



**Disposable Victims: Laws and
Practices on Gender-related
Killings of Women and Girls in the
Islamic Republic of Iran**

Submission to the UNODC Justice Section

Laws and Practices on Gender-related Killings of Women and Girls the Islamic Republic of Iran

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About Justice for Iran (JFI)

Established in July 2010, Justice for Iran (JFI) is a non-governmental, not-for-profit human rights organization. It aims to give a voice to the voiceless.

The mission of JFI is to address and eradicate the practice of impunity that empowers officials of the Islamic Republic of Iran to perpetrate widespread human right violations against their citizens, and to hold them accountable for their actions.

JFI unravels the truth and seeks justice for ethnic and religious minorities, LGBTs, women, and those who are persecuted because of their political beliefs.

To achieve its mission, JFI researches, documents, validates, and litigates individual cases. It further raises public awareness and participates in human rights advocacy through the United Nations.

Introduction

Justice For Iran presents this submission in response to the call for recommendations and best practices on gender-related killings of women and girls issued by the UNODC Justice Section. The submission highlights the manner in which the Islamic Republic of Iran fails to protect women against gender-related killings as understood in the UNODC report regarding various elements of this form of violence against women. Part I addresses gender-related killings as committed by private actors; Part II address the infliction of death by the State; and Part III addresses self-inflicted harm and suicide. In so far as Iran's discriminatory legal framework is concerned, the submission draws attention to criminal laws and practices that condone murder of women by allowing the accused to escape retribution or at most face minimal punishment as well as civil and family laws that fail to provide protection against domestic violence and other severe forms of gender-based violence. The submission also discusses penal provisions pertaining to stoning and capital crimes that are at their core discriminatory. It is submitted that these laws and practices have collectively positioned women in a situation where they may have effectively become the most disposable victims of murder and other severe forms of gender-based violence.

I. Privately-Inflicted Gender-Related Killings

1. Laws governing murder

1.1 Discriminatory Standards of Punishment

Iran's Islamic Penal Code defines murder as a crime punishable by death in accordance with the laws of qisas [retaliation]. This means survivors of a victim of murder have the right to seek capital punishment for the murderer. However, qisas laws embody gender-discrimination as they hold that the life of a woman is worth half of that of a man. Accordingly, in cases where men have murdered women, qisas-based laws work to reduce sentences to a minimum. This is most clearly seen in Article 367 of the new Penal Code, approved as recently as 2012, and Article 209 of the previous Code, both of which condition a male murderer's execution on payment of 50% of blood money by the family of the slain woman to his family. This is due to the fact that qisas laws place the value of blood money for a woman as half of that for a man. As determined by the Islamic Republic authorities in 2013, the value of blood money for a man is equivalent to 75 million tumans, which proves impossible for many Iranian families and in reality causes the death sentence to be turned into a few years of imprisonment in cases where men murder women. The same does not apply to women who murder men and victims' families can demand execution without having to make a single payment.

Under Iran's Islamic Penal Code, owners of blood (survivors of the victim excluding spouse) are entitled to exchange execution with blood money or no money at all. Since honor killings are often committed or coordinated by family members, they often relinquish blood money and the criminal faces a few short years of imprisonment instead.

While human rights activists in Iran oppose execution, they call for a non-discriminatory criminal regime that metes out punishment to perpetrators of murder, on an equal basis and without discrimination against female victims. Current laws allow men who murder women to presume the possibility of escaping execution in cases where the victim's family is financially unable to make the necessary payment or is indeed complicit in the act of murder.

1.2 Discriminatory Exemptions from Punishment

Iran's Islamic Penal Code provides several exemptions from the punishment of qisas and payment of blood money, all of which have a discriminatory impact upon women and violate their fundamental right to life, particularly through "honour" killings.

1.2.1. Victim being “deserving” of murder

Articles 302 and 303 of the Islamic Penal Code exempt a Muslim perpetrator of murder from punishment upon proof that the victim was “deserving” of murder and her blood was as such free to a Muslim. This provision generally applies to cases where the victim has committed a crime that carries the death penalty under the penal code. In the past, chain murders of women have, for example, relied upon this provision to argue that their victims were engaged in the criminal act of prostitution and they committed murder in order to cleanse society from corruption.

1.2.2. Fathers and paternal relatives having murdered their children

When the murderer is the father or among the paternal relatives of the victim, Article 301 of the Islamic Penal Code provides that qisas laws do not apply and punishment should be limited to imprisonment or blood money. Prison sentences for first degree murder range between 3 and 10 years, which due to legal acceptance of preserving honour as grounds for justification of gender-based killings in Islamic Republic judicial system, judges often issue the minimum sentence for fathers who have murdered their daughters.

1.2.3. Crime of passion

Crime of passion is an expression referring to the legitimacy of a husband’s right to murder his wife under Article 302(c) of the Penal Code (Hodud, Qisas and Dyat) and Article 630 of the Penal Code (Tazirat and Deterrent Punishments). According to these provisions, if a husband witnesses his wife while having sexual relations with a man, he is legally entitled to murder both. In this manner lawmakers do not only exempt the murderer from punishment, but also in effect empower men to commit murder under such circumstances.

1.3. Harmful Consequences

The foregoing provisions have contributed to the persistence of harmful traditional practices whereby male relatives feel entitled to murder women in the name of preserving their “honor”. Statistics on honor killings are rarely reflected in official government reports but are tangentially mentioned in interviews with police officials, particularly at the provincial level. It is through these reports that the frequency of honor killings can be gleaned. For instance, during a 2011 interview, the chief of police in Tehran identified conflict, disagreement, robbery and honor killings as the most important causes of murder throughout the year. Elsewhere the Deputy Justice of Kerman identified 70% of murders committed in 2013 as honor killings.

The discriminatory legal framework governing the punishment of murder has allowed men to also commit, without accountability, extreme forms of violence against women leading to their death. According to a report by the deputy in charge of the crimes unit at NAJA 33% of murders committed in 2011 were among family members. Without reference to exact statistics he stated murders committed by relatives include higher instances of husbands murdering their own wives.

Although there is no statistics on the number of women annually murdered at the hands of their husbands, the high rate of domestic violence in Iran and the rise in the number of homicide reports in media points to the fact that domestic violence affects a large number of Iranian women each year. A 2004 research project carried out at the national level among 12,600 women in 28 provincial capitals throughout Iran shows 66.3% of women face domestic violence since the inception of marriage, 10.5% of which cases involve severe forms of violence. From among the interviewees 28.2% have faced physical violence. Furthermore, the most violent periods during the lifespan of a woman include the first year of marriage, periods associated with financial hardship, pregnancy, following childbirth, at least once a month, and midlife.

Beside the inadequacy of criminal laws governing murder, the legal structures that influence murder of women at the hands of their husbands include lack of specific laws providing women with adequate protection against domestic violence and discriminatory family and civil laws forcing women to stay in situations of violence. These serious shortcomings and inadequacies will be examined next.

2. Laws governing domestic violence

The Islamic Republic of Iran has failed to adopt specific laws against domestic violence, forcing women who are subjected to this phenomenon to refer to laws that deal with physical violence in general. Women face various barriers when they seek to file a complaint pursuant to these laws. For instance, the case must be filed when bodily signs of battery is evident, or in order to prove a crime has been committed at least two male witnesses must appear before court. Witnesses must not be related to either party, which renders proof of domestic violence at the hands of the husband an impossibility. Even when crime is proven, the type of punishment awaiting men is insignificant and in most cases men are required to pay a fine as compensation. The same applies to women who face violence at the hands of other family members, including father or brothers.

Lack of vigilance on the part of the police force and courts of law when dealing with domestic violence has resulted in courts referring such cases to the private domain and in practice failing to react in an efficient manner or simply persuading women to return, often resulting in their murder.

This situation has been exacerbated by an extensive body of civil and family laws that force women to remain in situations of violence. Under the civil laws of the Islamic Republic of Iran, women lose many of their rights and freedoms following marriage and are instead required to blindly obey their husbands. Among such discriminatory measures is right to divorce. According to articles 1130 and 1133 of Iran's Civil Code, a man is entitled to divorce his wife void of any justification and by simply paying a woman's financial due. A woman must, however, prove that she is enduring an intolerable level of difficulty and hardship in the marriage in order to be able to obtain divorce. Examples of such hardship include husband's battery of the wife in a manner that proves intolerable in the wife's condition. Under the law, only abuse and battery that is both ongoing and intolerable given the conditions of the woman in question can account as battery. This implies a judge must assess the degree of violence marking the marital life and determine whether its continuation is possible or tolerable for a woman. In practice, women are frequently unable to prove their abuse is on-going and intolerable, because judges expect women to reconcile with their husbands and accept a certain level of physical and mental violence as a fact of family life.

Other family laws that force women to stay in situations of violence include those that provide men with the exclusive right to determine the place of their wives' residence. According to Articles 1005 and 1114 of Iran's Civil Code, a wife will be considered *nashezeh* [disobedient] and unworthy of spousal maintenance rights if she leaves her husband's home against his will, even if it is for escaping a situation of domestic violence. This rule applies unless the wife can prove to the court that she faces a significant risk of bodily harm, threatening her life and personal safety.

3. Torture and misogynist slaying of women by acid attacks

Acid attack on women is another extreme force of gender-base violence, often resulting in premature death of women. Most victims face this horror at the hands of their family members, including husband or former husband, as well as refused suitors or former lovers. In such cases the perpetrator aims to destroy a woman's physical appearance as a means of depriving her from family and social life as revenge for her decision excluding the man from her personal life, often leading to a painful death.

Reports and statistics demonstrate an increase in acid attacks on women over a twenty-year period covering 1993 to 2011. The Islamic Republic does not recognize acid attack as a crime and has failed to set any form of punishment for cases involving such attacks. Following general laws pertaining to battery and murder, attackers are subjected to qisas and imprisonment. However, so far qisas laws have not been applied to any case involving acid attack. The reason being lack of conditions pertaining to the application of qisas as according to law qisas must not result in loss of life or exceed the crime.

According to experts these conditions do not apply to cases involving acid attacks as acid is a liquid that can damage additional bodily parts. Furthermore, it is impossible to determine the density of the acid used in the act of crime. Since density, distance and manner of throwing the acid and the conditions of the victim will yield different results, lex talionis is not possible.

Consequently the perpetrator must merely pay a fine to the victim and face a prison sentence between 2 and 5 years. A punishment that is not in any way congruent with the scale of the crime committed against the victim. More importantly, it should be noted that fines for causing bodily injury involving a woman is worth half of that for a man.

II. State-Enforced Gender-related Killings

In the Islamic Republic of Iran, women's fundamental right to life is not just violated at the hands of private actors. Gender-related deaths are also inflicted by the State, including through stoning and executions that are at their core discriminatory and unjustified.

1. Stoning

Article 225 of Iran's new Islamic Penal Code prescribes the grotesque punishment of stoning as a penalty for people convicted of zina [adultery or sex outside of marriage]. Article 104 of the old Penal Code dictated the manner of execution and the type of stones that should be used, noting that they must be large enough to cause pain but not so large as to kill the victim immediately. This specific article has been removed from the new Penal Code; however, the method of execution it outlines is based on Sharia law and does therefore still apply pursuant to article 15 of the Regulations for the Implementation of Sentences of Hanging, Stoning and Amputation.

Although applying to both men and women in theory, the criminalization of adultery has been, in practice, overwhelmingly directed against women because men have on the one hand an unilateral right to divorce and on the other hand a right to marry two permanent wives in polygamous marriages and an unlimited number of temporary wives in Mut'a [temporary marriages]. This arrangement, as the United Nations Working Group on Discrimination Against Women in Law and in Practice has recognized in its Background Note on Adultery, establishes a discriminatory criminal regime regarding marital infidelity for women and men.

Since the establishment of the Islamic Republic in 1979, Amnesty International has documented at least 77 cases of stoning, but believes that the true figure may well be higher. Most of those sentenced have been poor, illiterate, or otherwise marginalized women who were coerced into signing false confessions that they did not understand and who were denied access to legal counsel. Many belonged to ethnic minorities which did not speak Persian, the language of courts, and could not therefore understand what was happening to them in the legal process or even that they faced death by stoning.¹ Many were also victims of early and forced marriage and had experienced a longstanding pattern of physical and sexual abuse as well as forced economic dependence. In addition, they were forced into adultery because of their inability to obtain divorce from their abusive husbands.

¹ Amnesty International, *Execution by Stoning*, MDE 13/095/2010 (December 2010), online: <http://www.amnesty.org/en/library/info/MDE13/095/2010>.

In her 2013 Report to the Human Rights Council, the Special Rapporteur on Violence against Women drew attention to the case of an incarcerated woman in the Islamic Republic of Iran that clearly illustrates the link between prior violence and crime, and also the disproportionate punishment often meted out to women. The woman was a victim of domestic violence and was forced into prostitution by her husband. One of her clients killed her husband, and the woman was convicted of adultery and of being an accomplice to murder. The male client was sentenced to an eight-year prison term and the woman was sentenced to death by stoning.²

Beside subjecting women to an abhorrent form of cruel and inhuman punishment, the classification of adultery as a crime punishable by stoning also provides impunity for men who commit 'honour' killings. Under Article 302 of the Penal Code, a man is exempted from the punishment of qisas [retaliation] and diya [blood money], the prescribed penalties for murder under the Iranian Penal Code, if he kills his wife or a female member of his family as she is committing adultery.³

2. Execution of Victims of Rape

Based on Article 224 the Islamic Penal Code, in cases where rape has taken place, the rapist is sentenced to death. Such a heavy sentence often causes an aversion among criminal court judges, all of whom are men, to conclude such a crime has occurred and that the perpetrator must be sentenced to death. Consequently, rapists who often go unpunished are encouraged to repeat this crime. On the other hand, proving rape on the part of the victim through bringing forth four male eyewitnesses, four confessions by the rapist in court or the knowledge of the judge is more than challenging. Since the presence of four men during rape is often impossible and the heavy punishment set for the crime prevents the perpetrator from confessing once let alone four times, the only means of proving that rape has taken place is through the knowledge of the judge. This is possible through examining medical records as well as the body of evidence. However, in reality, the behavior of the victim, cases involving prior relationship between the victim and the rapist and actions on the part of the woman, which may contradict socially acceptable sexual norms, are accounted as grounds for consensual sex as well as justification for refusal to recognize the act as rape. This approach is of grave consequences for complainants of rape and can subject them to a real risk of execution. This is because under the Islamic Penal Code, sexual relations outside the institution of marriage amount to adultery and can attract capital punishment. Accordingly, if one of the parties engaged in a sexual act confesses to the act, even though the other party may deny it, the one who confesses is charged with adultery and punished accordingly.

3. Execution of Victims of Gender-based Violence

Research carried out at universities in Iran shows that over the past few years the number of men murdered at the hands of their wives is on the rise. Research into this phenomenon shows that forced early marriages, significant age gaps, domestic violence, severity of legal obstacles to divorce, limiting laws pertaining to child custody and lack of legal and social support for women, are among causes influencing the rate of spousal homicide in Iran. Lack of attention to women's defense against years of physical and emotional violence at the hands of their husband and murder as a result of emotional damage are among objections to the judicial proceedings involving women. As previously mentioned men who murder women often escape execution due to lack of financial resources of the victim's family. However, women who murder their husbands easily face execution.

4. Execution of Women Accused of Repeated Lesbianism

² <http://www.ohchr.org/Documents/Issues/Women/A-68-340.pdf>.

³ <http://rc.majlis.ir/fa/news/show/845002>.

Article 239 of the Islamic Penal Code states that *mosaheqeh* [lesbianism] is punishable by one hundred lashes. *Mosaheqeh* is defined in Article 238 of the Islamic Penal Code as “when a female places her reproductive organ on another female’s reproductive organ”. Those who are convicted of *mosaheqeh* four times can, however, face capital punishment.

5. Execution of Survival Sex Workers

Between 1979 and 1981 a high number of prostitutes and madams were charged as ‘elements of corruption on earth’ and sentenced to hanging. After the approval of the Penal Code in 1982 there is no specific reference to prostitution as a category of crimes and every form of sexual relations outside of marriage is recognized as the crime of adultery. Since based on this law punishment for fornication after three convictions is execution, prostitutes do face execution and some among them have, in fact, been executed.

After the approval of the new Islamic Penal Code and *qisas* laws in Iran in 2012 in addition to the punishment of execution in cases involving the charge of adultery lawmakers added the category of corruption on earth into the body of laws. Under this law management of brothels and promotion of prostitution is deemed as spreading corruption on earth. In this manner judges can account management and workers at brothels as ‘elements of corruption’ and sentence them to death.

In the meantime, no mechanism for support and rehabilitation is made available to women involved in sex work. Accordingly, women do not only face dangers such as AIDS or violence but also in case of arrest and following the judge’s vote can be charged with ‘spreading corruption on earth’ and face death.

C. Suicide and self-immolation among women

Research in Iran points to the fact that suicide among women is four times higher than among men. Self-immolation is among the most popular methods of suicide, particularly in two regions of Ilam and Turkmanistan. Research carried out by universities in Iran shows that 64% of women who committed suicide were married and reasons for suicide included spousal abuse, as well as lack of legal and social provisions in support of women.

In addition to discriminatory family laws, other laws that facilitate such practices pertain to those on early marriage forced by the father of the girl child. According to law, the minimum age for marriage in case of girls is 13 years. However, her father or paternal family can act in her interest and marry her after securing permission by the court. In a report by Justice for Iran in 2013 alone a total number of 39,831 girls below the age of 18 were married throughout Iran. Among them 29,827 girls were between the ages of 10 and 14 and 1537 were below 10 years of age.

Recommendations

Although this report is focused on legal justifications for gender-related killings in Iran, economic, cultural and social dynamics also play a major role. Policies that reduce the social and economic role of women, parallel to promotion of anti-feminine concepts, such as a woman’s body or behavior as the basis of a family’s honor and reputation, are among elements that pose the greatest challenges before women and position them as victims of a patriarchal ideology in the Iranian society. Inevitably, every recommendation regarding legal improvements must be accompanied by changes in all elements in Iran’s current political, economic, cultural and social structures that favor men over women. In this light, recommendations aimed at improvements in the Islamic Republic’s criminal policies with the aim of providing support for women against gender-related killings must include the following:

- Elimination of all discriminatory and unequal expressions against women in civil, penal and family laws
- Ending the practices of execution and stoning
- Legislation of laws protecting women and children against domestic violence
- Criminalization of honor killings as a separate category of crime under the Islamic Penal Code and indication of a specific punishment for those who aid and abet honor killing or fail to report them
- Criminalization of acid attacks
- Legalization of sexual relations outside the institution of marriage and homosexual relationships
- Attention to cases involving wife battery and processing consequent cases involving spousal murder
- Elimination of all laws facilitating murder under the category of those whose blood is free to Muslims and bed murder
- Revisions in laws pertaining to rape and categorization of punishments in accordance with the severity of the crimes committed and the prevailing conditions
- Raising the minimum age for marriage in accordance with the Convention on the Rights of The Child
- Raising the age for criminal responsibility among girl children in light of the Convention on the Rights of The Child
- Criminalization of forced early marriage
- Improvements in judicial and administrative structures
- Gender sensitivity training to police forces and court staff
- Acceptance of women judges
- Creation of safe houses for women
- Creation of emergency social and judicial services aimed at interference in domestic violence