

Special Rapporteur on violence against women, its causes and consequences E/CN.4/2006/61/Add.3 para 75 (d)

Full recommendation:

In order to promote and support the empowerment of women in all spheres of life, it is recommended that the Government: Ensure that women have equal rights to enter into marriage and during the marriage relationship, as well as at its dissolution.

Assessment using Impact Iran human rights indicators¹

In the Islamic Republic of Iran, the legal minimum age for marriage is 13 years old for girls and 15 years old for boys.² However, children who have reached puberty can marry with parental consent and court approval.³ The predefined age of puberty in Iran, and the age of legal majority, is 9 years for girls and 15 years for boys.⁴ Marriage before puberty is prohibited in accordance with Article 1062 of the Civil Code and Article 50 of the Family Protection Act⁵ and is punished under Article 646 of the Islamic Penal Code (2013).⁶ However, with the permission of a court, a legal guardian has the right to marry off his minor daughter.⁷ Additionally, virgin girls who above the age of 13 years old who are marrying for the first time, regardless of their age, legally require their father's or paternal grandfather's permission to marry.⁸

Between March 2018 and March 2019, the National Organization for Civil Registration reported 133,087 marriages involving girls under the age of 18, a number that includes over 30,000 marriages involving girls between the age of 10 and 14 years old and 209 marriages involving girls under the age of 11.⁹ Numbers, however, are likely to be higher as many child marriages are unregistered.¹⁰

¹ CCPR.3.1.S.1; CCPR.3.1.S.3; CCPR.12.2.S.1; CCPR.23.1.S.1; CCPR.23.3.S.1; CCPR.23.4.S.1; CCPR.3.1.P.1; CCPR.12.2.P.1; CCPR.23.1.P.1; CCPR.23.3.P.1; CCPR.23.4.P.1; CCPR.23.1.O.1; CCPR.23.3.O.1; CCPR.23.4.O.1

² Article 1041 of the Civil Code as amended up until December 2000, NGO Impact Iran Coalition, Joint Submission to the Committee on the Rights of the Child, 2016,

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19809_E.pdf

³ Iran Human Rights Documentation Center, https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf

⁴ Committee on the Rights of the Child, 2016, CRC/C/IRN/CO/3-4, paras. 27–28 <https://undocs.org/en/CRC/C/IRN/CO/3-4>

⁵ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

⁶ Islamic Penal Code (2013), Islamic Republic of Iran, Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁷ Iran Human Rights Documentation Center, https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf

⁸ NGO Submission Committee on the Rights of the Child, 2016, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19809_E.pdf

⁹ The National Institution of Registry www.sabteahval.ir/avej/tab-1499.aspx

¹⁰ Center for Human Rights in Iran, 'Mass child marriage ceremony in Iran denied by local authorities', 10 March 2016

The Civil Code provides rights to the husband over those of the wife, such as establishing that the position of the “head of the family” is the exclusive prerogative of the husband.¹¹ Under Iranian law, a husband is entitled to control aspects of his wife’s life¹² and to demand that she performs her “duties”.¹³ Article 1105 of Iran’s Civil Code stipulates that “[i]n relations between husband and wife, the position of the head of the family is the exclusive right of the husband”, which puts married women and girls in the weaker position with regards to household decision-making, including in financial matters since job benefits are given to the head of the family. Article 1108 of the Civil Code further states that “[i]f the wife refuses to fulfill the duties of a wife without a legitimate excuse, she will not be entitled to the cost of maintenance” (spousal support, or *nafage*), which gives absolute power to a husband to demand anything in a marriage relationship.

Under Iran’s Civil Code, “[t]he wife must stay in the dwelling that the husband allots for her unless such a right is reserved to the wife,”¹⁴ and a woman is forbidden from leaving the matrimonial home without her husband’s permission, unless she is able and willing to go to court to prove that she is endangered.¹⁵ The Civil Code further specifies that a woman who decides to leave the marital home will not receive alimony from her husband, which may further function as a deterrent for women to exercise their right to freedom of movement.

According to Article 18 (3) of the Passport Law, a woman needs written permission from her husband to obtain a passport.¹⁶ In addition, the husband has the right to forbid his wife from leaving the country, regardless of whether she holds a passport or not. In exceptional cases, the county prosecutor can authorise the issuance of a passport for a woman; however, only a few exceptions have been made so far.¹⁷ Previously, a bill was introduced before the Iranian Parliament to amend the Passport Law, in attempting to eliminate the absolute right of a husband to control his spouse’s ability to travel outside of the country. However, this attempt failed as the bill did proceed through the legislative process.¹⁸ In 2017, a draft law was introduced before the Parliament that sought to allow women with particular jobs – notably athletes and artists – to travel outside the country without their husband’s consent, provided that they secure the permission of the prosecutor-general.¹⁹

¹¹ Articles 1102 to 1119, 1133 to 1142, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

¹² For instance, under Article 1117 of the Civil Code of the Islamic Republic of Iran: “The husband can prevent his wife from occupations or technical work which is incompatible with the family interests or the dignity of himself or his wife.” <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

¹³ Article 1108, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

¹⁴ Article 1114, Civil Code of the Islamic Republic of Iran.

¹⁵ Article 1117, Civil Code of the Islamic Republic of Iran.

¹⁶ The Passport Law of Iran: <https://rc.majlis.ir/fa/law/show/96904>

¹⁷ For example, Niloufar Ardalan, a player in the Iranian women’s futsal team, was unable to leave the country and participate in competitions due to her husband’s opposition. An issue that led to the issuance of a temporary permit with the intervention of the Tehran prosecutor and a temporary court order. <https://www.asriran.com/001opM>

¹⁸ The latest status of the plan “Women leave the country without the permission of their husbands”, www.tabnak.ir/003GUK

¹⁹ Asriran News Agency, ‘Mowlaverdi : Tarh-e- eslaah-e-gozarnameh baraye khourouj-e-zanan az keshvar dar Majles barrasi mishavad [Mowlaverdi: The draft bill on the amendments to the passport law allowing women to leave the country will be discussed in the Parliament], 28 July 2017, <https://bit.ly/330XCyC>

In terms of rights relating to children, Article 1169 of the Civil Code prioritizes the right of the mother to have custody of a child until the child reaches the age of 7 years old; after such point the law awards custody of the child to the child's father or paternal grandfather. In situations where the parents of the child are not married, the law awards legal guardianship of the child to the paternal grandfather. A note accompanying Article 1169 also states that "if a dispute arises over custody of a child after the age of seven, it is for the court to determine custody in the best interests of the child."

Under Article 1173 of the Civil Code, a woman may challenge a father's right to custody over the child in the event of the father's "addiction to drugs, alcohol and gambling; reputation for moral corruption; having a mental illness diagnosed by a doctor; child abuse and coercion into immoral occupations; and repeating beatings outside the 'normal limit.'" In such cases, a woman may obtain physical custody of her child, though not legal guardianship which remains with the father or paternal grandfather. Under Article 43 of the Family Protection Law (2013), in the event of the father's death, the custody of the child is granted to the mother, unless the grandfather or the prosecutor deems it contrary to the best interests of the child. In the case of divorce, custody is given to the mother until the child turns 2 years old for boys, or 7 years old for girls.²⁰ Custody is then transferred to the father or to whoever the court has decided is in the child's best interests. However, if the mother remarries, she loses the right to custody.²¹

Men have a unilateral right to divorce their spouse, while women can only apply for divorce in limited circumstances, including situations where their husband is addicted to drugs, imprisoned, refuses to support the family financially²² or subjects his wife to "intolerable hardship."²³ Recently, however, the government has drafted a bill titled "Limitation of the Right of Men to divorce" that would restrict the "absolute right to divorce" of men and impose certain conditions and restrictions. As of March 2021, the bill is still in the very early stages and is being considered by the Internal Commission. However, this bill is considered unlikely to be approved by the Guardian Council and become law.²⁴ It should further be noted that the bill was introduced to limit the number of divorces and "maintain the family unit," rather than to address discrimination on the basis of gender regarding the right to divorce.

Overall, the Government of Iran has not ensured that women have equal rights to enter into marriage and during the marriage relationship, as well as at its dissolution.

Recommendation Status:

This recommendation has **NOT** been implemented.

²⁰ Articles 1169- 1170, Civil Code of the Islamic Republic of Iran

²¹ Articles 1170, Civil Code of the Islamic Republic of Iran

²² Articles 1119, 1129, 1130 and 1133, Civil Code of the Islamic Republic of Iran

²³ Articles 1130 and 1133, Civil Code of the Islamic Republic of Iran

²⁴The Ten-Year Division for Divorce in Court (2019), <https://bit.ly/3vzaZo8>