

Introduction

In Iran, laws and legal codes are largely based on gender discrimination and therefore do not represent the best interests of women as half of the population; nor do they provide them with proper protection in male-dominated Iranian society. Women commit crimes in every society. This paper draws attention to women who have offended and are in Iran's prisons as a result of Iranian Civil Law and the Islamic Penal Code which deprives them of access to equal rights and opportunities. It argues that a large number of offences were preventable had the law provided protection for women who are now classified as offenders and in prison; who could have become useful members of society if given the opportunity to develop their potential.

Women offenders fall into various categories including:

- Women who have murdered their husbands
- Women who head a family and are in prison for debt
- Women who are in prison on charges of prostitution and/or addiction

Despite an increase in the number of women who have been arrested, they make up only 3.41%¹ of all prisoners. The rate of female arrests is only higher than that of male arrests where women are prosecuted for prostitution and/or fleeing from home (in the case of adolescents). Many of the crimes in which women are involved include spouse killing, infanticide, abortion and theft. Gender plays a role in the types of crimes in which women are involved, as their experiences of violence and their exposure to extreme poverty influences the paths they take.

Women who have murdered their husbands

Spouse killing is a phenomenon on the rise in Iran. According to Mohammed Hossein Nejati and research done by Tehran Alzahra University in 2009-2010, 85/30% of murders occurred in the family surroundings, out of which the majority had been committed by women. While 53% of men murdered their wives without prior planning, 65% of murders committed by women had been premeditated and implemented mostly with another man's help. The main reasons for husbands killing their wives are honour, suspicion, psychological problems, poverty and addiction. The main reasons for wives killing their husbands are domestic violence, legal barriers to divorce and polygamy; a direct consequence of gender inequality in law which acts to drive women to kill their spouse as the only viable alternative.² Spouse killing by women can be the result of harmful articles in Family Law and Civil Law which discriminate against women and leave them with little choice but to resort to extreme violence.³

Examples of systemic gender discrimination in Iran's Family law include:

- **Article 11** law on passports: The husband's written permission is required for a woman to obtain a passport. Children under 18 are also required to have their guardian's permission to travel.
- **Article 18** on travelling abroad: Married women of any age must obtain their husband's written permission to travel abroad. In cases of emergency, the Attorney General can grant permission. Women who live abroad and are married to a foreigner but have kept their Iranian nationality are exempt from this article.
- **Article 23** on polygamy: The court will allow the man to apply to the court to remarry an additional time if his wife:
 - Is not able to or refuses to perform marital duties.
 - Suffers from mental illness.
 - Is diagnosed with terminal illness.
 - Is convicted of a crime and sentenced to a one year prison term.

¹ Halanfun.net, Statistics on Spousal Homicide,, <http://www.halanfun.net/1392/06/02/20904/#####-#####-###-##-#####/>

² ibid

³ The Law Office of Jeremy D Morley, Iranian Family Law: Unofficial Translation of Portions of Iran's Civil Code, <http://www.international-divorce.com/Iran-Family-Law.htm>

- Is sentenced to pay a fine, is unable to pay and must serve a prison term instead.
- Has an addiction confirmed by court.
- Is absent from home for a year.
- Deserts the family for 6 months.
- Is barren.
- The husband must send his request along with documents to the court to seek permission to remarry.

Discrimination in law is not limited to one area for married women. The law on inheritance, place of residence, man as head of family, submission, employment and child custody are inherently gender biased. Below are further articles of family law:

- **Article 900** on inheritance law states the right of the spouse to inherit upon the:
 - Death of the wife when children are involved.
 - Death of the husband when wife/wives are involved but no children.
- **Article 901** on inheritance: On the death of the husband if children are involved then one eighth of the wealth is the wife or the wives' share.
- **Article 942** on inheritance: On the death of the husband one fourth or one eighth is equally divided between the wives.
- **Article 1005** on place of residence: A woman's residence is where her husband resides. If the husband has no specific residence then upon his consent, the wife can live in a separate residence.
- **Article 1108** on submission (Tamkin): This is the wife's obligation and duty to sexually submit to her husband's wishes which entails and sanctions rape in marriage.⁴
- **Article 1117** on employment: The husband can prevent his wife from working if he considers the work unsuitable or based on other family considerations. Since the man is the head of family, his total authority over the woman is sanctioned. He can prevent his wife from working which might be the woman's only income. Based on this Article, some government organisations require the husband's written consent before employing women.
- **Article 1169** on child custody and guardianship: The mother has the preference right to have the custody of children up to 7 years of age, after which the father will have sole custody and guardianship. The courts might decide on this issue if the welfare of the child is an issue.
- **Article 1170** on child custody and guardianship: If the mother re-marries or suffers from mental illness while the child lives with her, the child goes to the father.
- **Article 1183**: The father and grandfather are the sole legal representatives of the child in matters related to finance and law.
- **Article 1189**: The father or grandfather can appoint a guardian for the child after death.
- **Article 1194**: The father or grandfather or someone appointed by them is the legal guardian of the child.

The marriage contract and family law do not establish equal rights and obligations between spouses. The husband as head of the family unit has sole power regarding matrimonial resources and the wife cannot relieve herself of the marriage contract without the husband's consent, while the man can divorce his spouse at any time. The patriarchal emphasis and inequality of men and women's rights in marriage are sustained

⁴ Ziba Mir Hosseini, Tamkin: Stories from a Family Court in Iran, in Donna Lee Bowen & Evelyn A. Early (eds) Everyday Life in the Middle East, Bloomington, Indiana University Press, 2nd edition, 2002, pp 136-50, <http://www.zibamirhosseini.com/documents/mir-hosseini-book-chapter-tamkin-stories-from-fc-2002.pdf>

through rules regarding the termination of the contract.⁵ The rise in the phenomenon of husband-killing predominantly derives from forced marriages, age differences between spouses, the rigid laws and also lack of support for the women who are trapped in an unwanted marriage from which they cannot escape..

Women who are the head of the family

According to official Iranian statistics, 10% of the country's households have female providers.⁶ Islamic Family Law does not provide a proper definition of this type family and therefore provides no support for such categories of women. Iranian Civil Law Article 1105 states that in relations between husband and wife, the position of the head of the family is the exclusive right of the husband.⁷

Yet, there are about 1,367,310 women who are heads of families and as the head of a family with children face many problems which sometimes drive them to crime.⁸ Factors that contribute to poverty among women who are the head of their family include:

- The family has only a single financial contributor
- Limited access for women to profitable and money-making jobs
- Due to housework and childcare, women chose jobs which allow them time at home
- Restrictions on accessing certain jobs due to gender
- Limited support for women with violent, addicted or disabled husbands who work to support the family
- Lack of knowledge on the situation of women-headed families among policy makers

Women who are the head of their family fall into various categories:

- Divorced
- Widows (including war widows)
- Those whose husbands are disabled or unemployed
- Women of addicted husbands
- Women whose husbands are away from home, either migrated or working outside their place of residence
- Women whose husbands have taken a second wife and abandoned them

According to the Director General of Diyeh at Iran's Home Office, of 9,206 people on debt charges in prisons, 226 are women.⁹ The largest proportion of prisoners is in the Fars and Khorasan provinces of which 31.4% are urban women while 44.2% are rural women head of the family before imprisonment.

Women who live in extreme poverty and are unable to provide for their family may ultimately be driven into crime.¹⁰ Women who head their families are not supported as such by the government, as only men are recognised as heads of families. In 2011, in the Shiraz province, various organisations convened a research project with the participation of 600 women who head their families. Consequently, a list of their needs was drafted which includes social, economic and cultural rights, and the need for support with vocational training and job-seeking.¹¹

Women who are in prison on charges of prostitution and or addiction

The rapid transformation of Iranian society is in contrast with the traditional laws which perpetuate an unequal position for women, the majority of whom now live in urban areas and face urban problems. Women whose families have moved from rural areas into towns yet live under harsh family structures do not

⁵ Ziba Mir Hosseini *ibid*

⁶ Nina Kristiansen, Iranian female headed households, Iran Chamber Society, August 2003

⁷ The Civil Code of the Islamic Republic of Iran, Alavi and Associates, <http://www.alaviandassociates.com/documents/civilcode.pdf>

⁸ <http://www.seddighin.com/fapage.aspx?536> (A charity called Sedighin on Women and Empowerment (2011)

⁹ Bartarinha.ir, Women Heads of Utmost Freedom, September 2013, <http://www.bartarinha.ir/fa/news/66093/>

¹⁰ Education Department of Fars Province- Women Affairs unit, Women Head of Households, <http://portal.farsedu.ir/portal/show.aspx?page=21345>

¹¹ Tasnim News, Female Headed Households increase, Lemon Presse.ir, <http://www.lemonpress.ir/fa/news/148798>

have sufficient provision for their needs. Runaway girls constitute a large number of this category of women. Young girls fleeing from their families often fall into the hands of criminals and prostitution.¹²

The last category of women in prison is those on charges of addiction, theft or involvement in criminal activity due to their or their husband's addiction which sometimes involves smuggling. Addiction is often coupled with prostitution which is on the rise at an alarming pace. Punishment for prostitutes and their clients can include up to 100 lashes and jail terms.¹³ The prostitute can be executed if she is married.¹⁴

Available figures show Tehran and Iran's north-eastern province of Khorasan Razavi, have the highest number of 'street women'. Figures also suggest that 10-12% of prostitutes are married women in their early to late 20s. According to Masudi-Farid, the age of entry into prostitution has fallen in recent years. The average age of prostitutes has gone down by one year in 2010 and 2011. Unconfirmed studies show that the age of entry into prostitution has fallen to 14.¹⁵ The growing number of minors who turn to prostitution are reportedly victims of domestic violence, poverty, unemployment and pre-arranged marriages, as well as divorce.

Conclusion

Iranian society is dynamic and fast growing, where men and women need to be treated equally and develop their abilities to enable them to achieve their full potential. Yet, violence and discrimination against women in many areas of society drives women to crime and incarceration. Islamic laws are gender biased and legally discriminatory. While women constitute useful, active and vital contributors to Iranian society, laws, especially Family law, Civil law and the judicial system work against the best interests of society of which women are an integral part.

Recommendations:

- Revision of the Family and Civil laws to remove, revise and eliminate gender-biased articles and to appoint female judges in courts with knowledge of equal opportunities and gender development.
- Constituting strategies to reduce violence against women in society which derives directly from attitudes and practices which view women as second class citizens.
- Re-examining the situation of incarcerated women, many of whom are in prison because of debt.
- Providing training, education and work-related programmes in prisons to regenerate a population of women who would be useful members of society once released.

¹² Brendan Daly, Iran's educated, middle-class and part-time prostitute, Washington Times, May 2013 <http://www.washingtontimes.com/news/2013/may/16/irans-educated-middle-class-and-part-time-prostitu/?page=all> and Parto Parvin and Arash Ahmadi, Iran sets sights on tackling prostitution, BBC News, July 2012 <http://www.bbc.co.uk/news/world-middle-east-18966982>

¹³ Mohabat News, The age of the onset of prostitution in Iran is 14, http://www.mohabatnews.com/index.php?option=com_content&view=article&id=6750:-14-&catid=54:daily-news&Itemid=282 According to this source, first time detained prostitutes will receive 100 lashes. On repeat of the act, they will be sentenced to stoning, a punishment rarely executed for this crime.

¹⁴ R Azad, Prostitution in Iran, Documentary, February 2013, <http://www.youtube.com/watch?v=sixBJOznOVg>

¹⁵ Mohabat News, The age of the onset of prostitution in Iran is 14, http://www.mohabatnews.com/index.php?option=com_content&view=article&id=6750:-14-&catid=54:daily-news&Itemid=282 According to this source, first time detained prostitutes will receive 100 lashes. On repeat of the act, they will be sentenced to stoning, a punishment rarely executed for this crime.