



Home Office

# Country Information and Guidance

## Iran: Adulterers

Version 1.0

November 2015

# Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained within this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

# Contents

<b>Preface</b> .....	<b>2</b>
<b>Guidance</b> .....	<b>4</b>
1. Introduction .....	4
1.1 Basis of Claim .....	4
2. Consideration of Issues .....	4
2.1 Is the person’s account credible? .....	4
2.2 Do adulterers constitute a particular social group?.....	4
2.3 Is the person at risk of persecution or serious harm? .....	5
2.4 Are those at risk able to seek effective protection? .....	5
2.5 Are those at risk able to internally relocate? .....	6
2.6 If refused, is the claim likely to be certifiable? .....	6
3. Policy summary .....	7
<b>Country Information</b> .....	<b>8</b>
4. Legal position.....	8
4.1 Penal Code.....	8
4.2 Punishment .....	10
4.3 Treatment of women .....	12
4.4 Honour related violence .....	16
<b>Version Control and Contacts</b> .....	<b>18</b>

# Guidance

Updated 30 November 2015

## 1. Introduction

### 1.1 Basis of Claim

- 1.1.1 Fear of persecution or serious harm at the hands of state and/or non state actors due to actual or alleged act(s) of adultery (which for the purposes of this guidance only is defined as a sexual relationship between a man and a woman outside of marriage).

[Back to Contents](#)

## 2. Consideration of Issues

### 2.1 Is the person's account credible?

- 2.1.1 For information on assessing credibility, see sections 4 and 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing if there is reason to doubt an individual's true place of origin. (see the [Asylum Instruction on Language Analysis](#)).

[Back to Contents](#)

### 2.2 Do adulterers constitute a particular social group?

- 2.2.1 Adulterers in Iran form a particular social group (PSG) within the meaning of the Refugee Convention. This is because they share an immutable (or innate) characteristic – the fact that they have (allegedly) committed adultery - that cannot be changed; and have a distinct identity in their home society.
- 2.2.2 Adultery is a specific crime in Iran and punishable by disproportionately severe sentences. In the [Court of Justice of the European Communities judgement for the joined cases of C-199/12 to C-201/12, dated November 2013 \(\[2013\] WLR\(D\) 427, \[2013\] EUECJ C-199/12\)](#), the Court held that 'the existence of criminal laws which specifically target the group concerned, supports the finding that those persons must be regarded as forming a particular social group.' (Ruling point 1).
- 2.2.3 Although adulterers in Iran form a PSG, this may not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to be addressed in each case will be whether the particular person will face a real risk of persecution on account of their membership of such a group.
- 2.2.4 For further guidance on particular social groups, see section 7.6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

## 2.3 Is the person at risk of persecution or serious harm?

- 2.3.1 Any sexual relationship outside of marriage is considered a crime in Iran and is punishable by 100 lashes and in some cases stoning to death. It is reported that at least one stoning sentence has been imposed in the last two years; but that no executions by stoning have actually taken place. However, the authorities do not release official statistics and the practice often takes place in secret so actual figures are likely to be higher (see [Penal Code and Punishment](#)).
- 2.3.2 The Penal Code also expressly permits a husband to kill his wife and her lover, if he caught them in the act. However if he knows that his wife acted under coercion, he is only permitted to kill her rapist (see [Penal Code and Punishment](#)).
- 2.3.3 Strict standards of proof are required in order to convict someone of adultery, with the testimony of four eyewitnesses or a repeated confession required. However, the penal code allows the judge to use their 'knowledge' in cases of morality crimes and as such the judge is able to determine a person's guilt in the absence of any direct evidence (see [Penal Code](#)).
- 2.3.4 Women are at a greater risk of being accused and convicted of adultery owing to discriminatory laws and societal acceptance of honour crimes. Men are able to claim that they are engaged in a temporary marriage, which permits sexual relations outside of marriage. Iranian law allows men to have multiple wives thus allowing them to claim to have both a permanent and temporary marriage at the same time. Women are not allowed to have multiple spouses making punishment more likely. However, men have also been sentenced to stoning in recent years (see [Treatment of women](#)).
- 2.3.5 Female rape victims have failed to report crimes because they fear retaliation or punishment for having been raped, as they could be charged with indecency, immoral behavior, or adultery for being in the presence of an unrelated male while unaccompanied. In addition, trafficking victims are reported to be liable to be prosecuted for adultery.
- 2.3.6 The key considerations in cases where a person claims to fear persecution due to adultery are:
- the marital status of the applicant, and whether they did indeed commit adulterous acts or have been perceived to have committed such acts;
  - whether they (have been perceived to) have had a relationship with a married (other than their spouse) or unmarried person?
  - whether the act was known or likely to be made known publicly, to the families or to the Iranian authorities;
- 2.3.7 For further information on assessing risk, [Asylum Instruction on Assessing Credibility and Refugee Status](#) and Gender Issues in the Asylum Claim.

[Back to Contents](#)

## 2.4 Are those at risk able to seek effective protection?

- 2.4.1 As the person's fear is of persecution or serious harm at the hands of the state, it is unreasonable to consider that they would be able to avail

themselves of the protection of the authorities. If the person is at risk from a non-state actor, the state will not provide protection and evidence suggests non state actors may themselves commit extrajudicial killings.

- 2.4.2 For further guidance on assessing the availability or not of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and the Asylum Instruction on Gender Issues in the Asylum Claim
- 2.4.3 See also country information and guidance on [Iran: Background information including actors of protection and internal relocation](#).

[Back to Contents](#)

## 2.5 Are those at risk able to internally relocate?

- 2.5.1 As the threat is from the state, it is neither relevant nor realistic to expect the person to internally relocate to escape that risk.
- 2.5.2 Where the threat is from a non-state actor (eg a husband), the person is not likely to be able to relocate to escape the risk given the restrictions placed on women's freedom of movement particularly in rural areas. In addition, even where the authorities may try to address honour killings, extrajudicial killings have taken place.
- 2.5.3 Where the threat is to a male adulterer internal relocation may be an option depending on the nature of the threat and the personal circumstances of the person concerned. Decision makers must in these cases consider the relevance and reasonableness of internal relocation on a case-by-case basis.
- 2.5.4 Decision makers need to consider the ability of the persecutor to pursue the person to the proposed site of relocation and whether effective protection is available in that area. Decision makers will also need to consider the age, health, level of education, ethnicity, religion, financial circumstances/ability to secure access to a livelihood and/or support network of the person. The security, human rights and socioeconomic conditions in the proposed area of relocation and the person's ability to sustain themselves should also be taken into account (see country information and guidance on [Iran: Background information including actors of protection and internal relocation](#)).
- 2.5.5 For further guidance on considering internal relocation and the factors to be taken into account, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#)

[Back to Contents](#)

## 2.6 If refused, is the claim likely to be certifiable?

- 2.6.1 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002. This is because the claim, even when taken at its highest, is unlikely to be so clearly without substance that it is bound to fail.

- 2.6.2 For further information on certification, see the [Appeals Instruction on Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

### **3. Policy summary**

- 3.1.1 **Any actual or alleged sexual relationship outside of marriage is considered a crime in Iran and is punishable by 100 lashes and in some circumstances stoning to death.**
- 3.1.2 **Women are at a greater risk of being accused and convicted of adultery. Men are able to claim that they are engaged in a temporary marriage, which permits sexual relations outside of marriage.**
- 3.1.3 **State protection and internal relocation to escape the risk will not be available.**
- 3.1.4 **If a claim is refused it is unlikely to be certifiable as clearly unfounded.**

[Back to Contents](#)

# Country Information

Updated 30 November 2015

## 4. Legal position

### 4.1 Penal Code

- 4.1.1 The Guardian's article 'When adultery means death' dated 7 August 2010 stated that: 'Before the 1979 Islamic revolution [...] consensual sexual relations between adults did not figure in the country's criminal code. The revolution enacted a version of Islamic law which is extraordinarily harsh even by the standards of the Islamic world, making extra-marital sex a crime punishable by law.... Iran's legal codes are studded with inconsistencies and vagaries that make due process virtually impossible.'<sup>1</sup>
- 4.1.2 Iran Human Rights Documentation Centre (IHRDC) article 'Gender Inequality and Discrimination: The Case of Iranian Women' dated 8 March 2013 stated that;
- 'Under the Shari'a law, sexual intercourse is only permitted within a marriage and sex out of marriage is considered to be a hadd crime. The crime of zina has been defined as sexual intercourse between a man and a woman who are not married to each other. To prove this offense, very strict standards of evidence are required, including the testimony of four eyewitnesses or the making of a confession four times.'<sup>2</sup>
- 4.1.3 The same source noted in a different article that: 'The new Islamic Penal Code considers any sexual relationship outside of marriage a crime, for which punishment has been set. According to the new Code, sexual relationship between a man and a woman outside of marriage is 'adultery,' and is punishable subject to Hadd.'<sup>3</sup>
- 4.1.4 According to a Human Rights Watch article 'Iran: Prevent Woman's Execution for Adultery' dated 7 July 2010, under Iran's penal code; 'adultery is a "crime against God" for both men and women.... Cases of adultery must be proven either by a repeated confession by the defendant or by the testimony of witnesses - four men or three men and two women.'

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<sup>1</sup> The Guardian, When adultery means death- Shirin Ebadi, 7 August 2010 <http://www.theguardian.com/commentisfree/2010/aug/07/iran-sakineh-mohammadi-ashtiani> [accessed 22 September 2015]

<sup>2</sup> Iran Human Rights Documentation Centre, Gender Inequality and Discrimination: The Case of Iranian Women, 8 March 2013 <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html> [accessed 22 September 2015]

<sup>3</sup> Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, undated, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html> [accessed 21 September 2015]



The same source also noted that; 'Iran's penal code also allows judges in hodud (morality) crimes such as adultery to use their own "knowledge" to determine whether an accused is guilty in the absence of direct evidence.'<sup>4</sup>

- 4.1.5 The February 2013 fact-finding mission report by the Danish Immigration Service (DIS), the Norwegian Country of Origin Information Centre (Landinfo) and the Danish Refugee Council (DRC) noted that:

'A Western embassy mentioned that adultery is very difficult to prove because of the requirement of four witnesses. However, if the judge bases his argument on his knowledge, i.e. 'knowledge of the judge', he is given free hands to issue whatever sentence he sees fit. The same charge could lead to different verdicts according to which judge and in which city, the case is handled.'<sup>5</sup>

- 4.1.6 The IHRDC noted that: 'Article 630 of the previous Penal Code expressly allowed a husband to kill his wife and her lover, if he caught them in flagrante, ("in blazing offense" in Latin; legal term that indicates a criminal has been caught in the act of committing an offense). However if he knows that his wife acted under coercion, he may only kill her rapist (Article 630). While in the new Penal Code Article 630 is unchanged, a paragraph has been added to Article 300 which again stresses the exemption of husband from qisas (retaliation) in cases where he kills his wife and her lover in flagrante. In fact, not only has Article 630 not been repealed, the IRI has solidified its approval of this practice.'<sup>6</sup>

- 4.1.7 Further information on the relevant articles of the penal code can be found [here](#).<sup>7</sup>

[Back to Contents](#)

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<sup>4</sup> Human Rights Watch, Iran: Prevent Woman's Execution for Adultery, 7 July 2010, <http://www.refworld.org/docid/4c3adc2b1a.html> [accessed 21 September 2015]

<sup>5</sup> Danish Immigration Service/Norwegian Country of Origin Information Centre/Danish Refugee Council: Iran : On Conversion to Christianity, Issues concerning Kurds and Post-2009 Election Protestors as well as Legal Issues and Exit Procedures. Joint report from the Danish Immigration Service, the Norwegian LANDINFO and Danish Refugee Council's fact

-finding mission to Tehran, Iran, Ankara, Turkey and London, United Kingdom (conducted 9 November to 20 November 2012 and 8 January to 9 January 2013), February 2013 <http://www.nyidanmark.dk/NR/rdonlyres/A8C2C897-1CA9-49D1-BA32-EC3E599D646D/0/Iranendeligudgave.pdf> [date accessed 21 October 2015]

<sup>6</sup> Iran Human Rights Documentation Centre, Gender Inequality and Discrimination: The Case of Iranian Women, 8 March 2013 <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html> [accessed 22 September 2015]

<sup>7</sup> Women living under Muslim laws, Iran: Code of Punishment for Adultery in Iran, undated, <http://www.wluml.org/node/3908> [accessed 20 October 2015]

## 4.2 Punishment

- 4.2.1 Iran Human Rights Documentation Centre (IHRDC) noted that; 'Pursuant to Article 225 of the new Code, the following sexual offenses are among those that are punishable by death:
- a) Adultery with one's consanguineous relative, i.e., sister, mother, maternal and paternal aunt, maternal and paternal grandparent, niece and nephew or their children;
  - b) Adultery with one's stepmother, in which case the adulterer shall receive the death penalty;
  - c) Adultery between a non-Muslim man and a Muslim woman, in which case the adulterer (non-Muslim man) shall receive the death penalty;
  - d) Forcible rape, in which case the rapist shall receive the death penalty.<sup>8</sup>
- 4.2.2 IHRDC also stated that: 'Persons who have committed zina [adultery] can be punished with the hadd penalties of either 100 lashes or death by stoning, depending on their legal status. For a specific group of married people, called mohsan (man) and mohsaneh (woman), the hadd punishment for zina is stoning to death.'<sup>9</sup>
- 4.2.3 According to the US Department of State, 2014 Country Report on Human Rights Practices published on 25 June 2015; 'Adultery remained punishable by death by stoning. As in 2013 there were no confirmed reports of death by stoning during the year [2014], although a human rights lawyer who had represented persons sentenced to stoning reported that authorities typically carried out the sentence secretly in prisons or remote areas.'<sup>10</sup>
- 4.2.4 Amnesty International's report for 2014/15 stated that; 'The revised Islamic Penal Code also retained the penalty of stoning to death for the offence of "adultery while married". At least one stoning sentence was reported to have been imposed in Ghaemshahr, Mazandaran province; no executions by stoning were reported.'<sup>11</sup>
- 4.2.5 Fox news reported that:

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<sup>8</sup> Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, undated, <http://www.iranhrdc.org/english/publications/legal-commentary/100000102-the-execution-of-women-in-iranian-criminal-law.html> [accessed 21 September 2015]

<sup>9</sup> Iran Human Rights Documentation Centre, Gender Inequality and Discrimination: The Case of Iranian Women, 8 March 2013 <http://www.iranhrdc.org/english/publications/legal-commentary/100000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html> [accessed 22 September 2015]

<sup>10</sup> United States Department of State, 2014 Country Reports on Human Rights Practices - Iran, 25 June 2015, Section 1a <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236598> [accessed 16 September 2015]

<sup>11</sup> Amnesty International, Amnesty International report 2014/15, 25 February 2015 <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/> [accessed 16 September 2015]

'Human rights groups including "Justice for Iran" have documented that Iran's radical regime has stoned 77 people since the 1979 revolution ushered in a fundamentalist judicial system. Wahied Wahdat-Hagh, a European expert on Iran who has written extensively on the persecution of Christians, women, Baha'is and Jews in the Islamic Republic, told FoxNews.com that the number of victims stoned to death is believed to be higher than the frequently-cited statistics because of the lack of judicial transparency in the Islamic Republic.'<sup>12</sup>

4.2.6 The Daily Telegraph reported in an article dated 30 May 2013 that: 'At least 150 people may have been stoned in Iran since 1980, the International Committees against Execution and Stoning said in 2010.'<sup>13</sup>

4.2.7 The International Committee Against Execution reported in July 2010 that: 'During presidency of Ahmadinejad (2005-2010) there were 8 people stoned to death and 31 people sentenced to death by stoning.' The organisation noted that the real number is likely to be higher owing to the lack of official data, the difficulty of obtaining information and because 'a large number of stonings have been carried out secretly'.<sup>14</sup>

4.2.8 The Guardian, noted in their report 'When adultery means death' dated 7 August 2010:

'Criminal prosecution for adultery, and the handing down of a stoning verdict, does not even require a personal plaintiff; if it can be proven that a man or woman has committed adultery, even if the betrayed spouse offers his or her forgiveness, the transgressor must be stoned. Article 105 of the penal code enables a judge to sentence an adulterer to stoning based purely on his "knowledge"; as such, it is possible for a judge to sentence a woman simply based on her husband's complaint.'

'...To avoid international outcry, the government refrains from announcing stoning verdicts publicly. It is only slowly and by word of mouth, through information relayed by families and lawyers, that cases make their way to the media. As such, we cannot even know precisely how many Iranians have been killed by such punishment in the past three decades.'<sup>15</sup>

4.2.9 The Suuntaus project report compiled by the Finnish Immigration Service on 'Violence against women and honour- related violence in Iran' dated 26 June 2015 stated that:

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<sup>12</sup> Fox News, Embracing the Stone Age: Iran retains medieval penalty for adultery, 5 June 2013, <http://www.foxnews.com/world/2013/06/05/embracing-stone-age-iran-retains-medieval-penalty-for-adultery/> [accessed 21 September 2015]

<sup>13</sup> Daily Telegraph, Iran amends law on stoning for adultery, 30 May 2013, <http://www.telegraph.co.uk/news/worldnews/middleeast/iran/10089270/Iran-amends-law-on-stoning-for-adultery.html> [accessed 21 October 2015]

<sup>14</sup> International Committee Against Execution, List of known cases of deaths by stoning in Iran (1980-2010), July 2010, [http://stopstoningnow.com/wpress/SList%201980-2010\\_FHdoc.pdf](http://stopstoningnow.com/wpress/SList%201980-2010_FHdoc.pdf) [accessed 21 October 2015]

<sup>15</sup> The Guardian, When adultery means death- Shirin Ebadi, 7 August 2010 <http://www.theguardian.com/commentisfree/2010/aug/07/iran-sakineh-mohammadi-ashtiani> [accessed 22 September 2015]

'Extramarital sex remains a criminal offence in Iran. Adultery carries the death penalty under both the Islamic Sharia law and the Iranian Penal Code, although sentencing offenders to death is rare in practice. Premarital sex carries a penalty of up to 100 lashes and between 10 days and two months of imprisonment. No detailed information is available on how common flogging is in these cases, as they are not entered into official statistics, and victims avoid talking about them in public for fear of stigmatization. Flogging sentences are nevertheless handed down for prostitution and other extramarital sexual relations. During a visit by the UN Special Rapporteur on Violence against Women to Evin Prison in 2005, there were a total of 200 female inmates who had been sentenced for 'moral crimes'.<sup>16</sup>

[Back to Contents](#)

### 4.3 Treatment of women

4.3.1 The UN General Assembly noted in their August 2015 report that; 'Women continue to face systemic inequalities and discrimination, both in law and in practice, and in all areas of their lives... The Islamic Penal Code gives husbands significant control over the lives of their wives and children. Article 630 allows a husband to kill his wife if she is caught committing adultery.'<sup>17</sup>

4.3.2 The US Department of State, 2014 Country Report on Human Rights Practices published on 25 June 2015 stated that:

'Women sometimes received disproportionate punishment for crimes such as adultery, including death sentences. Discriminatory laws against women continued to be introduced. The 2013 revised Islamic penal code, which came into force in June 2013, retains provisions that value a woman's testimony in a court of law as half that of a man's, and a woman's life as half that of a man's. The blood money paid to the family of a woman who was killed is half the sum paid for a man.'<sup>18</sup>

4.3.3 The same US Department of State report noted that: 'Most rape victims did not report the crime because they feared retaliation or punishment for having been raped, as they could be charged with indecency, immoral behavior, or adultery for being in the presence of an unrelated male while unaccompanied.'<sup>19</sup>

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<sup>16</sup> Suuntaus project, Finnish Immigration Service- Country Information Service, Violence against women and honour- related violence in Iran- public theme report, 26 June 2015 [http://www.migri.fi/download/61597\\_Suuntaus-raportti\\_Vakivaltalran\\_finalFINAL\\_kaannosversio\\_EN.pdf?96fa691925bfd288](http://www.migri.fi/download/61597_Suuntaus-raportti_Vakivaltalran_finalFINAL_kaannosversio_EN.pdf?96fa691925bfd288) [accessed 28 September 2015]

<sup>17</sup> UN General Assembly, Situation of human rights in the Islamic Republic of Iran : report of the Secretary-General, 31 August 2015, paragraphs 31 & 33, <http://www.refworld.org/docid/55fc00854.html> [accessed 21 September 2015]

<sup>18</sup> United States Department of State, 2014 Country Reports on Human Rights Practices - Iran, 25 June 2015, Section 6 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236598> [accessed 16 September 2015]

<sup>19</sup> United States Department of State, 2014 Country Reports on Human Rights Practices - Iran, 25

- 4.3.4 In the 2015 Trafficking in Persons report, published by the US Department of State in July 2015, it was noted that:

‘Female victims of sexual abuse, including sex trafficking victims, are liable to be prosecuted for adultery, which is defined as sexual relations outside of marriage and is punishable by death.... The government reportedly continued to punish sex trafficking victims for unlawful acts committed as a direct result of being subjected to human trafficking, such as adultery and prostitution.’<sup>20</sup>

- 4.3.5 The IHRDC’s undated article titled ‘The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code’ stated that:

‘Though seemingly there is no gender bias in the laws pertaining to stoning, i.e., “the law prescribes stoning for ‘adultery between married man and women [not to each other]’ regardless of gender,” in most instances, married men can take refuge in ‘multiple-wives’ laws available to them, and thus evade charges of adultery. According to Iran’s laws, men can concurrently take four permanent wives while having countless number of temporary ones. In light of this law, a married man, when arrested for adultery, can claim that he had [privately] recited the Sigheh [the verse pertaining to temporary marriage contract], but failed to register the marriage. Furthermore, many married men who commit adultery carry on with their affairs under the pretext of having multiple wives (permanent or temporary) and in so doing evade any legal scrutiny or punishment. Meanwhile, a married woman could potentially be subject to stoning after a single incident of adultery, and the law fails to leave any door open for her to avoid the consequences.’<sup>21</sup>

- 4.3.6 The Independent noted in a report dated 29 September 2013 that:

‘If a man is unhappy with his wife he can – depending on the country – divorce, take other wives or marry another woman temporarily. A woman has few options. She can divorce only in certain circumstances and risks losing custody of her children. Men accused of adultery are also more likely to have the means to hire lawyers, and their greater physical freedom makes it easier for them to flee in situations where they risk extrajudicial stoning.

‘Activists say trials are often unfair. Convictions are frequently based on confessions made under duress. As adultery is difficult to prove, judges in Iran can also convict on the basis of gut feeling rather than evidence.

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June 2015, Section 6

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236598> [accessed 21 October 2015]

<sup>20</sup> United States Department of State, 2015 Trafficking in Persons Report - Iran, 27 July 2015, available at: <http://www.refworld.org/docid/55b73be26.html> [accessed 21 October 2015]

<sup>21</sup> Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, undated, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html> [accessed 21 September 2015]



'Even the manner of stoning is loaded against women. People sentenced to stoning in Iran are partially buried. If they can escape they are spared. But women are customarily buried up to their chests while men are only buried up to their waists.'<sup>22</sup>

4.3.7 The Guardian article 'When adultery means death' dated 7 August 2010 noted that:

'On the face of things, stoning is not a gendered punishment, for the law stipulates that adulterous men face the same brutal end. But because Iranian law permits polygamy, it effectively offers men an escape route: they are able to claim that their adulterous relationship was in fact a temporary marriage (Iranian law recognises "marriages" of even a few hours duration between men and single women). Men typically exploit this escape clause, and are rarely sentenced to stoning. But married woman accused of adultery have access to no such reprieve.'<sup>23</sup>

4.3.8 IHRDC's report 'Gender Inequality and Discrimination: The Case of Iranian Women' dated 8 March 2013 noted:

'Although the punishment of stoning applies to men as well, it is applied in greater proportion to women. For example, in 1998 (a year with high recorded rates of punishment by stoning) five of the seven people reportedly sentenced to death by stoning were women. In fact, women are more readily accused and convicted of adultery, while men are rarely punished for adultery because they can easily claim that they engaged in those relations in the bounds of a temporary marriage. Claiming a temporary marriage permits sexual relations outside of formal marriage. Men can more easily claim a temporary marriage because under Iranian laws they may have multiple wives, allowing them to have both a permanent wife and be temporarily married at the same time. On the other hand, women cannot have multiple spouses under Iran's laws, thus making stoning more likely for women than men since they cannot evade punishment for adultery by claiming that the relations occurred in a lawful temporary marriage.'<sup>24</sup>

4.3.9 In March 2014 The Telegraph published an article regarding the case of Sakineh Mohammadi Ashtiani who was sentenced to death by stoning. The article titled 'Iranian woman spared stoning for adultery' dated 18 March 2014 stated that:

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<sup>22</sup> The Independent, Special report: The punishment was death by stoning. The crime? Having a mobile phone – Emma Batha, 29 September 2013, <http://www.independent.co.uk/news/world/politics/special-report-the-punishment-was-death-by-stoning-the-crime-having-a-mobile-phone-8846585.html> [accessed 21 October 2015]

<sup>23</sup> The Guardian, When adultery means death- Shirin Ebadi, 7 August 2010 <http://www.theguardian.com/commentisfree/2010/aug/07/iran-sakineh-mohammadi-ashtiani> [accessed 22 September 2015]

<sup>24</sup> Iran Human Rights Documentation Centre, Gender Inequality and Discrimination: The Case of Iranian Women, 8 March 2013 <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html> [accessed 22 September 2015]

'Sakineh Mohammadi Ashtiani was "granted leave", the head of the country's human rights council, Mohammed Javad Larijani, told a press conference, according to local news agencies. Mrs Ashtiani, who was reported to have attempted suicide last month, was sentenced to death by stoning for adultery and complicity in the murder of her husband in 2006, provoking an international outcry. After her two sons started a campaign against the sentence, there were vigils in world capitals, a vote of condemnation in the European Parliament, and subsequent rows between human rights activists, politicians, and the Iranian authorities.'<sup>25</sup>

#### 4.3.10 The report continued:

'Nevertheless, it was made clear that the death sentence had been postponed, though it has never been formally dropped. The murder sentence was set at 10 years, in agreement with the husband's family, though her family always contested the fairness of the case against her. At a press conference on Tuesday, Mr Larijani attacked "outside interference" in Iran over its human rights record, particularly by the UN rapporteur on human rights in Iran, Ahmed Shaheed. However, he did say that Mrs Ashtiani was no longer in prison. "There was a lot of noise because of this case on the international scene," he said. "We obtained the pardon of the victim's family, and the sentence was reduced to ten years. "She has been granted leave on account of good behaviour."<sup>26</sup>

4.3.11 Despite women being disproportionately affected by discriminatory laws, men convicted of adultery have also been punished by stoning in recent years. In January 2009, the Daily Mail reported that; 'Two men convicted of adultery in Iran have been stoned to death'.<sup>27</sup> In 2010, The Guardian reported that three men faced stoning for adultery.<sup>28</sup> Human Rights Watch, in June 2013, also noted that; 'No official statistics are available, but human rights groups estimate that the Iranian authorities currently hold at least 10 women and men who face possible execution by stoning on adultery charges'.<sup>29</sup>

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<sup>25</sup> The Telegraph, Iranian woman spared stoning for adultery, 18 March 2014 <http://www.telegraph.co.uk/news/worldnews/middleeast/iran/10706707/Iranian-woman-spared-stoning-for-adultery.html> [accessed 21 September 2015]

<sup>26</sup> The Telegraph, Iranian woman spared stoning for adultery, 18 March 2014 <http://www.telegraph.co.uk/news/worldnews/middleeast/iran/10706707/Iranian-woman-spared-stoning-for-adultery.html> [accessed 21 September 2015]

<sup>27</sup> Daily Mail, Iran stones two men for adultery,,but a third man escapes during execution, 14 January 2009, <http://www.dailymail.co.uk/news/article-1114582/Iran-stones-men-adultery--man-escapes-execution.html> [accessed 21 October 2015]

<sup>28</sup> The Guardian, Iranians still facing death by stoning despite 'reprieve', 8 July 2010, <http://www.theguardian.com/world/2010/jul/08/iran-death-stoning-adultery> [accessed 21 October 2015]

<sup>29</sup> Human Rights Watch, Iran: Proposed Penal Code Retains Stoning, 3 June 2013, available at: <http://www.refworld.org/docid/51aef35b4.html> [accessed 21 October 2015]

#### 4.4 Honour related violence

##### 4.4.1 The IHRDC article 'Gender Inequality and Discrimination: The Case of Iranian Women' dated 8 March 2013 states that:

'Article 630 of the previous Penal Code expressly allowed a husband to kill his wife and her lover, if he caught them in flagrante, ("in blazing offense" in Latin; legal term that indicates a criminal has been caught in the act of committing an offense). However if he knows that his wife acted under coercion, he may only kill her rapist (Article 630). While in the new Penal Code Article 630 is unchanged, a paragraph has been added to Article 300 which again stresses the exemption of husband from qisas (retaliation) in cases where he kills his wife and her lover in flagrante. In fact, not only has Article 630 not been repealed, the IRI has solidified its approval of this practice.'<sup>30</sup>

##### 4.4.2 The Suuntaus project report compiled by the Finnish Immigration Service on 'Violence against women and honour- related violence in Iran' dated 26 June 2015 states that:

'Both women and men are vulnerable to honour-related violence in Iran. An honour killing is a murder committed or ordered by a husband, a father, a brother or another relative as a punishment to a family member who is seen to have damaged the family's reputation by their actions. Such actions can include extramarital sex [...]. In the most extreme cases, even a suspicion of such actions is enough. Due to cultural reasons, women and girls are the mostly likely victims of honour killings. Honour killings take place all around the world, but they are especially common in the Middle East and South Asia.'

'In most cases, the victim is a woman and the perpetrator is a male member of the victim's family. Adultery by a married woman is considered the most serious offence in this respect. Honour killings are often based on unconfirmed suspicions and rumours, which in the most conservative communities can be sparked by very minor acts, such as talking to an unknown man in a public place. No comprehensive statistics are available on the subject, but Iran's criminal police occasionally publish information about cases and the number of honour killings known to the police. The subject received much media attention in 2008, when the police found out about 50 honour killings in the space of seven months. According to police statistics, a total of 340 honour killings in which the victims were women took place in Iran between March 2011 and March 2012. Most of the murders were committed in Kurdistan and Khuzestan. As many as 40% of all murders in Khuzestan are believed to be honour-related.'

'According to police statistics, there are 2 500 murders in Iran per year... A total of 15-18% of the murders known to the police are honour-related...

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<sup>30</sup> Iran Human Rights Documentation Centre, Gender Inequality and Discrimination: The Case of Iranian Women, 8 March 2013 <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html> [accessed 22 September 2015]



Honour killings take place in all kinds of families from different social classes and educational backgrounds.’

‘Articles 299 and 630 of the Iranian Penal Code protect perpetrators of honour killings. Pursuant to Article 299, the qisas punishment [retaliation] that normally follows from a murder, which can be as severe as execution, does not apply to a father or a paternal grandfather who kills his own child. Article 630 gives a man the right to kill his adulterous wife and her lover if he catches them in the act. Although a man has a legal right to kill his wife and lover if he catches them in the act of adultery, cases in which the provision is applied in practice are rare. According to Sharia law, the man would need to have four witnesses to the act, which is almost impossible to achieve in practice. In one case reported by the media, a man who had killed his wife’s lover after catching them in the act was sentenced to death under the qisas principle, as he was unable to prove that adultery had taken place. The qisas sentence was nevertheless overturned on appeal. The wife was sentenced to 99 lashes but escaped the death penalty as the act could not be proven by the four witnesses required under Sharia law.’

‘...Experiences from Khuzestan show that when the authorities tried to weed out the tradition by sentencing perpetrators to long prison terms, a new strategy quickly evolved to circumvent punishments: families began to hire outsiders to run over girls who needed to be murdered for damaging the family’s honour, which left them with just small fines to pay.’

‘...Women are also sometimes pressured into committing suicide so that no one will be punished for their deaths. More than half of the honour killings of women that came to the attention of the UN Special Rapporteur on Violence against Women were made to look like suicides by self immolation.’<sup>31</sup>

[Back to Contents](#)

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<sup>31</sup> Suuntaus project, Finnish Immigration Service- Country Information Service, Violence against women and honour- related violence in Iran- public theme report, 26 June 2015 [http://www.migri.fi/download/61597\\_Suuntaus-raportti\\_Vakivaltalran\\_finalFINAL\\_kaannosversio\\_EN.pdf?96fa691925bfd288](http://www.migri.fi/download/61597_Suuntaus-raportti_Vakivaltalran_finalFINAL_kaannosversio_EN.pdf?96fa691925bfd288) [accessed 28 September 2015]

# Version Control and Contacts

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

## Clearance

Below is information on when this version of the guidance was cleared:

- Version **1.0**
- valid from **30 November 2015**
- this version approved by **Sally Weston, Deputy Director, Legal Strategy Team**
- approved on: **30 November 2015**

## Changes from last version of this guidance

First version of country information and guidance in new template

[Back to Contents](#)