



Global Initiative to
**End All Corporal Punishment
of Children**

IRAN – COUNTRY REPORT

Child population: 22,221,000 (UNICEF, 2009)

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, ?schools, penal system, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Yes – The legal defences for the use of corporal punishment by parents/guardians in article 1179 of the Civil Code, articles 49 and 59 of the Islamic Penal Code and article 7 of the Law on the Protection of Children should be repealed and explicit prohibition enacted of all corporal punishment in childrearing, however light.

Other legislative measures necessary

Schools – The law should explicitly prohibit corporal punishment in all education settings, public and private.

Penal system – All provisions authorising corporal punishment as a sentence for offences committed by persons under 18, including for minors under the age of criminal responsibility, should be repealed. Explicit prohibition should be enacted of judicial corporal punishment of persons under 18 at the time of the offence and of corporal punishment as a disciplinary measure in penal institutions, as well as repealing any laws which authorise/regulate such punishment.

Alternative care settings – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc, together with the repeal of any laws specifically authorising/regulating corporal punishment in childcare settings.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 1179 of the Civil Code (1935, amended 1991) states that parents “are entitled to punish their children” within the “limits of correction”. Under article 49 of the Islamic Penal Code (1991, amended 1996), the parent/guardian is responsible for “correction”, including “bodily punishment” which “must have a limit and be appropriate”; article 59 states that the actions by parents for the purposes of correction do not constitute an offence. Article 7 of the Law on the Protection of Children exempts the “correction measures” in the Civil and Penal Codes from the prohibition of violence.

Schools

Corporal punishment is reportedly prohibited in schools, but we have no details of applicable legislation.

Penal system

Corporal punishment is lawful as a **sentence for crime**. Article 49 of the Islamic Penal Code states that if a minor commits a crime, the parent/guardian is responsible for his/her “correction”, including “bodily punishment” which “must have a limit and be appropriate”. A minor is defined as a person who has not reached puberty. According to article 1210 of the Civil Code, this is age 15 for boys and 9 for girls. Older children will be punished under the Penal Code, which includes provision for corporal punishment – lashings and amputation – for crimes relating to sex, false accusation, alcohol and bodily injury.

The Penal Code specifies how the lashing is to be administered for adultery – for a male, on the bare body, “severely”, except hands and face, while standing, for a female whilst sitting with a cloth tied to her body (article 100). More than three “pious people” must be present (article 101). Lashing may be postponed for a pregnant or nursing woman, and for a sick person or an excessively menstruating woman (articles 92 and 93). A person may be sentenced to both lashing and death, in which case she or he is lashed before being stoned to death (article 98). In the case of false accusation, lashing should be struck “moderately” over cloth and not on the face, head or private parts (articles 155 and 156); a further 74 lashes is given if the accusation is repeated (article 158). For alcohol related convictions, a male is lashed while naked and standing, except on the face, hands and private parts, a female while sitting and clothed (article 176). Further details about how flogging should be implemented are specified in the Directive on Implementation Regulations for Sentences of Retribution-in-Kind, Stoning, Murder, Crucifixion, Death Penalty, and Flogging (articles 27 to 35).

Other forms of corporal punishment are ordered under the Penal Code provisions for retaliation for injury (article 269). In retaliating for injury to limb, the limbs must be equally healthy, not artificial, the injury or point of loss must be equal, retaliation should not result in death or the loss of a different limb, and retaliation must not exceed the crime (article 272). If the convicted person has no right hand, the left hand will be cut off, if no left hand then the leg will be amputated (article 275). The Code also provides for similar retribution with regard to the eye, ear, nose, tongue, lips and teeth (articles 283 to 292). Theft is punished by amputation of the four fingers on the right hand for the first offence and half of the left foot on the second offence (articles 201 and 202).

Ta'azirat corporal punishments (lashing) are ordered for insulting, swearing or using profane language, insulting state employees, crimes against public morality by an unmarried man or woman,

excluding adultery, publicly violating a religious taboo, publishing or being in receipt of media which violates public morals, libel, and publishing false information (articles 608, 609, 637, 638, 640, 697 and 698).

In 2009/2010 a number of draft laws were under discussion, including a Bill for Establishment of Children and Juveniles Courts and a Bill for Investigation of Offences of Children and Juveniles, none of which would prohibit judicial corporal punishment of persons under 18. We have no information on the progress of these bills. As at November 2011, a Bill on Islamic Penal Law is under consideration by the Guardian Council which would replace *taziri* other punishments for person under 18 – including corporal punishment – with educational and correctional rehabilitation measures. However, *hadd* and retribution punishments would be replaced by alternatives only in certain circumstances.

Corporal punishment is unlawful as a **disciplinary measure** in prisons and other penal institutions under article 169 of the Implementing Regulation on the prison system (information unconfirmed).

Alternative care

Corporal punishment is lawful in alternative care settings under article 1179 of the Civil Code, articles 49 and 59 of the Penal Code and article 7 of the Law on the Protection of Children (see above).

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(31 March 2005, CRC/C/15/Add.254, Concluding observations on second report, paras. 45, 46, 47, 48, 72 and 73)

“The Committee deeply regrets that under the existing laws, persons below the age of 18 who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities and which the Committee considers to be totally incompatible with article 37 (a) and other provisions of the Convention.

“In the light of the consideration of the Bill on the Establishment of Juvenile Courts, the Committee urges the State party to take all the necessary measures to ensure that persons who committed crimes while under 18 are not subjected to any form of corporal punishment and to immediately suspend the imposition and the execution of sentences of amputation, flogging, stoning and other forms of cruel, inhuman or degrading treatment or punishment.

“The Committee continues to be concerned about legislation that provides for corporal punishment within the family. While welcoming the new Law on the Protection of Children and Adolescents (2003), which includes the prohibition of all forms of molestation and abuse of children and the obligation to report cases of child abuse, the exceptions stated therein continue to legally allow various forms of violence against children. More particularly, several articles of the Civil and Penal Code [sic], have been excluded, including article 1179 of the Civil Law and article 59 of the Penal Code which gives parents the right to physically discipline their children within non-defined “normal limits”. In the Committee’s view, such exceptions contribute to the abuse of children inside and outside the family and contravene the principles and provisions of the Convention, in particular article 19. The Committee also notes with concern, that certain forms of sexual abuse of children or grandchildren are not explicitly prohibited.

“The Committee recommends that the State party:

- a) continue and strengthen its efforts, including through legislative and other measures, to prohibit and prevent all forms of physical and mental violence against children, including corporal punishment and sexual abuse, in the family, in schools, and in other institutions, and take the necessary legislative measures to ensure that all those who sexually abuse children are punished without discrimination;
- b) initiate public education campaigns against the use of all forms of violence against children and encourage alternative forms of discipline....

“The Committee welcomes the efforts of the State party to improve the laws with regard to persons below 18 in conflict with the law.... However, it deplores the information referred to in paragraph 29 above that, despite the statement of the delegation during the consideration of the current report that, in view of the Bill on the Establishment of Juvenile Courts, executions, torture and other cruel, inhuman or degrading treatment or punishment of persons for having committed crimes before the age of 18 have been suspended, such executions and ill-treatment have continued since the consideration by the Committee of the State party’s initial report. The Committee remains concerned at the existing poor quality of the rules and practices in the juvenile justice system, reflected, inter alia, in the lack of statistical data, the limited use of specialized juvenile courts and judges, the low age of criminal responsibility, the lack of adequate alternatives to custodial sentences, and the imposition of torture and other cruel and inhuman punishment and in particular of the death penalty.

“The Committee repeats its recommendation contained in paragraph 9 above that the State party take, as a matter of the highest priority, the necessary measures for the approval and implementation of the Bill on the Establishment of Juvenile Courts and ensure that it complies with the provisions of the Convention, in particular articles 37, 39 and 40, as well as with other relevant international standards in this area.... In this respect the Committee urges the State party, in particular:

- b) to suspend immediately the imposition and execution of all forms of torture and other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, for crimes committed by persons under 18....”

Committee on the Rights of the Child

(28 June 2000, CRC/C/15/Add.123, Concluding observations on initial report, paras. 37, 38, 39 and 40)

“In light of article 37 (a) of the Convention, the Committee is seriously concerned that persons who committed crimes while under 18 can be subjected to corporal punishment under Note 2 of article 49 of the Islamic Penal Law, or can be subjected to a variety of types of cruel, inhuman or degrading treatment and punishment such as amputation, flogging and stoning, which are systematically imposed by judicial authorities. Concurring with the Human Rights Committee (CCPR/C/79/Add.25), the Committee finds that application of such measures is incompatible with the Convention.

“The Committee recommends that the State party take all necessary steps to end the imposition of corporal punishment under Note 2 of article 49 of the Islamic Penal Law and the imposition of amputation, flogging, stoning and other forms of cruel, inhuman or degrading treatment and punishment to persons who may have committed crimes while under 18.

“In light of articles 19 and 39 of the Convention, the Committee is concerned that legislation provides for corporal punishment within the family, under Note 2 of article 49 and article 59 of the Islamic Penal Law and article 1179 of the Civil Code.

“The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence against children, including corporal punishment and sexual abuse, in the family and in the schools. The Committee recommends that these measures be accompanied by public education campaigns about the negative consequences of ill-treatment of children. The Committee

recommends that the State party promote positive, non-violent forms of discipline as an alternative to corporal punishment, especially in the home and the schools....”

Human Rights Committee

([November 2011], Advance Unedited Version, Concluding observations on third report, para. 16)

“The Committee is concerned about the continued imposition of corporal punishment by judicial and administrative authorities, in particular amputations and flogging for a range of crimes, including theft, enmity against God (mohareb) and certain sexual acts. It is also concerned that corporal punishment of children is lawful in the home, as a sentence of the courts and in alternative care settings (art. 7).

The State party should amend the Penal Code to abolish the imposition of corporal punishment by judicial and administrative authorities. The State party should also explicitly prohibit (all forms of) corporal punishment in childrearing and education, including by repealing the legal defences for its use in article 1179 of the Civil Code, articles 49 and 59 of the Penal Code and article 7 of the Law on the Protection of Children.”

Human Rights Committee

(3 August 1993, CCPR/C/79/Add.25, Concluding observations on second report, paras. 5, 11 and 19)

“The Committee notes with interest the establishment of a Human Rights Office within the Ministry for Foreign Affairs, the measures under consideration in the Islamic Republic of Iran to improve the status of women and the promise to reconsider the question of corporal punishments....

“... [T]he Committee considers that the application of measures of punishment of extreme severity, such as flogging, lapidation and amputation, is not compatible with the provisions of article 7 of the Covenant....

“Effective measures should be adopted to ensure the strictest observance of articles 7 and 10 of the Covenant. All complaints of extrajudicial executions, disappearances, torture and ill-treatment should be duly investigated, the culprits should be punished and measures should be taken to prevent any recurrence of such acts. Severe forms of punishment incompatible with the Covenant should be removed from law and practice and the conditions of detention of persons deprived of their liberty should be improved....”

Universal Periodic Review

Iran was examined in the first cycle of the Universal Periodic Review in 2010. The Government rejected the recommendation to end cruel punishments, stating that “the term of ‘cruel punishment’ is applicable to none of the punishments stipulated in the laws of the country” (A/HRC/14/12/Add.1, Report of the Working Group: Addendum, para. 19). Examination in the second cycle is scheduled for 2014.

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