their knowledge of Islamic law to rule on a case in the absence of codified law. In these ways the Penal Code continues to have a discriminatory impact on women." (Amnesty International (2 August 2012) *Amnesty International's submission to the Commission on the Status of Women regarding concerns about the harassment and imprisonment of women, including rights defenders and members of minorities, in Iran*)

A *Human Rights Watch* news report states:

"There are numerous other problems with the new penal code. The proposed amendments continue to mandate the death penalty for 'crimes' such as consensual sexual conduct outside of marriage, drinking alcohol, and apostasy (even though no law prohibits apostasy)." (Human Rights Watch (4 September 2012) *The Problem with Iran's Proposed Penal Code*)

See also *Human Rights Watch* report which, in a section titled "Adultery", states:

"Articles 222-231 of the new code address the crime of *zina* ('adultery' or 'fornication,' depending on the marital status of the individuals involved), generally defined as consensual or forced penetrative sex between a man and a woman outside of marriage. The new code removes, but does not specifically prohibit the imposition of the punishment of stoning, which is explicitly reserved for adulterers in the old code. However, in this area the amendments largely leave intact the provisions of the old code which make the death penalty mandatory for all individuals who willingly engage in sex with someone other than their married spouse (i.e. adultery), those who engage in incest, men who have sex with their stepmothers, and non-Muslim men who have sex with a Muslim woman regardless of his marital status." (Human Rights Watch (28 August 2012) *Codifying Repression: An Assessment of Iran's New Penal Code*, p.24)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to

the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

References:

Amnesty International (2 August 2012) *Amnesty International's submission to the Commission on the Status of Women regarding concerns about the harassment and imprisonment of women, including rights defenders and members of minorities, in Iran*

<http://www.amnesty.org/en/library/asset/MDE13/054/2012/en/e019f510-4f27-4d54-a1b7-663ac1453ef2/mde130542012en.pdf>

(Accessed 11 September 2012)

Human Rights Watch (4 September 2012) *The Problem with Iran's Proposed Penal Code*

<http://www.hrw.org/print/news/2012/09/04/problem-irans-proposed-penal-code>

(Accessed 11 September 2012)

Human Rights Watch (28 August 2012) *Codifying Repression: An Assessment of Iran's New Penal Code*

http://www.hrw.org/sites/default/files/reports/iran0812webwcover_0.pdf

(Accessed 11 September 2012)

Islamic Republic of Iran (28 November 2011) *Islamic Penal Code of Iran*

<http://www.unhcr.org/refworld/pdfid/4d384ae32.pdf>

(Accessed 11 September 2012)

The Times (25 June 2012) *Hope grows that Ashtiani's death sentence has been lifted*

<http://www.lexisnexis.com>

(Accessed 11 September 2012)

This is a subscription database

UN Human Rights Council (6 March 2012) *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*

<http://www.unhcr.org/refworld/pdfid/4f644d482.pdf>

(Accessed 11 September 2012)

US Congressional Research Service (23 March 2012) *Iran: U.S. Concerns and Policy Responses*

<http://www.unhcr.org/refworld/pdfid/4f843c752.pdf>

(Accessed 11 September 2012)

US Department of State (24 May 2012) *2011 Country Reports on Human Rights Practices – Iran*

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=4fc75a92af>

(Accessed 11 September 2012)

Sources Consulted:

Amnesty International
Electronic Immigration Network
European Country of Origin Information Network
Google
Human Rights Watch
Lexis Nexis
Refugee Documentation Centre Query Database
Refugee Review Tribunal
UNHCR Refworld
US Congressional Research Service
US Department of State