

## **Violation of marriage right in the Islamic Republic of Iran**

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## 1. Introduction

This submission intends to provide a historical and contextual background of human right abuses perpetrated by the Islamic Republic regime with focus on marriage right violations.

This submission reviews violation of Article 16 Of Universal Declaration of Human Right which states:

- 1- Men and women of full age without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolutions.
- 2- Marriage shall be entered into only with the free and full consent of the intending spouses.
- 3- The family is the natural group unit of society and is entitled to protection by society and the state.

Provided examples are from Islamic Republic of Iran marriage and divorce laws, The submission also covers ill treatment toward some women right activists working on women right and to change the laws to make marriage law fair by Islamic republic of Iran.

With this submission, I intend to support the following:

- The constructs on women law and marriage law are completely unacceptable and the Islamic republic of Iran do not tend to reform any of the laws, they intend to have stricter laws on women and encouraging girls as young as 13 years old to marry, using propaganda on national TV and school's curriculum.
- The Islamic Republic regime is, in its entirety, is a theocracy that violates human rights to its core , and It must be dealt with accordingly:
- Islamic republic of Iran must not be recognized as a government, and no government in the world should deal with Islamic republic as representative of Iranian.

## **2. Author's experience**

Throughout its 44 years of existence, the Islamic Republic has consistently violated human right.

The author of this submission has lived in Iran for 30 years and has been monitoring the situation in Iran and following the news closely.

In next article the author will review Islamic republic laws of marriage and divorce. The author has seen first handed the damage violating marriage rights causes the society and in particular women and children.

### **3- Islamic republic law on women in general**

Between 1967 and 1975, women gained new rights—to vote, initiate divorce, run for office, inherit property—during the Shah monarchy before Islamic revolution took place in 1979. The legal age of marriage was also raised to 18.

After Islamic republic of Iran took power in Iran the second constitution, written by Islamic revolutionaries and passed overwhelmingly in a referendum in 1979, the Islamic Republic annulled many of the monarchy's reforms, although it did not revoke the right to vote or run for office. It adopted a civil code based on conservative Islamic law or Sharia, dropped the age of marriage to 13, and eliminated a woman's right to divorce her husband. The Islamic Republic imposed new restrictions on women's dress, child custody, inheritance, and foreign travel.

Women in several areas of their lives, including in marriage, divorce, employment, and culture, are either restricted or need permission from their husbands or paternal guardians, depriving them of their autonomy and human dignity.

#### **4- Marriage law**

The rules on marriage are the most discriminatory. A man can marry up to four women at one time; women can only marry one husband. Muslim women cannot marry non-Muslim men, while Muslim men can marry Jews, Christians, or Zoroastrians.

##### **Marriage age:**

Girls as young as 13 can marry. – I have dedicated one separate section to child marriage as this is violating of children right- Islamic republic government lowered the age of marriage for women from 18 to 13 (in 1979) then to nine (in 1982). In 2002, the parliament raised the age of marriage back to 13 for girls (and to 15 for boys). In Iranian culture polygamy is not common among men. Most women also do not marry until their twenties. However, the law supports polygamy among men and child marriage.

##### **Obedient:**

In a marriage contract, women are required to be obedient to receive funds for housing, clothes, food, and furniture

##### **Travel:**

A married woman could not obtain a passport or travel outside Iran without her husband's written permission. A husband could choose where the couple lives and prevent his wife from taking certain jobs that he deemed against "family values."

in the law, Women face restrictions on travel abroad. A woman requires a husband's permission to obtain a passport or travel outside the country.

In practice, husbands could choose to provide blanket permission for his wife's travel or require her to ask for permission for each trip abroad. Single women over the age of 18 could obtain a passport without permission but still requires their guardian's approval to leave the country. Women arriving at airports would sometimes find their permission to travel abroad had been revoked by their husband or male guardian and were prevented from boarding flights.

Text of the law:

Article 18 of the Passport Law of 1973: "A passport shall be issued for the following persons according to this article...Married women, even if under 18 years old, with the written agreement of their husbands."

**Inheritance:** A widow only inherits one-eighth of her husband's estate.

Article 913 of the Civil Code: "In all the conditions mentioned in this subsection, whichever of the married pair is the survivor takes his or her, share and this share means one half of the estate for the surviving husband and one-quarter for the surviving wife, provided that the deceased left no children or grandchildren; and it means one - quarter of the estate for the husband and one - eighth for the wife if the deceased left children or children's children. And the remainder of the estate is to be divided among the other heirs in accordance with the preceding Articles." but a widower inherits his wife's entire estate.

Article 946 of the Civil Code: "The husband takes inheritance from the whole of the estate of the deceased wife; and the wife inherits one-eighth of the actual movable property and one-eighth of the price of immovable property including site and buildings, if the deceased husband has children. If the husband has children, the share of the wife will be one-fourth of the property stipulated as follows.

Article 949 of the Civil Code: "If there is no other heir except for the husband or wife, the husband takes the whole of the estate of his late wife; but the wife takes only her portion, and the rest of the estate of the husband is considered as the estate of a man without any heir and will be dealt with in accordance with Article 866."

**Permission for marriage:** Article 1043 of the Civil Code states: "The marriage of a girl who has not married previously is dependent on the permission of her father or her paternal grandfather even if she has reached the full age of puberty. The mother of the girl has no right to giving permission. If, however, the father or the paternal grandfather withhold the permission without justifiable reason, the girl can refer to the Special Civil Court giving full particulars of the man whom she wants to marry and the terms of the marriage and the dowry money agreed upon and notify her father or her paternal grandfather through that Court."

**Who to marry:** Article 1059 of the Civil Code: "Marriage of a female Muslim with a non-Muslim is not allowed." Muslim women cannot marry non-Muslim men, while Muslim men can marry Jews, Christians or Zoroastrians. The revolutionary

**Marrying foreigners:**

Article 1061 of the Civil Code: "The Government can make the marriage of certain Government servants and officials and students supported by the Government with a female foreign national dependent upon special permission."

Iranian women living abroad may want to marry foreign men. But without permission to register the union, their marriage will not be accepted by Iran's law. The marriage of foreign nationals to Iranian natives is subject to the conditions to be mentioned.

The marriage of a foreign man to an Iranian woman in Iran involves accepting a couple in the religion of Islam and obtaining a special permit from the Iranian government. The permission to marry an Iranian woman with a foreign man is issued by the Iranian Interior Ministry and no marriage contractor, without this special permission, has the right to file a foreigner's marriage with Iranian nationals in these cases. But the marriage of foreigners to Iranian nationals is different from that of the Iranian man. A foreign woman who asks for marriage to an Iranian man, without any condition of being Muslim, does not have any permission from the Iranian government. Upon the marriage of a foreign national woman with the Iranian man, the Iranian citizenship will be granted to the wife, but the granting of nationality to a foreigner who has been optioned an Iranian woman is subject to certain conditions.

**Child Custody:** children belong to the father and mother cannot even sign a permission if the child needs a surgery or cannot open a bank account for their children. A divorced woman forfeited child custody if she remarries, even if her husband died.

In the law, Women have preferential custody over children only under seven. A divorced woman forfeits child custody if she remarries, even if her husband is dead. Divorced women are likely to lose custody of their children, especially if they are financially dependent on alimony.

Article 1168 to 1170 of the Civil Code: "Custody of children is both the right and duty of the parents. A mother has preference over others for two years from the birth of her child for the custody of the child and after the lapse of this period custody will devolve on the father except in the case of a daughter who will remain under the custody of the mother till 7 years. If the mother becomes insane or marries another man during her period of custody, the custody will devolve on the father."

Article 1169 of the Civil Code (amended in 2002): "For the custody of children whose parents are separated, the mother has priority until the age of seven; and then, custody will devolve upon the father. After reaching seven years of age, in the case of dispute, considering the best interest of the child, the court will decide who receives custody of the child"

This law caused a huge issue when women are victims of domestic violence. They do not file for divorce as the child goes to father and the women don't want to leave a child with abusive father.

**Divorce:** A woman could only get a divorce in court with a judge's order, while a man could get divorce by declaring it verbally. In 2002, the parliament amended the law to allow a woman to divorce her husband if he were imprisoned, mentally ill, physically abusive or an addict.

I will review divorced laws in detail in a separate section.

## **5- Child marriage**

One of the most concerning issues in Iran today when it comes to the rights of women and girls is the issue of child marriage.

By law, a girl as young as 13 years can marry, while girls even younger can legally marry with judicial and paternal consent. Even if the mother of child is against their marriage the father or paternal grandfather can decide the child to marry, From March to October 2021 over 16,000 girls aged between 10 and 14 years have married, according to official Government figures.

As the Article 1041 of the Civil Code (amended in 2002) states: Marriage of girls before reaching the age of 13 full solar years and boys before reaching the age of 15 full solar years is subject to the permission of the Guardian and on condition of taking the child's best interest into consideration and approval of the relevant court.

It is obvious that premature marriage is not in interest of any child, therefore this law is merely a means for abusive guardians of the child to force the child into the marriage for their own interest. Law is supposed to protect children against this sort of abuse; however, it currently provides lawful protection for the abuser.

The current legal marriage age is simply unacceptable. It is clear that child marriage is harmful for the development and well-being of girls, including in terms of education, employment and to live free of violence.

## **6- Divorce Law:**

Women also face discrimination in divorce. Article 1133 of the Civil Code states: "A man can divorce his wife whenever he wishes to do so." Females can only get a divorce in a court, while a man can get a divorce simply by declaring it verbally and not even necessarily in her presence. The parliament amended the law in 2002 to allow a woman to divorce her husband if he was imprisoned for five or more years, mentally ill, physically abusive or an addict.

Article 1130 of the Civil Code (amended in December 1982): "In the following circumstances, the wife can refer to the Islamic judge and request for a divorce. When it is proved to the Court that the continuation of the marriage causes difficult and undesirable conditions, the judge can for the sake of avoiding harm and difficulty compel the husband to, divorce his wife. If this cannot be done, then the divorce will be made on the permission of the Islamic judge."

Section 4 of article 1130 states: "woman can get a divorce in case of Wife battery or any kind of mistreatment of the wife that is intolerable in the wife's condition however it should be reviews by a judge and court may grant the divorce."

There have been many cases that the judges misjudge the situation, or haven't been just, and so many cases of domestic violence have been reported that the judge has not guaranteed divorce, wife has been sent to the husband and been killed.

The term "in the wife's condition" is loose in legal terms it means that the same situation could be identified as tolerable or intolerable for different cases.

## 7- Women right activists

In this section I will provide only a few names of women right activist trying to change women right laws in Iran in general which included marriage and divorce laws.

They were faced brutal charges including harassment, intimidation, detention, and smear campaigns.

- **Narges Mohammadi**, In May 2016, she was sentenced in Tehran to 16 years' imprisonment for establishing and running "a human rights movement that campaigns for the abolition of the death penalty".<sup>[9]</sup>She was released in October 2020 after a court commuted her sentence. But inn 16 November, 2021, Mohammadi was arbitrary arrested in Karaj, Alborz province, while attending a memorial for Ebrahim Ketabdar, who was killed by Iranian security forces during nationwide protests in November 2019.<sup>1</sup> Narges children had to flea Iran as their father Taghi Rahmani lives overseas in exile in France after serving a total of 14 years of prison sentences, but Mohammadi remained to continue her human rights work.
- **Saba Kordafshari**, who was sentenced to 24 years in prison for “encouraging” for moral corruption and prostitution, collusion against national security, and “propaganda against the state.”
- **Jila BaniYaghoob** is an Iranian journalist and women's rights activist. She is the editor-in-chief of the website *Kanoon Zanan Irani* ("Focus on Iranian Women") website, is supposed to remain silent until 2040. Baniyaghoob is known for being a freelance Iranian reporter, author, and activist who focuses her reporting on how government and social oppression affect women. As a journalist, Baniyaghoob has faced numerous ramifications and has been arrested, beaten and imprisoned on numerous occasions for her reporting. In 2009, the International Womens Media Foundation awarded Baniyaghoob its Courage In Journalism prize, stating that she had "fearlessly reported on government and social oppression, particularly as they affect women".<sup>[12]</sup> The following year, she won the Freedom of Speech Award of Reporter without Borders . In 2009, the International women’s Media Foundation awarded Baniyaghoob its Courage in Journalism prize, stating that she had "fearlessly reported on government and social oppression, particularly as they affect women".<sup>[12]</sup> However Islamic Republic of Iran was convicted her in 2010 of “anti-system propaganda” and “insulting the president,” it sentenced her to a year in prison and a 30-year ban on journalistic work

- **Golrokh Ebrahimi Iraee** is an Iranian writer, accountant and a human rights defender who advocates against the practice of stoning in Iran. (The legal basis for the punishment of stoning (lies in the Iranian Penal Code. which are those crimes with fixed and severe punishments in Islamic sources, including adultery between 2 married people, Stoning to death is controversial in Iran, and often used against women) She is currently a religious prisoner of conscience.. Golrokh began serving a six-year sentence in October 2016 for “insulting the sacred” and “propaganda against the state,” after she wrote a story about stoning.
- **Mehrangiz Kar** is an Iranian human rights lawyer, is an internationally recognized writer, speaker and activist who advocates for the defense of women’s and human rights in Iran and throughout the Islamic world. A common theme in her work is the tension between Iranian law and the core principles of human rights and human dignity. She is also author of the book Crossing the Red Line, and an activist of women's rights in Iran. She is the widow of Siamak PourZandd, a fellow Iranian dissident and former prisoner of conscience who committed suicide on 2011, after a long period of torture and imprisonment. Mehrangiz Kar was sentenced to 4 years imprisonment and now she lives in exile.
- **Sahar Khodayari**, who was arrested for trying to enter a stadium to watch football and charged with “wearing improper hijab” and “confrontation with the police.”
- **Shirin Ebadi** is an Iranian political activist, lawyer, a former judge and human rights activist and founder of Defenders Of Human rights Center in Iran. On 10 October 2003, Ebadi was awarded the Nobel Peace Prize for her significant and pioneering efforts for democracy and human rights, especially Women’s, Children’s and Refugee’s Rights. She helped in the drafting of the original text of a law against physical abuse of children, which was passed by the Iranian parliament in 2002. Female members of Parliament also asked Ebadi to draft a law explaining how a woman's right to divorce her husband is in line with Sharia (Islamic Law). Ebadi presented the bill before the government, but the male members made her leave without considering the bill, according to Ebadi's memoir. Instead of being celebrated after her Nobel Peace prize, Ebadi was harassed, humiliated, confiscated her belongings and threatened her to death by assassination. by Islamic republic authorities and now she lives in exile.
- **Yasman Ariani**, her mother **Monireh Arabshahi**, and **Mojgan Keshavarz**, who were sentenced to a total of 16 years for protesting the dress code, “collusion” against national

security," "propaganda against the state," and "encouraging" moral corruption and prostitution.

- **Nasrin Sotoudeh**, is a human rights lawyer in Iran. She has represented women arrested for appearing in public without a hijab, which is a punishable offence in Iran. Sotoudeh's "first work in the field of women's rights" was a diverse collection of interviews, reports, and articles for the journal *Daricheh*. The editor-in-chief of the publication rejected the collection which "made Sotoudeh even more determined in her work for women's rights. She was sentenced to 38 years for representing a woman protesting the compulsory hijab covering, "espionage" and "collusion against national security." Sotoudeh will be eligible for parole after 12 years in 2030. Sotoudeh's verdict proves that the Iranian government was sensitive to any peaceful criticism. The fact that the charges, ranging from membership in a human rights group to "encouraging corruption and prostitution", suggests that her detention relates to her defense of women. Sotoudeh hasn't been quiet even in prison and has continued her human right activities, to punish her Islamic republic authorities banned Sotoudeh's daughter to leave the country.

## **8- Conclusion**

The case study of 43 years of Islamic republic regime confirms authorities do not follow or respect any of the Acts mentioned in Universal Declaration of Human Right and the regime in its entirety has no intention to reform. It reveals Several thousands of Iranian, including human right defenders, journalist, Member of NGOs and civil society organizations have been arrested, humiliated, harassed, interrogated, tortured, imprisoned and executed.

The authorities abandon anyone a fair trial, instead they censor media and shutdown internet to hide the scale of violence.

This document intends to prove that the authorities have no intention to reform or change marriage rules instead they objectify women and reduce their purpose of lives merely to mothers and wives. The imprisonment, harassment and even exile of women right activists who were trying to change the marriage law confirms that Islamic republic has no capacity to reform and the only way for practicing marriage right according to human right declaration is regime change in Iran.

In conclusion, I would like to see the Recognition of the Islamic Republic not as a government but as a violator of basic human rights that ill-treat its own citizens. And to see the following actions are taken.

- 1) deprive the regime of vital resources that it needs to continue the criminal activities.
- 2) Remove and ban Every Islamic republic of Iran government official and IRGC officials and their families from Australia.
- 3) Set a new round of sanctions against Islamic republic authorities to step up the pressure on the [Islamic] Revolutionary Guards Corps and the political leadership.

- 4) The United Nations Human Rights Council to hold an emergency session on Iran to address the deteriorating human rights situation in the Iran since Islamic revolution,

We are witnessing the fight for freedom and justice in Iran in last eight weeks, and It is clear that Islamic Republic of Iran government is solely responsible for this spate of violence. Those who act in such a way must expect United Nation and international community to push back.