

Special Rapporteur on violence against women, its causes and consequences E/CN.4/2006/61/Add.3 para 73 (d)

Full recommendation:

In order to enhance women's access to justice through a transparent legal and judiciary reform it is recommended that the Government:

Eliminate all obstruction to justice on the grounds of sex, class and religion emanating from the practice of diyah;

Assessment using Impact Iran human rights indicators¹

In Iran's Islamic Penal Code (IPC)², the topic of *diyeh* (blood money) is covered from Article 448 to Article 727. In several articles in this part of the law, the *diyeh* of women is half of that of a man in the same category of crime. For example, according to Article 550 of the IPC, the *diyeh* of women that were murdered is half of that of murdered men. In Article 551 of the IPC, the *diyeh* payment for a woman who died as a result of accident is half to that of a man, while the rest of the *diyeh* is paid by a fund that is allocated from a government foundation called "Physical Injury Insurance Fund", which was created recently. This article can be cited when deaths are caused by accidents but not in cases of homicide. Otherwise, gender inequality related to *diyeh* payments persists in Iran, even in cases of miscarriage. According to Article 716 (e) of the IPC, if the fetus that died in the mother's womb was female, the *diyeh* of her loss is half of that of a male fetus. According to Article 560 of the IPC, the *diyeh* for the loss of a body part (only body parts that are subjected to *diyeh*) for women is half to that of men.

Since the recommendation was issued, despite the revision of Islamic Penal Code that was finalised on April 21, 2013, no provision related to *diyeh* (blood money) and its application and criteria has been changed, except for the adding of an article related to *diyeh* in homicide cases where a non-Muslim is the victim.³ Obstructions to fair trial standards and provisions that are discriminatory on the ground of gender and religion still exist, particularly in the Islamic Penal Code.

The only positive change that was included in the revision of the IPC, in regard to *diyeh*, is Article 554 which is based on a religious order (*fatwa*) by the Supreme Leader of Islamic Republic, and posits that in cases of homicide where a member of a recognised religious minority is murdered, the *diyeh* will be calculated in the same manner as in cases where the murder victim is Muslim.⁴ Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Parliament's Article 90 Commission (established under Article 90

¹ CCPR.2.1.S.1; CCPR.2.2.S.1; CCPR.3.1.S.1; CCPR.7.1.S.1; CCPR.16.1.S.1; CCPR.2.1.P.1; CCPR.7.1.P.2; CCPR.16.1.P.1

² The Islamic Penal Code: <https://shenasname.ir/subjects/salamat/1571-mojazat92>

³ Article 554 of the Islamic Penal Code.

⁴ The Islamic Penal Code: <https://shenasname.ir/subjects/salamat/1571-mojazat92>

of the Constitution, offering a mechanism to citizens to file complaint against any of the three branches of power) and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence to suggest that complaints to these bodies are independently reviewed and investigated.⁵ Especially since the laws in Iran are not completely clear regarding the definition of "discrimination" in general, as most laws in Iran refer to "unfair discrimination", a concept that is most notoriously mentioned in Article 3 (9) of the Iranian Constitution, it leads one to think that there is such thing as fair discrimination, which, in turn, constitutes a serious loophole in legislation and can lead to violations.

As discussed above, despite the persistence of gender discrimination when it comes to *diyeh* payments, there have been some positive steps taken, namely the adding of an article to the IPC on religious minorities and the establishment of the "Physical Injury Insurance Fund". As such this recommendation has been partially implemented.

Recommendation Status:

This recommendation has **PARTIALLY** implemented.

⁵ Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCS%2fIRN%2f42313&Lang=en