

Islamic Republic of Iran

1. Discrimination in the family

a) Overarching legal framework for marriage

Under Islamic Shari'a, marriage is not considered as a sacrament but defined as a civil contract between a man and his wife, patterned by the logic of a contract of sale (Nayyeri, 2013). All women are considered to be under the guardianship of their father, husband, or another designated male relative. Therefore, the marriage of a girl (who has not previously been married) depends "on the permission of her father or her paternal grandfather even if she has reached the full age of majority" (Civil Code, Article 1043). Moreover, the marriage of a Muslim woman with a non-Muslim man is explicitly prohibited by law (Civil Code, Article 1059) and the marriage of an Iranian woman with a foreign national is dependent, even in cases where there is no legal impediment, upon special permission of the Government (Civil Code, Article 1060).

Forced marriages are legally not permitted as the "consent of the marrying parties is the condition upon which depends the enforcement of the marriage contract" (Civil Code, Article 1070). However, in 2015, the UN Committee on the Rights of the Child noted that the country continued to maintain practices of child marriage and forced marriage of young girls to older men (Committee on the Rights of the Child, 2016).

Furthermore, a peculiarity of Iranian law is that it enables a man to have as many as four wives and an unlimited number of temporary wives, based on a Shia custom under which couples can enter into a limited time civil and religious contract (Civil Code, Chapter 6). All marriages, whether temporary or permanent, must be registered (Sawna, 2014). The law does not give temporary wives and any resulting children rights associated with traditional marriage; however, recognized children can obtain documentation and have limited rights (US Department of State, 2016). Nevertheless, Iran has generally been a monogamous society since the beginning of the 20th century. Despite of the fact that legislation permits polygamy and temporary marriages, society is against them in practice and polygamous men are stigmatized (Finnish Immigration Service, 2015).

Iranian law also recognizes customary law and regulations of religious minorities (namely Zoroastrians, Protestant Christians, Gregorian Christians, Orthodox Christians, Catholics and Jews). In 1984, the full bench of the Supreme Court issued the binding decision No. 37 that courts should apply the rules and customs of the non-Shiite Iranians whose faiths have been recognized in cases where they decide upon their personal status including marriage, inheritance and will (Committee on the Rights of the Child, 2015).

b) Child marriage

The legal age of marriage is 13 years for girls and 15 years for boys, but fathers (as the Civil Code only grants guardianship of children to fathers) have the right to apply for permission to the courts

to marry their children earlier (Civil Code, Article 1041). Early marriages that take place without official permission can result in imprisonment.

Reasons cited by experts for child marriage in Iran include poverty and financial debility, extension of social network, and protection of girls against rape and violence (Ayubi et al. 2016). According to the 2016 US Department of State's Report on Human Rights, many young girls committed suicide to escape such marriages (US Department of State, 2016).

c) Household responsibilities

The Iranian Civil Code grants greater rights to the husband when it comes to household responsibilities. Indeed, according to the Civil Code, article 1105, "the position of the head of the family is the exclusive right of the husband" and, as a consequence, women are obliged to obey their husbands. Article 1106 of the Civil Code obligates a husband to financially provide for his wife (the cost of maintenance includes dwelling, clothing, food, furniture and in certain cases, a servant). Furthermore, article 1108 of the Civil Code establishes that if a woman refuses to comply with the duties of marriage without a legitimate reason, she will not be entitled to alimony. In addition, under article 1005, a married woman cannot choose where to live as her domicile must be the same as that of her husband.

As for the rights and responsibilities with regard to children, the Civil Code (Articles 1180 and 1181) grant the guardianship of a child to the father or paternal grandfather. A mother, even after the death of the father and grandfather, does not gain guardianship of her own children. Accordingly, the father or paternal grandfather are the decision makers in all aspects of the child's life (Amnesty International, 2012).

Women have little say in whether they can work outside of the home or not as they must ask for the permission of their husband to do so (Civil Code, article 1117). In the domestic sphere, gender stereotypes tend to persist as studies have shown that everything related to household duties is relegated to women, and women's participation in important decision making in the family is very limited (Rafatjah, 2012).

d) Divorce

Men enjoy a unilateral right to divorce and are not required to cite a reason for divorcing their wives. According to the Civil Code, a man can divorce his wife "whenever he wishes", although certain conditions such as paying alimony must be fulfilled (Art. 1133). Divorce rights for women are much more restrictive. Nonetheless, article 1130 of the Civil Code was amended in 2002 to empower judges to issue divorce when women can establish that the continuation of the marriage would cause intolerable suffering or hardship (Sawma, 2014). In that specific case, she would have to prove that her husband cannot provide for his family, has violated the terms of their original marriage contract, or is a drug addict, insane, or impotent (Civil Code, Art 1130). In addition, to those restrictive conditions, the stigma attached to divorce in Iran further deters women from filing for divorce (Bonifacio, 2012).

The Civil Code provides divorced women preference in custody for children up to age two for boys and age seven for girls, but fathers maintain legal guardianship rights over the child and must agree on many legal aspects of the child's life. After the child reaches the age of two for a boy or seven for a girl, the father is granted custody unless he is proven unfit to care for the child. Courts determine custody in disputed cases (US Department of State, 2016).

Social norms also hinder women's abilities to get divorce. Iranian women are traditionally expected to sacrifice their own personal satisfaction and welfare for the sake of their family. Historically, Iranian women have stayed in bad marriages to preserve their family honour as well as saving their children from the negative consequences of a divorce (Ansari et al. 2014).

e) Inheritance

Inheritance law is governed by Sharia and regulated within the Civil Code. Women may inherit from their father, mother, husband or children and, under certain conditions, from other family members. However, their share is generally smaller than of men. Daughters, for example, are only entitled to inherit half as much as sons (Civil Code, Article 907) and a widow's inheritance entitlement is dependent on whether or not the couple have children (Civil Code, Article 913). These discriminatory measures are justified by the religious belief that the man has a superior position in the family. However, a change to the law in 2009 now enables widows to inherit land from their husbands. Previous to this, women could only inherit moveable property such as chattels, including the trees and buildings but not the land beneath them (Iran Human Rights, 2013).

2. Restricted Physical integrity

f) Violence against women

There is currently no comprehensive legal framework protecting women from violence. Moreover, there are provisions in the Islamic Penal Code that both encourage and grant impunity for "honour killings". Under the Criminal Code, lenient punishment applies to a man who sees his wife having consensual sexual relations with another man, and kills one or both of them (Art. 630).

In addition, if a man is found guilty of murdering his daughter, the punishment is between three and ten years in prison rather than the normal death sentence for homicide cases (US Department of State, 2016). Although there are no official reports of killings motivated by "honour" or other harmful traditional practices, evidences show that the majority of women who are murdered are killed by family members (Amnesty International, 2012).

a) Domestic violence

The law does not prohibit domestic violence as authorities consider abuse in the family a private matter and rarely discussed it publicly (US Department of State, 2016). Therefore, women and girls remain inadequately protected against domestic violence. The authorities failed to adopt laws criminalizing it, although the Vice-President on Women and Family Affairs pushed a draft bill that had been pending since 2012 (Amnesty International, 2017).

There are currently no official statistics about domestic violence against women in Iran, as in most cases, women tend not to go to legal authorities for reasons such as feelings of guilt or fear of economic hardship, being deserted by their families, loss of social position, rumours, or separation from their children.

b) Rape

Rape is not recognized as a distinct offence per se under the Iranian Criminal code, but rather falls under the Criminal code's definition of illicit sexual relations "zina" (Criminal Code, Article 224) which is subject to strict penalties, including death. The law considers sex within marriage consensual by definition and therefore, does not address spousal rape. For a conviction of rape, the law requires four Muslim men or a combination of three men and two women, two men and four women, to have witnessed a rape (Criminal Code, Article 199). No evidence was found to suggest the existence of any mechanisms or measures to ensure the implementation of the law.

Although no official statistics are available on the crime of rape, several recent reports of gang rape have increased concerns about the State's responses to it (Amnesty International, 2012). In addition, according to the US Department of State, cases of rape are difficult to document due to non-reporting. Many rape victims did not report the crime because they feared the stigma attached to it such as societal reprisal or punishment for having been raped, including charges of indecency, immoral behaviour, or adultery, the last of which carries the death penalty (US Department of State, 2016).

c) Sexual harassment

There is currently no legislation on sexual harassment as well as no reliable data on the extent of sexual harassment in the country. Human rights observers and researchers reported that sexual harassment was extremely common in many workplaces and that it is overwhelmingly directed at women, especially those in less-powerful position in the labour market (Rostamzadeh et al., 2016). Furthermore, there are no known government efforts to combat and address this issue (US Department of State, 2016).

d) Female genital mutilation

There is no evidence that Iran is a country of concern with regards to female genital mutilation.

e) Abortion

Abortion is only legal in cases where the mother's life is in danger (Criminal Code, article 623). In addition, the Therapeutic Act passed in 2003, approved therapeutic abortion before 16 weeks of gestation under limited circumstances, including medical conditions related to foetal (such as foetal abnormalities or foetal mental disorders) and maternal health (Samani, 2013). Otherwise, anyone who causes the miscarriage of a pregnant woman by giving her drugs or other means is punishable to six months to one year of imprisonment. In addition, knowingly and deliberately guiding a pregnant woman to use drugs or other means to abort her baby is punishable to three to six months' imprisonment. If that person is a doctor, midwife or pharmacist or those who act as doctor or

midwife or surgeon then the sentence is two to five years' imprisonment (Criminal Code, Article 624).

Little is known about the extent of maternal mortality and the health risks associated with unsafe abortions in Iran (Erfani, 2011). Furthermore, abortion is still a social taboo according to a study conducted in 2015. The study highlighted that "moral and religious dilemmas" and "fear of punishment" were some of the major experiences of unintended pregnant women. Most women participating to the study were also reluctant to obtain abortion because they believed that it was against God's will and could result in worldly punishment. Some of the participants also believed that abortion was equal to deliberate murder and could result in afterlife punishment (Mohammadi et al, 2015).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The default marital regime is separation of property (Civil Code, Article 1118) and married women retain the right to manage their own property under the Civil Code during and after marriage. According to article 1118 of the Civil Code, the wife can independently possess and do anything with her own property. Furthermore, under Islamic Law, women benefit from financial protection in case of divorce. Indeed, at the time that marriage is performed, an amount of money/gold or property is specified and reflected on the marriage certificate as *Mahriyya*. This is usually a substantive amount, which serves as a financial backing for the woman particularly in case of divorce (Global Journal of Health Science, 2014).

However, in practice, in many households, men retain daily control over the family's income and assets, including land and property due to the fact that the position of the head of the family is "the exclusive right of the husband" (Civil Code, Article 1105).

b) Secure access to formal financial resources

Married and unmarried women have equal rights as men to open a bank account at a formal institution. They similarly have equal rights as men to obtain credit.

Various measures were established by the government in order to foster women's access to formal financial resources. More particularly, in the Fifth Development Plan of 2010 to 2014 women's cooperatives were given priority access to credit. Each year the Ministry allocated a specific amount of credit to women's cooperatives and state banks were obliged to give loans, up to amount allocated to newly registered women's cooperatives, which are exempt from minimum capital requirements generally applied to new businesses. However, in practice, this policy did not seem to be effective. A 2016 study actually showed that in many cases, women's cooperatives were mainly established to take advantage of government loans and some of these registered "cooperatives" became inactive shortly after getting the loans. Several women's cooperatives divided the money between the members and did not start any business, while some others started work, but stopped quickly (Karimi, 2016).

c) Workplace rights

Iran has ratified ILO Conventions 100, 111 but not 156, 183 or 189.

The Labour Code does not mandate non-discrimination on the basis of sex in employment. However, article 38 of the 1991 Labour law mandates equal pay for equal work and prohibits discrimination on the basis of sex in determining wages.

Labour Law does not prohibit women from entering certain professions, however, it does prohibit women from being employed to “perform dangerous, arduous or harmful work or to carry, loads heavier than the authorised maximum” (Labour Law, Article 75). Women can work the same night hours as men and they do not need permission from their husband to register a business. Nevertheless, according to article 1117 of the Civil Code, the husband can prevent his wife from working in certain occupation that he deems incompatible “with the family interests or the dignity of himself or his wife”. In practice, women have managed to circumvent the restriction by using a template marriage contract that gives them the right to work outside of the home (World Bank, 2012).

Regarding parental benefits, pregnant women in Iran are able to take up to 90 days of paid maternity leave, extended to four months if they are breastfeeding (Labour Law, Article 76), while paternity leave allows two weeks of remunerated days off (Population and Family Regulation Amendments Act 2013, Article 1). There is no paid parental leave in Iran.

Although women comprise over 50% of university graduates, their participation in the labour force is only 17% (compared to 76% for men). Moreover, women earned on average only 58% as much money as their male counterparts for similar work. The 2016 Global Gender Gap report, produced by the World Economic Forum, ranks Iran among the last five countries (139 out of 144) for gender equality, including equality in economic participation (Global Gender Gap Report, 2016). In addition, publicly available data shows that women are severely discriminated when it comes to employment. Government and private sector employers prefer to hire men over women, in particular for technical and managerial positions. Furthermore, employers in both the public and the private sectors regularly specify gender preferences when advertising position vacancies and do so based on arbitrary and discriminatory criteria (Human Rights Watch, 2017).

Social norms and various national policies also limit women’s educational opportunities. For instance, after years of admitting a larger proportion of female applicants in 2011, the number of women who were admitted to universities decreased from more than 60% to 48.7%. This was due to the newly imposed quota system for certain subjects in some universities. In 2012, 36 universities across the country banned women from enrolling in 77 academic subjects (Amnesty International, 2012). Those social norms also affect women willing to enter the job market.

4. Restricted Civil liberties

a) Citizenship rights

Married and unmarried women have the same rights as men to change and retain their nationality (Civil Code, Article 976). In addition, it is noteworthy to mention that it is actually easier for a married woman to acquire the Iranian nationality than for a married man as the Civil Code mentions that is eligible to acquire the Iranian nationality “Every woman of foreign nationality who marries an Iranian husband” (Civil Code, Article 976). That is not the case for man.

However, Iranian women cannot confer their nationality to their noncitizen spouse or their children. The Iranian nationality passes to the children via their fathers (Civil Code, Article 976). The Committee of the Convention on the Rights of the Child noted that due to that policy, children of Iranian women who have married foreign nationals (particularly illegal migrants) face problems in respect to acquiring nationality (Convention on the Rights of the Child, 2015). Under a 2006 amendment to the Nationality Law, only children born to Iranian mothers and non-Iranian fathers who reside in Iran for 18 years and whose parent’s marriage is officially registered with the government are eligible to apply for citizenship. According to media reports, between 400,000 and one million persons lacked Iranian nationality despite having an Iranian citizen mother due to limitations on citizenship transmission (US Department of State, 2016).

According to article 12 of the Registry Act, married and unmarried women have equal rights as men to register the birth of their children (the law requires that all births be registered within 15 days) as long as they are the legal guardian of the child, which in practice, is not always the case as the guardianship, in cases of divorce, is automatically granted to the father.

Married women must obtain the written permission of their husbands to apply for identity cards and passports (Passport Law, Article 18 & ID Cards application instructions). Furthermore, the legal framework also discriminates against women with respect to the passports and other travel documents of minor children. According to the application procedure for identity cards, only the father or paternal grandfather are eligible to submit an identity card’s application for children less than 18 years old (Passport Law, Article 18 & ID Cards application instructions).

Furthermore, the law hinders women’s abilities to travel freely (Civil Code, Article 1114). The government required exit permits for foreign travel for all citizens and married women are not allowed to travel outside the country without prior permission from their husbands.

b) Voting

In 1963, women acquired the right to vote (Electoral Law of the National Assembly, Chapter Two). Women, like youth, form a critical component of Iran’s electorate. They played a key role in the election of reformist president Muhammad Khatami (1997-2005) and the moderate incumbent Hassan Rouhani in 2013, after eight years of conservatism under Mahmoud Ahmadinejad. Throughout his campaign, Rouhani spoke of the need to improve the status of women by increasing their social and economic participation and advocated for the establishment of an independent

ministry for women. However, since his election, there has been no creation of a women's ministry or major reforms on laws concerning women's status (Lowy Institute, 2017).

c) Political voice

According to article 22 of the Constitution, "Members of the nation, whether man or woman, enjoy all the human, political, economic, social, and cultural rights that are in compliance with the Islamic criteria." Women in Iran have equal rights to men to hold public and political office in the legislature and executive. However, the Labour Law prohibits women from being employed as judge (Moghadam, n.d.). In 2009 elections, 42 women registered to run for the presidency. All were disqualified by the Guardian Council. But for the first time, the council also indicated that women were not banned from running for the top political job (United States Institute of Peace, 2015).

There are currently no quotas in place to promote women's political participation, at national or sub-national level. While the Constitution guarantees equal rights for women and men, the number of women elected has generally been low. In the 2013 presidential election, some 30 women registered to run. But they were all disqualified by the Guardian Council (United States Institute of Peace, 2015).

Nevertheless, despite considerable restrictions on their civil liberties, women in Iran are active and visible in the public sphere and stereotypes regarding acceptable gender roles are being challenged. Iran has recently seen the emergence of a strong civil society movement encouraging women to run for office. More particularly, in the 2016 parliamentary elections, the "Change the Male Face of Parliament" campaign encouraged women to run for parliament, raised awareness about the importance of women's representation in Government, and monitored candidates known to hold policy positions adverse to women's empowerment. This initiative contributed to the highest-ever number of women (17) in the parliament of the Islamic Republic (Lowy Institute, 2017). Nevertheless, women's rights activists who had campaigned for greater representation of women were subjected by the Revolutionary Guards to oppressive interrogations, and threats of imprisonment (Amnesty International, 2017)

d) Access to justice

The Islamic Penal Code (Penal Code, Arts. 74, 199 and 237) retains provisions that value a woman's testimony in all types of courts (family, criminal, civil) as half that of a man's (for instance, in cases of adultery). Furthermore, the sole testimony of a woman is not accepted in criminal courts for certain types of crimes (for instance homosexuality, consumption of intoxicants). The testimony of women regarding these types of crimes is only deemed admissible if there is at least one male witness to the purported crime (Criminal Code, Art 198).

According to this traditional perception, women are not reasonable beings but rather consumed with emotion and with a tendency for forgetfulness. Therefore, the view is that their testimonies should not be given full value and should not be accepted in all cases but only in less important cases and only when accompanied by the testimonies of men. Discriminatory view towards women that also deprives women from taking up some decision-making positions such as working as a judge (Nayeri, 2013).

Iran does not have a specific body tasked with monitoring gender equality in the country. There are no specific measures either in place to protect women from violence in political and public life, despite widespread reports of harassment and prominent women's activists such as Zia Nabavi been jailed for their peaceful activism following the 2009 presidential election (Human Rights Watch, 2017).

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