

Special Rapporteur on violence against women, its causes and consequences
E/CN.4/2006/61/Add.3 para 72 (a)

Full recommendation:

With a view to the adoption and observation of international human rights standards the Special Rapporteur recommends that the Government: Implement the provisions of the Declaration on the Elimination of Violence against Women.

Assessment using Impact Iran human rights indicators¹

Adopted by consensus at the United Nations General Assembly (UNGA) in 1993, the Declaration on the Elimination of Violence against Women (VAW) aims to guarantee the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings.² In this context, the Constitution of the Islamic Republic of Iran (IRI) reveals the following: Article 3 of the Constitution obliges the Government to ensure the universal rights of individuals, including that of men and women, judicial justice for all, and equal protection of the public in law. In addition, Article 20 of the Constitution also emphasises that all people of the nation, both men and women, are equally protected by law, and enjoy all human, political, economic, social and cultural rights, in accordance with “Islamic standards.” Article 21 of the Constitution similarly obliges the government to guarantee the rights of women in all respects, in accordance with “Islamic standards.”

Even though these provisions are ostensibly designed to prevent all forms of discrimination, including discrimination and violence on the basis of gender, the inclusion of the term in the "Framework of Islamic Standards" is significant due to its restrictive and conditional nature. Article 4 of the Constitution entrusts the authority to determine and define the "framework of Islamic Standards" to the Guardian Council in Iran, which consists of 12 non-elected members, six of whom are *mujtahid* clerics (appointed directly by the Supreme Leader) who are responsible for this mandate.³ The views, actions and opinions of the *Shi'ite* clerics who are members of this Council are such that according to the rules of Islam, men and women are not

¹ CCPR.3.1.S.1, CCPR.3.1.S.4, CCPR.23.2.S.1, CCPR.23.4.S.1
 CCPR.3.1.P.3, CCPR.23.2.P.1
 CCPR.3.1.O.4

² The Declaration on the Elimination of Violence against Women, adopted on 20 December 1993:
<https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx>

³ As discussed, one of the spheres of influence of the Guardian Council’s mandate the determination of Islamic Standards. This matter is exclusively within the jurisdiction of the six cleric members. The other members of the Council, namely the six non-cleric members, cannot influence the decision-making process in this regard.

considered equal. Accordingly, when provisions of the Constitution are bound by the “framework of Islamic Standards”, in practice discrimination on the basis of gender is implicit.⁴

With regards to violence against women, international standards and the definition of violence against women differ from views expressed in “Islam standards”, as interpreted by the IRI. One of the consequences of Iran’s resistance to sign and ratify CEDAW is the failure to adopt the internationally-accepted definition of VAW. There are many instances that are considered as violence by international standards, but are not considered so according to Islam or the laws of the IRI. For example, verbal violence and marital rape are not recognized as violence in the laws of the IRI. Nevertheless, in the Civil Code⁵ and Islamic Penal Code of the IRI, there are several articles that criminalise some aspects of violence against women, including rape⁶ and domestic violence (physical harm)⁷.

During its last Universal Periodic Review (November 2019), the Government of the Islamic Republic of Iran stated that the Act on Protection, Dignity and Security of Women against Violence, will be “aimed at criminalizing new forms of assault, harassment and violations of the rights of women and adopting preventive and support measures to stop violence against women.”⁸ In January 2020, the UN Secretary General expressed concerns about the slow progress of the bill, which has been under review since 2010⁹ and as of February 2021 is under the review of the Iranian Parliament.¹⁰ The draft bill will then need to be vetted by the Guardian Council.

The Secretary General also noted that “critical articles were reportedly removed from the initial proposal of the Executive, including provisions protecting women from various forms of violence and criminalizing domestic violence.”¹¹¹² As of early February 2021, the available draft of the law¹³ suggests that the text may be insufficient to protect women in Iran from discriminations and violence. Even though the draft law may bring positive developments, it will

⁴ Gender inequalities, such as inequality in the age of criminal responsibility (articles 140, 146 and 147 of the IPC), inequality in the share of inheritance (articles 861 to 948 of the Civil Code), inequality in the age of marriage (article 1041 of the Civil Code), inequality in the rights of husband and wife in marriage (articles 1102 to 1119 and 1133 to 1142 of the Civil Code), inequality in the custody of children (articles 1169 to 1173 of the Civil Code), inequality in the right to work (article 1117 of the Civil Code), inequality in the validity of testimony in court (articles 174 to 200 of the IPC), inequality in blood money (articles 549 to 575 of the IPC), and inequality in the share of employment, are among the inequalities that are based on gender in Iranian law.

⁵ Article 1115 of the CPC

⁶ Article 224 of the IPC

⁷ Article 614 of the fifth book of the IPC

⁸ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

⁹ Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

¹⁰ New York Times, <https://www.nytimes.com/2021/01/05/world/middleeast/iran-sexual-violence-metoo-women.html>

¹¹ Report of the Secretary General, Situation of human rights in the Islamic Republic of Iran, 2020,

https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

¹² See Radio Farda <https://en.radiofarda.com/a/new-watered-down-draft-law-on-violence-against-women-iniran/30173089.html> ; and ISNA www.isna.ir/news/98071612729/ (in Farsi).

¹³ <https://shenasname.ir/laws/7023>

remain limited by the Civil Code¹⁴, the Family Law¹⁵, and the Islamic Penal Code¹⁶, which contain provisions effectively discriminating against women and fail to protect them adequately from violence.¹⁷

For example, Iran's Civil Code forbids a woman from leaving the matrimonial home without the husband's permission unless she is able and willing to go to court to prove she is endangered.¹⁸ This leaves Iranian women deeply vulnerable to violence, including marital rape (as it is not recognized in the law), or physical harms, and the stipulation that if a woman leaves the marital home, she is not subject to alimony. Moreover, numerous articles of the country's Civil Code effectively undermine protections for women against domestic violence. Article 1105 of Iran's Civil Code stipulates, "In relations between husband and wife, the position of the head of the family is the exclusive right of the husband", undermining women in regards to household decision-making, including financial decisions and receiving "head of household" employment benefits given only to men with families. Article 1108 of the Civil Code states, "If the wife refuses to fulfill the duties of a wife without a legitimate excuse, she will not be entitled to the cost of maintenance (alimony)", granting absolute power to the husband to demand anything in marital relations. Similarly, Article 1114 of the Civil Code states, "The wife must stay in the dwelling that the husband allots for her unless such a right is reserved to the wife."

To this end, Iran's laws not only lack the necessary protections against VAW, they also at times exacerbate the vulnerability of women where domestic abuse is plausible. There are provisions in Iranian legislation for investigations on cases of VAW. However, given the misalignment of the definition of "violence" in Iranian law with what is specified in international law, these investigations are in nature inadequate in serving justice.

The most common body for the submission of VAW-related complaints in Iran is the police, as these complaints are considered in the category of violent crimes. There is also a social emergency hotline (123) set up in order to receive complaints related to domestic violence. Iran does not publish accurate information regarding instances of violence against women. There is no information made public regarding the rate of complaints being investigated, resulting in the prosecution of the perpetrators. Meanwhile, there are reports that point to a pattern of such cases not being appropriately processed and investigated.¹⁹

¹⁴ The Civil Code: <https://shenasname.ir/laws/6664>

¹⁵ The Family Law: <https://shenasname.ir/subjects/family/1470>

¹⁶ The Islamic Penal Code: <https://shenasname.ir/subjects/salamat/1571-mojazat92>

¹⁷ This information is up-to-date and accurate as of early February 2021. For more up to date information on the passage of this bill, please click the following link: <http://www.impactiran.org/vawbill>

¹⁸ Article 1117 of the Civil Code

¹⁹ Iran: Victim of domestic and sexual violence, arrested as a child, is executed after unfair trial: <https://www.amnesty.org/en/latest/news/2018/10/iran-hours-left-to-halt-execution-of-female-juvenile-offender/>

In the IRI, the cabinet an office under the supervision of the president called Deputy on Women's and Family Affairs, tasked with handling the issues surrounding VAW. Nevertheless, there is no information available regarding its tangible impact on improving the situation of women in Iran. There is no reported public sector spending on these initiatives, while also school curricula do not include national prevention programs.

Women can obtain information on domestic abuse victim shelters through a government welfare organization hotline by dialing 123.²⁰ The government's official data points to the existence of 31 centers of temporary residence for women in need of shelter²¹ upon having being subjected to domestic violence, as well as 22 social rehabilitation centers and 31 health houses²² that provide services such as healthcare for girls.²³ The State Welfare Organization (*Behzisti*) notes that these shelters accommodate approximately 2000 women every year. Yet, despite these official numbers, human rights organisations point to a glaring discrepancy between the number of victims of domestic violence and the existing means and mechanisms of support.²⁴

According to these organisations, there are only 21 women's shelters in IRI for the over 40 million female population of the country and 15 of these have been established by NGOs with very limited resources. The public shelters governed by the government only receive the women for one month and the children are taken away from their mothers upon their arrival. Women who are victims of violence are not provided with defense lawyers automatically and must themselves prove the violence or engage a lawyer. The courts do not easily accept the divorce requests of women who are victims of violence and in most cases send them back to the perpetrator of the violence.²⁵ Additionally, these shelters exist only in major cities, lack resources and are poorly advertised, with many such establishments focusing on reconciling and reuniting victims with their abusive spouses.

Iran has not fully implemented the provisions of the Declaration on the Elimination of VAW. As mentioned earlier in this assessment, there are various provisions in the Iranian law that seemingly ensure the protection of women against violence. However, these provisions are not sufficient to fully protect women against violence. In short, this critical legislative gap, as well as existing gender-based discriminatory laws lead to the failure of the law to guarantee the

²⁰ Vice President for Women and Family Affairs: "Contacting 123 social emergency lines is a deterrent of crime." <http://women.gov.ir/fa/news/12919/>

²¹ Safe Homes: A center established by the National Welfare Organisation for the temporary accommodation of women who have been abused or exposed to domestic violence. For a maximum of one year, these women use the specialised facilities, services, individual, family and social, in order to resolve the issue of violence and injuries, free of charge. If the women have a son under the age of twelve or a daughter, their children will also be accommodated in this center.

²² Health Homes: It is a center established by the Welfare Organization of the country and covers never-married women who are exposed to social harm and lack family and social support, and provides economic and social independence through the provision of services.

²³ The Annual Report of the State Welfare Organization (for year 1397 -[2017-2018]).

²⁴ For more, see, All Human Right for All: <http://www.iranhrc.org>

²⁵ See, All Human Right for All submission to HRC: <http://www.iranhrc.org>

protection of women against any form of violence and discrimination remains a critically unresolved.

Recommendation Status:

This recommendation has **NOT** been implemented.