



Statement submitted by Amnesty International, Association for Women's Rights in Development, BAOBAB for Women's Human Rights, Center for Women's Global Leadership, International Alliance of Women and Italian Association for Women in Development, non-governmental organizations in consultative status with the Economic and Social Council

MDE 13/074/2012

We submit this statement to give voice to Iranian women on the status of violence against women. This statement is based on research carried out by a group of women's rights activists in the Islamic Republic of Iran and represents our joint concerns about women's rights issues in the country.

The Islamic Republic of Iran has not ratified the Convention on the Elimination of All Forms of Discrimination against Women and does not recognize violence against women in its laws. As a result of discriminatory laws, women face a wide range of violence, both in their domestic lives and in the public realm, without any legal protections. As this statement briefly describes, the State has failed to protect women from violence committed by non-State actors but also has committed violence against women through its own policies.

In February 2012, the Center for Women's and Family Affairs, which is affiliated with the Office of the President, announced that a comprehensive bill addressing concerns related to violence against women was to be reviewed by parliament. According to the deputy head of the Center, Parvin Hedayati, the bill includes both preventive and protective provisions and addresses the structural dimension of violence against women. We welcome this step towards preventing violence against women and protecting victims and survivors.

Serious concerns remain, however, regarding how violence against women can be addressed by a State that has targeted women human rights defenders and closed civil society organizations solely for exercising their right to promote women's status in the country. Nasrin Sotoudeh, Bahareh Hedayat, Shiva Nazar-Ahari, Fereshteh Shirazi, Zhila Bani-Yaghoub and Mahsa Amrabadi are among the many women's rights activists currently serving long prison terms.

Despite the announcement made by the Center for Women's and Family Affairs, it is unclear whether the bill addresses — and to what extent — violence against women in Iran, since the contents of the bill have not been made public and it has not been passed by parliament. Therefore, the following major issues of violence against women in Iran remain of concern.

According to the only nationwide survey on violence against women, carried out in 2004 by the Ministry of Internal Affairs, more than half the participants had been subjected to diverse forms of abuse, including mental, physical, social, financial and sexual abuse, by their husbands. Since unhampered sexual access is considered a right for the husband under Iranian law, it is likely that many women avoid reporting or speaking out about being sexually abused. The lack of support from the social, legal and judicial systems underscores our concern that underreporting masks the real prevalence of violence against women in the Islamic Republic.

According to the Civil Code of the Islamic Republic of Iran, the husband is the head of the family (art. 1105) and, as a consequence, women are obliged to obey their husbands. Under article 1108, if a woman refuses to comply with the duties of marriage without a legitimate reason, she will not be entitled to alimony. Refusal to “submit” (Tamkin), is classified as specific or general, is very broad, and can include a wide range of conduct: “refusal to have sex” is a specific type of submission, and “going out of the house without permission” is a general one. Examples of general submission can be extended to permission to work (article 1117 of Civil Code), selecting the place of residence (article 1114 of Civil Code) and permission to leave the country (article 18 of the Passport Law).

While not stated explicitly, the Civil Code allows polygamy and thus enables men to marry four “permanent” wives and an unlimited number of “temporary” ones (articles 900, 901, 942, 1048 and 1049 of the Civil Code).

Further, men enjoy a unilateral right to divorce. According to article 1133 of the Civil Code, a man can divorce his wife whenever he wishes, although certain conditions such as paying alimony must be fulfilled. Divorce rights for women are much more restrictive and, under article 1130, if a woman desires a divorce she has to prove that she is living in conditions of severe hardship that make marital life intolerable. Examples of such hardship include addiction of the husband to drugs or alcohol and/or being subjected to domestic violence. The highly patriarchal judicial system that pervades Iranian courts also means that in many cases women may not be permitted to divorce, even if they meet the requirements under the law. If they are allowed to divorce, the husbands invariably receive custody of their children. Some women convicted in connection with the murder of their husbands have cited lack of ability to obtain a divorce as a key factor.

Child and early forced marriage is another example of the violent treatment of girls that usually leads to sexual abuse of a female child. According to article 1041 of the Civil Code, the legal age of marriage for girls is 13 years. However, a father or a paternal grandfather can legally marry a girl under the age of 13 to the person of their choosing with the permission of a court. Moreover, under article 1043 of the Civil Code, an adult woman has to seek the permission of her father or paternal grandfather or, alternatively, the court before entering into a marriage. Although under article 1070 of the Civil Code, the validity of a marriage contract is conditioned on both parties’ consent, girls entering marriage at such a young age are not capable of giving meaningful consent. Moreover, women are not protected from forced marriages, which are prevalent in practice.

Articles 1180 and 1181 of the Civil Code grant the guardianship and fostering of a child to the father or paternal grandfather. A mother, even after the death of the father and grandfather, does not gain guardianship of her own children. Accordingly, the father or paternal grandfather are decision makers in all aspects of a child’s affairs. For example, under article 1169, child custody arrangements are discriminatory towards women after their children reach the age of seven, particularly if a woman remarries. Corporal punishment of children, a right to which parents are legally entitled under article 1179, is an example of formalized violence against female children.

Moreover, there are provisions in the Islamic Penal Code that both encourage and grant impunity for “honour killings”. According to article 220 of the current Code and 302 of the amended Code, which has been passed but is not yet in effect, the killing of a child by its father or paternal grandfather is exempt from the Qesas (retribution) sentence. Under article 630 of the current Code, the same exemption applies to a man who sees his wife having consensual sexual relations with another man, and kills one or both of them.

Women are also subjected to violence in the public arena. The State, constantly blaming women for causing social insecurity, has increasingly adopted policies against women that have increased violence against women in public places.

After veiling became compulsory in 1981, various strategies to extend the culture of “modesty and chastity” have been implemented in joint efforts by the Government, the judiciary, the police and the Basij forces. The most striking and obvious face of these strategies has been the permanent presence of special police patrols in public places to force women to comply with the strict State-imposed dress code. As a result, hundreds of women and young girls have faced assault and detention by the State for

not complying with the dress code. Other discriminatory policies that have been implemented in universities in recent years include: the gender quota systems and localized university admissions; gender-based segregation; imposing an even stricter dress code; and suspending some female students for failing to abide by the dress code. After years of admitting a larger proportion of female applicants as a result of the gender-neutral national examinations, in 2011, the number of women who were admitted to universities decreased from more than 60 per cent to 48.7 per cent. This was due to the newly imposed quota system for certain subjects in some universities. In 2012, 36 universities across the country banned women from enrolling in 77 academic subjects.

The economic arena is another space where women face discrimination and violence. According to a 2003 report by the Center for Women's Participation in Iran, women's portion of the national income was only 11 per cent. As there are no laws to prohibit gender discrimination in employment, women are left with no choice but to accept jobs with lower pay and poor working conditions. Unequal access to job opportunities has led to a lower rate of women's employment, especially among university-educated women.

The increasing prevalence of violent crimes against women such as rape, murder and acid throwing, and the widespread occurrence of sexual harassment in public places have resulted in feelings of insecurity among women in the public realm. Although no official statistics are available on the crime of rape, several incidents of gang rape in 2011 have increased concerns about the State's responses to violence against women. According to officials, the majority of women who are murdered are killed by family members.

Women's right to access reproductive services has been one of the latest targets of policies imposed by the authorities. Plans for the elimination of the family planning budget in 2012 in order to encourage population growth raise serious concerns about the number of unwanted pregnancies and illegal abortions, endangering women's right to life, as well as about the serious consequences this could have on preventing HIV/AIDS, to which women are more vulnerable. Such policies would hugely affect women, especially if the new version of the Islamic Penal Code is implemented; pregnant women who choose abortion and those who assist them would be punished, except in cases where abortion is medically prescribed. According to articles 726, 623 and 624 of the amended Islamic Penal Code, in such cases the mother would have to pay the blood money and the medical professionals who assist her or who performed the abortion would face up to five years in prison.

Finally, both the current and amended Islamic Penal Code continue to criminalize some consensual adult sexual relationships, including sexual relations outside marriage (articles 63 and 88 of the current Islamic Penal Code and 222 of the amended Code) and same-sex relations between women (articles 238, 239 and Note one under article 237 of amended version). Those found in violation can be sentenced to different punishments including flogging and the death penalty (article 82 of current Islamic Penal Code and 225 of the new one).

Moreover, the amended Islamic Penal Code fails to abolish the punishment of stoning. While the new Islamic Penal Code does not expressly authorize stoning, it does not explicitly prohibit it as a punishment. In fact, stoning can still be imposed under article 220 of the amended Islamic Penal Code. Where mandatory punishments are not specified in the Penal Code, judicial officials can seek guidance by referring to article 167 of the Constitution, which requires judges to use their knowledge of Islamic law to rule on a case in the absence of codified law.

Other acts conflicting with social moralities are considered to be criminal under article 637 and 638 of chapter 18 of the current Islamic Penal Code, with perpetrators facing punishments including flogging, if the actions take place privately, and prison terms if the actions take place publicly. For example, women who appear without a headscarf in public places could face a sentence of 10-60 days in prison or cash fine.

We urge the Islamic Republic of Iran:

- To ratify, promptly and without reservation, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol;
- To review and remedy all laws that discriminate directly against women or have a discriminatory impact on women;
- To investigate, promptly and impartially, all reports of ill-treatment of women, whether committed by State or non-State actors, and bring to justice anyone found responsible for such abuses;
- To drop all charges against and quash all convictions of women human rights defenders, and release all women who have been sentenced and imprisoned solely for peacefully exercising their rights to promote women's status in the Islamic Republic of Iran.