

Concluding Observation Committee on the Rights of the Child CRC/C/IRN/CO/3-4 para 60(b)

Full recommendation:

Introduce and enforce national laws prohibiting all forms of child marriage and ensure that children who have been married can file a complaint on family matters such as divorce and custody of their children, and for financial compensation.

Assessment using Impact Iran human rights indicators¹

A. Introduce and enforce national laws prohibiting all forms of child marriage

The law in the Islamic Republic of Iran continues to permit child marriage by stipulating that 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 In Iran, the predefined age of puberty and the age of legal majority is 9 years old for girls and 15 years old for boys.⁴ Marriage before puberty is criminalized in accordance with Article 50 of the Family Protection Act⁵ and is punishable under Article 646 of the Islamic Penal Code of 2013.⁶

In 2018, a proposed amendment to Article 1041 of the Civil Code, which would raise the age of marriage for girls from 13 to 16 years old while permitting marriage at an earlier age with legal and medical approval, was rejected by the Parliament's Committee for Judicial and Legal Affairs ("Committee").⁷ In February 2019, the chair of the Committee stated that a "new plan" would be introduced for approval of Parliament and the Guardian Council.⁸ As of February 2021, Iran has taken no further action in this regard.

¹ CCPR.23.2.S.1., CCPR.23.3.S.1., CCPR.23.4.S.1, CCPR.23.4.S.2, CCPR.23.4.S.3
CCPR.23.3.P.1., CCPR.23.2.P.1., CCPR.23.1.P.3
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 Article 146 and 147 of the Islamic Penal Code: <<https://shenasname.ir/subjects/salamat/1571-mojazat92>>

⁵ The Family Protection Law, adopted on Feb 19, 2013: <<https://shenasname.ir/subjects/family/1470>>; Universal Periodic Review, Iran, 2019, <<https://undocs.org/A/HRC/43/12>>

⁶ Islamic Penal Code: <<https://shenasname.ir/subjects/salamat/1571-mojazat92>>

⁷ Amnesty International, UPR submission 2019,
<<https://www.amnesty.org/download/Documents/MDE1305732019ENGLISH.PDF>>

⁸ Information from Impact Iran; see <www.tasnimnews.com/fa/news/1397/11/17/1941311/>

During its last Universal Periodic Review (“UPR”) in November 2019, the Government of Iran stated that a Bill entitled “Protection, Dignity and Security of Women against Violence” would 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.”⁹ Reportedly, the bill would also prohibit forced and early marriage for girls under 18 years old.¹⁰ The most recent version¹¹ of the bill does not change the current application of the Civil Code in regards to early marriage, but has a strong focus on education and expanding knowledge on women’s issues, such as calling for educational courses for judges and other judiciary staff and it would obligate the state broadcaster to produce more programmes that promote the support of women and the prevention of violence against them as family values.¹² The bill has been under review since 2010¹³ and was approved by the Iranian Government in January 2021. Before it becomes legally binding, the bill must be approved by the Parliament and the Guardian Council.

During its 2019 UPR, the Government of Iran noted that forced marriage is prohibited under Article 1062 of the Civil Code and Article 646 of the Islamic Penal Code.¹⁴ Yet with a court’s permission, a legal guardian has the right to legally enter a child daughter into a compulsory marriage, regardless of whether she gives free and informed consent to the marriage.¹⁵ Additionally, virgin girls and women above the age of 13 years old, who are marrying for the first time, are legally required to have their father’s or paternal grandfather’s permission.¹⁶

In 2016, the Committee on the Rights of the Child stated that the legal age of marriage in the Islamic Republic of Iran “gravely violated rights under the Convention [on the Rights of the Child] and placed children, in particular girls, at risk of forced, early and temporary marriages, with irreversible consequences on their physical and mental health and development.”¹⁷

Child marriage persists in Iran because the domestic law does not prohibit forced and underage marriage of children, allowing such practices to continue. Iranian laws have not yet been amended to address these concerns. Between March 2018 and March 2019, the National Organization for Civil Registration reported over 30,000 marriages involving girls between the

⁹ Universal Periodic Review, Iran, 2019, <<https://undocs.org/A/HRC/43/12>>

¹⁰ 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>>; Iran Newspaper, 4 October 2015: <<https://bit.ly/2youDGX>>

¹¹ <https://shenasname.ir/laws/7023>

¹² <https://www.aljazeera.com/features/2021/2/28/protecting-dignity-irans-push-to-fight-violence-against-women>

¹³ 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>>

¹⁴ Universal Periodic Review, 2019, Reply of the Islamic Republic of Iran, <<https://undocs.org/en/A/HRC/43/12/Add.1>>

¹⁵ Iran Human Rights Documentation Center, <https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf>

¹⁶ 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>

¹⁷ CRC/C/IRN/CO/3-4, para. 27-28 <<https://undocs.org/en/CRC/C/IRN/CO/3-4>>

age of 10 and 14, including 209 marriages involving girls under the age of 11.¹⁸ However, the number is likely to be higher as many child marriages are unregistered.¹⁹

Overall, the Government of Iran has not passed, or enforced, national legislation prohibiting all forms of child marriage.

B. Ensure that children who have been married can file a complaint on family matters such as divorce and custody of their children, and for financial compensation

Child marriage remains legal in Iran and those who are subject to it cannot seek financial compensation. The Government of Iran has stated that when a case of forced marriage is filed before the Judiciary, the forced marriage can be dissolved in accordance with the Civil Code and those who bear responsibility for the forced marriage can be prosecuted, but there is no opportunity for financial compensation.²⁰ However, underage children in Iran lack access to redress and legal recourse in this and other matters related to their marriage as they cannot file lawsuits without the representation of their legal guardian.²¹ This inability to access the judicial system frustrates children attempting to remove themselves from forced marriages²² as well as limits their (theoretical but legally uncertain) ability to access rights afforded to married individuals over the age of 18 years old.

Although Iranian law permits children under the age of 18 years old to marry, these children have many rights associated with a marriage – whether during marriage or at its dissolution – restricted until they reach the age of legal responsibility, which is 18 years old in Iran.²³ The age of legal responsibility is the age at which individuals can carry out legal activities, including the transfer of documents (such as for a home or car deed), obtain an independent passport, obtain a driver's license, obtain a power of attorney, act as power of attorney, and so on.

Yet Iranian law itself is vague and contradictory about which rights are available to married children under the age of 18 years, compared to those who have reached the age of legal responsibility, including in whether they can utilize the court system to file complaints, seek

¹⁸ Report of the Secretary General, Situation of Human Rights in the Islamic Republic of Iran, 2020, para 37 <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> and See <www.sabteahval.ir/avej/tab-1499.aspx> (in Farsi)

¹⁹ Report of the Secretary General, Situation of Human Rights in the Islamic Republic of Iran, 2020, para 37 <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>

²⁰ Universal Periodic Review, 2019, Reply of the Islamic Republic of Iran <<https://undocs.org/en/A/HRC/43/12/Add.1>>

²¹ Suuntaus Project, Finnish Immigration Service- Country Information Service, 'Violence against women and honour-related violence in Iran', 26 June 2015, <http://www.migri.fi/download/61597_Suuntaus-raportti_VakivaltaIran_finalFINAL_kaannosversio_EN.pdf?96fa691925bfd288>

²² Universal Periodic Review, 2019, Reply of the Islamic Republic of Iran, <<https://undocs.org/en/A/HRC/43/12/Add.1>>

²³ This differs from the age of legal majority in Iran, which is 9 years old for girls and 15 years old for boys.

custody over their children, access housing, or file for divorce. For example, if a boy marries when he is 15 years old but cannot pay the dowry (to his wife) before he turns 18 years old, it is unclear who would bear responsibility for that debt. Girls face longer lasting and further challenges in terms of legal rights regarding their marriage and family, since their minimum age of marriage is 13 years old (2 years younger than for boys) and they also have access to certain rights restricted based on their gender.

Regardless of their age, married girls and women face significant legal obstacles in accessing equal rights to men during their marriage or at its dissolution, contrary to their right to gender equality. Within Iran’s Civil Code (“Civil Code”), there is inequality in the rights of husband and wife during marriage (Articles 1102 to 1119 and 1133 to 1142) and in the custody of children (Articles 1169 to 1173 of the Civil Code).

For instance, Article 1117 of the 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. This leaves Iranian women deeply vulnerable to violence, including marital rape (which is not recognized in the law) or other physical harms, and financial disadvantage because of the legal stipulation that if a woman leaves the marital home, she is not subject to alimony.

Moreover, Article 1105 of the 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 girls and women in weaker positions with regard to household decision making, including financial matters, or in receiving job benefits that are given to the head of the family. Under Article 1108 of the Civil Code, “[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 (alimony),” which creates a significant power imbalance within a marital relationship.

There is also gender inequality regarding the right to divorce. Article 1133 of the Civil Code grants the husband the legal right to divorce his wife at any time, or to oppose a divorce. Women may file for divorce in court, yet this is subject to certain, more onerous preconditions – namely, she must provide various documents and reasons for the divorce.

Overall, there is considerable legal ambiguity and obstacles regarding the rights of married children to file a complaint in family matters. This systemic uncertainty undermines the ability of married children to access equal rights, further increasing their vulnerability to human rights violations. Even if they have equal rights to those who have reached the age of legal responsibility, girls face further barriers in accessing legal avenues on the basis of their gender.

Recommendation Status:

This recommendation has **NOT** been implemented.