

The Effect of Laws on Women's Lives

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Why don't we think the current laws are just?

There are many things that we should know, but we don't. There are many things that we do not know and we do not even think about them. The law is one such thing: until we run into difficulty with the law, we don't think about it at all; and once we do, we only consider the laws that have challenged and prohibited us personally, and not in terms of how they affect everyone.

For example, consider a family who is about to give their daughter's hand in marriage, and to send her to the house of bakht, the house of her fate and destiny. Everything goes according to traditions; the groom's family takes the girl with much respect and dignity. But what future awaits her? Is her fate dark and gloomy or light and blissful? What if the groom doesn't turn out to be the good person everyone has hoped? The very house that once filled her soul with excitement and enthusiasm about her future becomes her own personal hell. She cries day and night. Her daily complaints and the general sadness that's fixed on her face, is her only release. She expresses her anger towards her family. She is angry with herself for not thinking before agreeing to this marriage. Girls like this are not rare in Iran, they might console themselves by saying "marriage is like an unbroken watermelon, no one knows how it's going to turn out"; but after a while, when she and her family are running up and down the steps of the court, even if they might not admit it to others, they will admit to themselves that that is not quite true. If instead of being pre-occupied with finding rings and organizing a marriage portion (mehr), the girl and her family were studying the law, and making provisions for its gaps in the marriage contract (aghd), they wouldn't be as lost and miserable today. If the laws pertaining to marriage and family were written in some other way — justly — and the bride's rights weren't dependent on the signature of the groom, but rather enshrined in law, these problems would not arise.

This is why we believe the law is relevant and important in every day life for all; for men and women, for children who are born as well as those who are yet to be born. The law is important to any human being who wants to live in peace. There are only two sets of people who aren't interested in the law: those whose wrongdoing is proscribed by it, and those who don't understand how valuable it is.

Let's return to the story of the girl who was wedded, and has come back to her father's house in tears. If you were this girl's parents, and had gone to court to resolve her problems, and you told the court "my son-in-law wont let my daughter work, wont let her leave the house, wont even let her come and see us" - if you said "the house my son-in-law has picked for my daughter is unbearable to her", if you told them "he won't let the doctors operate on my sick daughter in hospital", and such things, and heard "well, that's the man's right" in reply, surely you'd ask in astonishment "who has given a man such rights?". The

simple answer is: the law. This is the predicament the law has put your daughter in. But it's your fault too. Without much thinking, you have given control of your child to another, to someone who is capable of keeping her caged in the house. Someone, who in case of illness can prevent her from getting treatment. A marriage partner who can take her children away, and if he desires, torture and kill her. If he has a psychological problem and suspects his wife has cheated on him, he can kill her with ease of mind, without fear of just punishment. So, by sending your daughter to her "house of fortune", you have enslaved her in the hands of someone who has control over her life and death.

Do you think the stories we've presented are unusual? Unfortunately, they are not. All the family murders we hear about in the papers have roots in the weakness of the system of family laws, and in our own weakness in not being familiar with them. Unfortunately, instead of relying on the protection of law, we rely on customs and traditions and the integrity of our bridegroom, and demand an extraordinary sum for our daughter's mehr. We find it strange to state in the aghd contract that our daughter has a right to divorce. Meanwhile, if a husband and wife get into major difficulties in their marriage, the wife, in order to be freed from the hell of family life, will part with her mehr very easily — well, she has to — and then, to get a divorce, she has to wade so far through the minefields of courts and bureaucracy that she will be willing to forfeit her life.

There is a way to prevent this calamity. All that is needed is that every one of us — women and men, the mothers and fathers and sisters and brothers who care for our loved ones — stops daydreaming. We must go to the trouble of finding out what the laws — which govern the lives of our wives and daughters, and ultimately our families — actually say. We must cover all the gaps in the laws in our marriage contracts; and then we must join the struggle to make the laws fair for all the people who live in our country, so that we all enjoy a better and more peaceful life. A life where we can enjoy our daughter's wedding, resting assured that she and her husband will live a happy and healthy life, rather than sharing a life in a hell they create together.

Some of the unjust laws:

1. Marriage [1]

In our country, Iran, marriage is an important affair which has a big impact on the lives of women. However, if we flip through the pages of the Book of Civil Law of Iran, we can see how marriage, which is supposed to be the "sweetness" of life, sometimes creates mental and physical problems for women, leaving a bitter taste they live with for the rest of their lives.

The first step a woman must take in marriage, according to the existing Law, is to satisfy the "condition of the father's consent"; if a father doesn't want his daughter to marry, she — even if she is a forty-year-old university professor — can never marry, unless approved by the courts. In fact, for marriage, virgin women must have their father or paternal grandfather's permission. If they do not satisfy this condition, their father or paternal grandfather can annul the marriage through the courts — even after the marriage has occurred. Some relate the philosophy of this act to the respect that is due to a father. However, our question is: must it be only daughters who pay respect to their fathers? And are sons not forced to pay respect to their fathers? More importantly, why is the respect and tribute paid only to the father? Why has the mother's respect been forgotten, with no requirement for her approval?

With the courts' permission, a father can marry his daughter, even before the age of 13, to a 70 year old man. Through this unjust law, the marriage of young girls in many regions of our country, especially in rural villages, has come about — because the “law” has given the father this right.

That the legal age of marriage for girls in our law is 13 has caused a lot of problems in society. For example, a research study that has taken place in the county of Booshahr has shown that 70 percent of marriages which have ended in divorce have been from wives and husbands who married young — at 15 to 19. [2].

2. Divorce [3]

According to the law, divorce is the exclusive right of a man, and a man can divorce his wife whenever he pleases. On the other hand, if a divorce is initiated by the wife, she must prove her husband is guilty of misconduct: not paying her subsistence expenses, addiction or imprisonment, etc. Most know that proving such things in a court is difficult. In most cases, the wife can only prove them after many years of running around the court system. Of course, in most cases, women simply forfeit their mehr, in order to be freed of the harassment and domestic abuse of their husbands. Research done in the city of Qom found that 91% of women who got divorced did not claim their mehr in full [4]. In many cases, where the divorce was agreed upon by both husband and wife, the wife has forfeited all her financial entitlements to secure the agreement of her husband. In many cases, the wife has even paid all the financial costs of the divorce. From a religious perspective, it is clearly stated that a woman may easily obtain divorce if she agrees to forfeit her mehr, however Iranian law has added the clause "must obtain husbands consent" to this; so if an Iranian woman wants to get a divorce, she must not only forfeit her mehr, but also obtain the consent of her husband.

A visit to the family court will show that when a man wants a divorce, he will put his wife under immense pressure to forfeit her mehr; so that she will request the divorce herself — forfeiting what little rights she had. 3. The right to have custody of children [5] In our law, hezarat (day to day caring) and guardianship of children have two different meanings. Hezarat means to look after a child; and guardianship means: wardship, and managing financial affairs, decisions in relation to education, determining where to live, permission to leave the country, expressing opinion and permission to allow child's health treatments and other affairs. In accordance with Iran's civil law, a mother can never be the legal supporter of her child. Also, in a scenario where the father and paternal grandfather are absent, she will not have wardship; she can only be the caretaker of her child. However, in that situation, the mother's guardianship is directly under the observation of the child support agency (Attorney General). Even the right to sell the child's property resides with the child support agency.

A mother cannot open any account in her child's name, besides a loans account, or buy a house for her child without her husband's signature. If a mother (with her own money) does buy a house for her child with the father's permission, the father can sell or rent this house whenever he wants, and the mother has no right in this matter. Or, if a mother's child is sick in hospital and needs to have surgery, it is the father who has to give permission for the surgery to be done; without the father's signature the mother cannot ask the doctors to do surgery on her child. According to law, wardship and guardianship is the “manifest destiny” of the father. Meaning, even if the father himself wants, he cannot give guardianship of the child to his spouse!

4. Number of partners [6]

Among other cases of inequality in the present marriage law is the discussion of the number of partners. That is, multiple wives for men; in such a way that a man can have 4 aghdi (permanently married) wives and infinite sighehi (temporarily married) wives. Many women imagine that their husbands are such good men that they would never do such a thing. However, paying a visit to the family courts shows that many husbands even at the expense of hiding it from their first wives unjustly use this “right by law”. This law along with the lack of possibility of divorce by women and the power in law that has been given to men have caused many problems in family relationships; with it’s extreme seen in the incidence of spouse-killings. Research that was done in 15 states of the country about spouse-killings has shown that 67 percent of women who have killed their husbands did this because their husbands were unfaithful to them, and 33 percent have committed the crime in retaliation for violence from their husband [7]. Such outbreaks of unhealthy relationships occur as a consequence of current laws that are discriminatory and unable to formulate a relationship between man and woman in a humane and just way.

5. Age of criminal responsibility [8]

The age of criminal responsibility for girls is 9 lunar years (8 years and nine months) and for boys is 15 lunar years (14 years and 6 months). Thus if a 9-year-old girl committed a crime, she will be treated just as an adult would be treated with all the penal laws (even execution) applicable to her. The only exception is that that child will be jailed or kept in a juvenile institution until she reaches the age of 18 years when the execution verdict can be carried out. It must be asked of lawmakers whether a child, who is 9 years of age (or even after nine!), is wise and mature enough about her actions to take the life she is living away from her?

6. Citizenship [9]

Citizenship is an important legal issue. In the current state of the world, citizenship has an important place; it determines the relationship between a person and the state, and determines the jurisdiction in which a person may marry, be punished, own property etc. According to the law of Iran, the citizenship of a woman does not transfer to her child. If your father is Iranian, you too are considered Iranian; but having an Iranian mother does not make you an Iranian citizen. This has caused many problems for women who marry Afghani men, for example. Their children are not considered Iranian, and therefore do not have the right to live in Iran. Research shows that around 20,000 children in Iran are without an identity card. These children do not have the right to live or go to school in Iran. The simple reason for this is that their mothers married their Afghan fathers without seeking the permission of the Interior Ministry, therefore their children are not citizens and lack identity cards.

In some cases a woman who marries a foreign man even loses her own Iranian citizenship.

7. Diyah - Blood Money [10]

Diyah is the amount of money a murderer or one who has inflicted grievous bodily harm pays the victim or their family. In Iranian law, a woman’s life is considered to be worth half that of a man. For example, if a brother and sister are hit by a car on the street, and both have both legs broken, the compensation the brother receives is double that of his sister. If they are killed, the money their family receives for the son is double the money they would receive for their daughter. If a woman who is five months pregnant is in an accident and is killed, the amount of money paid for the woman is half that paid for the male fetus inside her.

8. Inheritance [11]

According to civil law, after the death of the father and mother, sons receive 2 times as much in inheritance as daughters. If a man dies and has a wife and child, she inherits one eighth of her husband's wealth and if the husband has no child, the wife inherits one fourth of her husband's wealth. Having said that, women can never inherit land. If a man dies and has more than one wife, that same one-eighth or fourth portion gets divided between his wives.

However, if a woman dies and has a husband and child, the husband inherits a fourth of her wealth and if she has no child, the husband inherits half of her wealth. So in actual fact, a husband inherits twice as much as a wife does.

And more painful is that if a woman dies and has no inheritor other than her husband, her husband inherits all of her wealth. However, if a man dies and has no inheritor other than his wife, she inherits only one fourth of the price of his property and wealth. The rest of the money/wealth will belong to the government, meaning, the government is closer to that man than his wife with whom he has lived an entire life time.

9. Laws that support honor killings [12]

Among the discriminatory laws, one can note the law that gives a man permission to kill his wife whenever he sees her in bed with another man and the law will not punish this man. This law in the hands of men has allowed men to kill women. As an example, 20 percent of killings in our country are killings with a motive related to unchastity and sexuality. A research study about this has shown that 90 percent of the men who have killed their wives did it because of mistrusting their spouse and imagined offenses. When these men were asked whether they were sure of their spouse's infidelity, they all indicated that they were not absolutely certain about this and they had only suspected their wives [13]. These men can say in court that their wife had been unfaithful to them (and her blood was wasted, so he had the right to kill her) and according to these laws they are exempt from the heavy punishment for their act. This means a man, who has only been doubtful of his wife, with the support of these laws, can get away with killing his wife. Regarding intentional killing of children, according to the law, a father and paternal grandfather will not be held responsible. For example, if a father kills his daughter for suspecting her (of corruption) or any other reason, he will be exempt from the standard punishment for murder, and the court can only sentence him to a maximum 10-year jail term.

10. Bearing Witness [13]

There are some crimes women can not testify to, these include sodomy, homosexuality, prostitution and drinking alcohol. In the cases where a female witness is accepted, the testimony of two women equals that of one man, and usually if women testify to witnessing an incident it's not accepted unless at least one man also testifies.

11. Other Discriminatory Laws [14]

There are many other discriminatory laws in Iran's legal system. In our constitution a woman is only recognised as a citizen once she is a mother (married), therefore she has no standing as an independent person in any law derived from our constitution.

1. The condition "Rajal-e siyaasi" - which has been interpreted as "man of politics" to date - appears in the conditions for becoming President. This means that a woman cannot become the country's president.
2. Compulsory prescribed dress for women, regardless of their creed or beliefs. For example, Christian women whose religion does not require them to wear hijab will be punished for not wearing it. If they choose to dress in a way different to how authorities deem fit, they can be jailed or fined.
3. Social Security laws. Even though women pay the same amount of money for insurance as men do, their children can not benefit from their retirement pension or health insurance. This means that a mother can not provide any sort of comfort for her children after her death.
4. Stoning is the frightening punishment prescribed by our law for people who commit adultery. This punishment is usually only performed on women, because according to the law, a man can have an infinite number of temporary marriages (sigheh) and therefore can claim that the woman who he had a relationship with (provided she was single) was his temporary wife.

Why do we want to collect "one million signatures" to change discriminatory laws?

In the world and lives of people, there is no law that cannot be changed. In the opinion of many jurists, law is likened to clothing – when a person gets fat or slim, their clothes have to change accordingly. In many countries of the world, jurists and law makers believe that the Law has to be one foot forward of Culture to be able to play a positive role in the lives of individuals in a society and to uplift the level of culture and standard of lives. Meaning when the culture of a society moves one step forward, the law must change and be one step ahead of the culture. In this way the law becomes a tool for reforming. Actually, law makers in most of the countries of the world see Culture-building as one of the roles of laws and for this reason, believe that law must be relative to the environment and culture of the society for a more advanced view. However, unfortunately at present our law is related with our culture in the opposite manner. That is, the law in Iran is a few steps behind the average culture of society. Although women have shown their strength in different social and financial arenas, this backwardness, in relation to laws related to women is extremely discriminatory and disadvantageous to women.

Women try to upgrade the living standards of their families and themselves by individually struggling to complete many educational or occupational degrees. However because of the existing discriminatory laws many of these individual struggles meet a dead end. Perhaps it is for this reason that women have not complained more about the laws that are affecting their lives and if they have complained it has been individually and their complaints have not got anywhere. Maybe the reason for this is because we have not realized that the advantages for women is inseparable from the advantages of men and children. To remove these inequalities, we – a group of women – have started a campaign collecting “One Million Signatures to Change Discriminatory Laws” to show the decision makers that many women and men in Iran want changes and revision of the existing discriminatory laws and this want for a change in the laws is not only from a small group of Iranian women. The campaign and wide spread request for change and revision of discriminatory laws and collecting these signatures will show lawmakers that the women of Iran are serious and adamant about their request.

Requesting for the review of discriminatory laws is not a request that is against Islam or the Sharia rather it is inline with the Iranian government's international liabilities because Iran's government has made a covenant to implement the convention of international civil-political rights and the convention of international socioeconomic rights. The first step in these conventions is disallowing all kinds of

discrimination. Therefore, in coinciding with the international liabilities of the Iranian government, discrimination must be abolished.

On the other hand, requesting for change and correction of these discriminatory laws is in no way opposing the foundations of Islam nor is it damaging to the pillars of religion. Because the laws that we are requesting to be changed lie in an area of controversy between clergy men and religious scholars. Many religious scholars, namely Ayatollah Sanei or Ayatollah Bojnordi and other clergy men have for many years verified the request for revision of discriminatory laws and have not seen this revision as contrary to Islam. Because they believe that considering the circumstances of the time and place, laws must change to be in harmony with the level of culture and with the role and presence of Iranian women. They believe that in Islam we have "Secondary Precepts". According to secondary precepts, even if there is a clear order given in the Quran but this order results in secondary consequences due to circumstances such as the time and place, or is deemed injurious to society, it is possible to suspend and replace them temporarily with other laws. In Islam, as long as the secondary circumstances persist, or expediencies require, the suspension of the precepts is sanctioned and acceptable.

Ayatollah Musavi Bojnordi has clearly announced: "Islam in no way differs from Human Rights and it cannot be said that one gender has eminence and the other doesn't." In his opinion: "Human rights in an Islamic society have meaning. Rights are for mankind and regardless of gender. God has considered these rights for human beings." [15]

However, these discriminatory laws will never change and will devastate women's lives unless not only a large number of people request for its change but also to have this message reach and heard by the authorities and legislators of the country. The collection of signatures for changing these discriminatory laws is being made to deliver this message. By signing the statement of "One Million Signatures for Changing Discriminatory Laws" through people who approach you to collect signatures or sending the form attached to the end of this booklet, you can also take a step in making a change to these laws and improving the lives of Iranian women.

Our website: persian: <http://www.we4change.com> English and others: <http://www.en.we4change.com> Our email address: forequality@gmail.com

Footnotes:

[1] Article 993, 1005, 1041, 1043, 1044, 1048, 1049, 1060, 1075, 1082, 1105, 1106, 1107, 1108, 1114, 1117, 1233 Civil Law; Paragraph 3, Article 18 Passport Law.

[2] Capital Newspaper, Thursday 18th Khordad, 1385. Issue 194, Page 8.

[3] Article 1120, 1122, 1123, 1129, 1130, 1133, 1145 and 1146 Civil Law.

[4] Cited from IRNA News <http://irwomen.com/news.php?id=323>

[5] Paragraph 1, Article 18 Passport Law; Article 1167, 1168, 1169, 1170, 1173, 1180, 1181, 1183, 1184, 1185, 1199, 1207, 1218, 1233, 1236, 1241 and 1251 Civil Law.

[6] Paragraph 2, Article 900 and Article 901 Civil Law.

[7] Newsletter, Tir 1385, Issue 51, Spouse Killings - the crystallization of hidden domestic violence. Page 66-62.

[8] Article 1210 Civil Law; Article 49 Islamic Criminal Law; Article 219-213 Criminal Procedure Code.

[9] Article 976, 986 and 987 Civil Law.

[10] Article 294, 295, 300 and 301 Islamic Criminal Law.

[11] Paragraph 1, Article 899, 900, 901, 907 Civil Law.

[12] Article 220 and 630 Islamic Criminal Law.

[13] Article 74, 75, 118, 119, 128, 137 and 171 Islamic Criminal Law; Article 230 Legal Procedure Code.

[14] Article 83 and ammendment 638 Islamic Criminal Law; Article 115 of the Constitution.

[15] Capital Newspaper, Thursday 5th Mordad 1385, Issue 235, Page 8.

Glossary

- **Mehr** is a "gift" that a husband promises his wife at the time of marriage. It is specified in the aghd which is a pre-nuptial agreement. A wife is entitled to request her husband give her mehr at any time after they get married, and he must give it to her at that time. If a man divorces his wife, she is also entitled to her mehr. Unlike dowry, mehr is not given to the brides parents, but rather to the bride herself, and remains her property for ever. Anything the bride brings into the household and buys during the marriage also belongs to her alone. A husbands property belongs to the family.

- **Aghd** A pre-nuptial agreement.

- **Loans Account** This is a special loans account one can open in Iran called a gharz-ol-hasanah loans account. It is a loans account without interest.

- **Rajal-e siyaasi** Rajal means man in arabic. Siyaasi means politics.

- **Sharia** The term Sharia means Islamic Law.

- **Secondary Precepts** In traditional Shi'i Islamic Jurisprudence, religious precepts can be generally divided into two groups: primary precepts and secondary precepts. Any subject, regardless of secondary consequences, in the first place belongs to the category of primary precepts. For example, it is religiously prohibited to eat meat that is not prepared according to religious guidelines under ordinary circumstances. But in extenuating circumstances, such as hardship and loss, secondary precepts can be implemented. For instance, a starving person may eat such meat. After the formation of the Islamic Republic, in accordance to the late leader's views, a third kind of law, known as state precepts (ahkam-e hokoomatee) was recognized in our legal system. In other words, a religious government acting as religious guardian, can issue a law or declare something temporarily necessary or prohibited, according to exigencies and interests of Islamic society. Therefore, in our legal system there exists three religious sources for issuing precepts: the nature of the subject itself regardless of secondary consequences, secondary consequences and emergency, and expedience.