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FEATURES OF ENSURING AND GUARANTEEING WOMEN'S RIGHTS IN THE ISLAMIC REPUBLIC OF IRAN

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The aim of the article is to examine the main problems of ensuring women's rights in the Islamic Republic of Iran. In particular, the peculiarities of the legal status of Iranian women in the sphere of economy, education and in the reproductive sphere are considered. The legislative guarantee of women's political rights in the Islamic Republic of Iran is analyzed. It has been proved that the main factor of changes in the gender issue is the normative and legal framework, because it officially establishes in all spheres of society the relevant norms of behavior aimed at respecting the rights of women and men.

It was established that the main law in the country, despite the strong influence of the Koran, remains the Constitution (1979), which not only prescribes in detail the basic rights of women, but also defines the degree of government responsibility for ensuring women's rights in all spheres of public life. However, in other legal documents, women's rights in Iran are generally considered limited.

It was revealed that Iran is still one of the UN member states that has not signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979). Although Iran's parliament passed a bill to join the convention in May 2003, the bill was rejected after being sent to the Guardian Council, which is responsible for approving new legislation in the country. The above-mentioned Council cites vague religious contradictions, being under pressure from conservatives in government.

The country's national legislation was found to contain many barriers for women to access basic rights in areas such as employment, marriage and citizenship. Although the situation of women's rights in the Islamic Republic of Iran has improved recently, women continue to experience marginalization, violence and repression. According to the civil code of the country, where the rights of women in marriage and in the family are enshrined, the dominance of the man in the family is recorded. At the same time, the lack of legal instruments for the protection of women's rights has created an atmosphere of impunity for acts of violence against women committed by men. It has been found that women from national minorities are in an extremely difficult situation in Iran, who often face intersectional discrimination based on gender, ethnicity, language or religion.

Key words: *gender inequality, discrimination, women's rights, Islamic Republic of Iran, Constitution, freedom.*

Климчук Ірина, Трофименко Любов. Особливості забезпечення та гарантування прав жінок в Ісламській Республіці Іран

У статті досліджено основні проблеми забезпечення прав жінок в Ісламській Республіці Іран. Зокрема, розглянуто особливості правового статусу іранських жінок у сфері економіки, освіти та в репродуктивній сфері. Проаналізовано законодавче гарантування політичних прав жінок в Ісламській Республіці Іран. Доведено, що головним чинником змін у гендерному питанні є нормативно-правова база, оскільки саме вона офіційно закріплює в усіх сферах суспільства відповідні норми поведінки, націлені на повагу до прав жінок і чоловіків.

Встановлено, що головним законом у країні, незважаючи на вагомий вплив Корану, залишається Конституція (1979 р.), де не лише детально прописані основні права жінок, а й визначена ступінь відповідальності уряду за забезпечення прав жінок в усіх сферах суспільного життя. Проте в інших юридичних документах права жінок в Ірані зазвичай вважаються обмеженими.

Виявлено, що Іран досі є однією з держав-членів ООН, що не підписали Конвенцію про ліквідацію усіх форм дискримінації щодо жінок (CEDAW, 1979 р.). Хоча іранський парламент ухвалив законопроект про приєднання до конвенції у травні 2003 року, проте даний законопроект був відхилений після відправлення до Ради опікунів, яка відповідає за затвердження нового законодавства в країні. Вищезазначена Рада посилається на нечіткі релігійні суперечності, перебуваючи під тиском з боку консерваторів в уряді.

Встановлено, що національне законодавство країни містить багато бар'єрів для жінок щодо доступу до основних прав у таких сферах, як працевлаштування, шлюб та громадянство. Хоча останнім часом стан проблеми реалізації прав жінок в Ісламській Республіці Іран покращується, але все ж таки представниці жіночої статі



продовжують зазнавати маргіналізації, насильства та репресій. Відповідно до цивільного кодексу країни, де закріплені права жінок у шлюбі та в родині, зафіксоване домінування чоловіка у сім'ї. Водночас відсутність правових інструментів із захисту прав жінок створила атмосферу безкарності за акти насильства проти жінок, які здійснюються чоловіками. З'ясовано, що у край важкому становищі в Ірані перебувають жінки з національних меншин, які часто зіштовхуються з міжсекційною дискримінацією як за статевою, так і за етнічною, мовною чи релігійною приналежністю.

Ключові слова: гендерна нерівність, дискримінація, права жінок, Ісламська Республіка Іран, Конституція, свобода.

Achieving justice and gender equality is a human development goal in itself it needs no additional justification to mark its importance. However, in a country governed by the rule of law, where the rule of law covers all aspects of life, the legal status of an individual must be guaranteed by law.

The key factor of changes in the gender issue is the regulatory legal framework, as it officially establishes in society and human consciousness the appropriate norms of behavior aimed at respecting the rights of women and men. Legislation both reflects traditional social concepts and determines their formation.

Muslims do not have traditional legal system characteristic for Western society. Sharia as the 'way of God' is a system of religious and legal norms, that also serves as Islamic legislation. The key source for Sharia is Koran. The legislator refers to the interpretation of legal norms before Muhammad. Despite the fact that the mention of the equality of male and female rights is present in the Koran, but in reality this possibility is not fully implemented. This is evidenced by growing number of reports in the mass media, where one can read articles about the suppression and taming of women's movements [9].

In addition to the Koran, there is, of course, the main law in Iran, which also stipulates the equality of people's rights. The Constitution of the Islamic Republic of Iran was approved by a referendum on December 2-3, 1979, and it replaced the Constitution of 1906. The third section of the Constitution of Iran is devoted to the rights and duties of a person and a citizen (Articles 19-42). In particular, Art. 19 establishes that the Iranian people, like any nation or community, are endowed with equal rights, regardless of skin color, race, language, etc. [4].

Art. 26 states that parties and political associations, as well as trade unions and recognized religious minorities have freedom if their activities do not contradict the principles of sovereignty, national unity, Islamic morality, and the principles of the Islamic Republic. The main thing in this article is that it is indicated that every citizen (whether male or female) of the Islamic Republic of Iran has the right to participate in the above public associations [4].

However, the constitution enshrines not only the rights of citizens, but also the duties of the state towards them. Thus, certain limits of these rights are established in accordance with the norms of Islam.

In legal documents, women's rights in Iran are generally considered limited, allegedly based on Sharia law, and Iran is also mentioned as a country where women's rights have been violated. But it is worth paying attention to the fact that the current Constitution not only prescribes in detail the basic rights of women, but also determines that the government is responsible for ensuring women's rights in all spheres of public life. So, for example, the norms of Art. 21 of the constitution establishes ways of exercising these rights:

1) provision of conditions for comprehensive development of women and protection of their moral and material rights;

2) protection of mothers, primarily during pregnancy and child-rearing, as well as orphans' care;

3) the rights of widows, elderly women, etc. are guaranteed and protected [4].

In the Islamic Republic of Iran, there is no gender censorship (although in practice it can be observed), women can freely exercise active and passive suffrage, and many women are members of the Majlis. They are also represented in local government bodies and hold leadership positions in government bodies [1].

The Iranian Constitution, like in many other countries, preserves the principles of women's empowerment and gender equality. Article 20 guarantees that all citizens of the country, male and female, are equally protected by the law and have all political, economic, social and cultural rights according to Islamic rules [4]. It is worth noting that in addition to the basic rights guaranteed by the Constitution of the Islamic Republic of Iran for all citizens, women's rights were given a prominent place in the country's Constitution.

In particular, the preamble in the section 'Woman in the Constitution' states that 'All human elements that serve multifaceted foreign exploitation will return to their true identity and human rights as a result of the establishment of an Islamic social infrastructure. In this process, it is quite natural that women's rights increased noticeably, since they were more oppressed under the old regime' [4].

Article 21 of the Constitution clearly states that in all spheres the government assumes responsibility for creating decent conditions for the growth of a woman's personality and restoration of her material and moral rights [4]. The Iranian constitution also pays special attention to the role of women in the family. It states that



‘The family is the basic unit of society and the main center of human growth and education...’ [4]. This familial view protects women from being viewed as objects or tools that encourage consumption and exploitation. Women are taking on innovative social roles, collaborating with men in all important aspects of life.

A woman is endowed with great value and nobility in Islam because of the great responsibility which she bears. The key goal of these legislative principles is the promotion, development and empowerment of women in Iranian society [1].

It should be worth considering Iranian legislation that addresses various aspects of women’s empowerment, including access to education, economic autonomy, sexual and reproductive rights, and political participation.

The UN Population Information Network emphasized: ‘Education is one of the most important means of providing women with the knowledge, skills and self-confidence needed to fully participate in the development process’ [2]. One of the Millennium Development Goals of the United Nations in 2000 is also the achievement of primary education for every child by 2015. Another priority of the Sustainable Development Goals – ‘Promoting gender equality and empowering women’ – focuses on eliminating gender inequality in primary and secondary education [2].

A policy aimed at primary education for girls is certainly the best way to increase literacy among women. Complementing this policy is women’s literacy training to improve their labor market outcomes in the short term and to empower them and their daughters in the long term. These goals have also been taken into account in the current laws of Iran.

Article 3 of the Constitution of the Islamic Republic of Iran makes special emphasis on free education and training for all at all levels, and the promotion and expansion of higher education. Article 1 of the Law on the Social and Cultural Council of Women focuses on increasing the level of social knowledge and literacy, as well as on the adoption of appropriate policies in the areas of women’s education and higher education. To remove restrictions on girls entering certain university courses, female volunteers are usually allowed to study in any major they choose, unless they face a practical ban [4].

Article 7 on the employment of women emphasizes the provision of conditions necessary for the use of the abilities of educated women, as well as experts and women specialists. Article 11 of the same document emphasizes that technical and professional education and relevant professional opportunities should be simplified for women who are the breadwinners of their families [4].

Economic empowerment implies that women can engage in productive activities that provide some degree of financial independence, but these may initially be small and burdensome. It was stated at the International Conference on Population and Development: ‘Since women are generally the poorest of the poor... the elimination of social, cultural, political and economic discrimination against women is a prerequisite for eradicating poverty... in the context of sustainable development’ [2]. In many societies around the world, women never fully belong to themselves; they own less than one percent of the world’s property, while they account for 66 percent of the world’s labor force and produce half of the food. When women do not have control over money, they are unlikely to provide medical care for themselves or their children [7].

To promote women’s economic empowerment, the Iranian government has worked to create laws to support their livelihoods, financial support in divorce cases, and women’s access to work opportunities. As soon as the marriage is concluded, the wife becomes the owner of the marital portion (Makhriya) and can do whatever she wants with it (Article 1082), and if the husband divorces his wife before intercourse, the wife will have the right to receive half of the marital portion (Article 1092). If the marriage portion was in Rials (Iranian currency) at the time of the marriage, it is calculated and paid when the wife demands it, based on the annual price index changes announced by the Central Bank of the Islamic Republic of Iran. If a husband applies to the court for a divorce from his wife, the court must determine how the marriage portion will be paid (Article 7). The wife can independently own and do anything with her own property. In a permanent marriage, the wife’s alimony (Nafaka) is paid by the husband. Alimony is money that covers all the wife’s ordinary needs, including housing, clothing, food, household furniture and appliances, appropriate to the wife’s social status; as well as money for hiring a domestic servant, if she is used to having one or needs one due to illness or disability. If the husband refuses to pay alimony, the wife can apply to the court, in which the judge determines the amount of alimony and obliges the husband to pay it [4].

In addition, various laws have been legislated to expand the economic rights and opportunities of women within the social framework (Article 2 of 1992; Article 3 of 1992; Article 4 of 1992; Article 9 of 1992). Since the employment of women in cultural, social, economic and administrative professions is a prerequisite for achieving social justice and development of society, this issue should be given special attention (Article 2, 1992). For better management of all household affairs and fulfillment of social duties, the cooperation



of all family members among themselves is of particular importance (Article 3 of 1992). The circumstances of a woman's work in society must be prepared in such a way that the grounds for a woman's spiritual, scientific and professional development are provided. In addition, a woman's faith, personality, dignity, as well as mental, spiritual and physical health should not be harmed in any way (Article 4, 1992) [4].

It has been repeatedly highlighted in the laws of Iran that, under equal conditions, the work of men and women should be valued equally, as well as equal wages and benefits [3].

Taking into account the central role that the Islamic Republic of Iran plays in the stability of the family, as well as to women in education and procreation inside the home, rules and conditions proportionate to 'maternity occupations' are necessary, including: maternity leave paid, reduction in working hours, pension payments with less seniority, job guarantee and social security for the period of unemployment, illness or incapacity were approved (Article 10, 1992) [4].

The legislation in Iran has created a new political atmosphere in which women's voices can be heard and consensus can be reached. IT also sought to empower women by teaching them how to negotiate on a global basis, especially after the end of the Iraq War, which shaped a resurgence of women's activism. The United Nations Children's Fund (UNICEF) noted that numerous governmental organizations function mainly in areas such as legislation and research on the legal and socioeconomic status of women. According to Iran's women's employment policy, the government seeks to encourage educated and experienced women professionals to occupy managerial and staff positions in order to utilize the performance of women at high executive levels (Article 6, 1992). Iran currently has eight women serving as members of parliament, which is promising in terms of women's political empowerment in Iran. This demonstrates the potential of Iranian women to participate in decision-making processes at the highest political level [8].

Reproductive and sexual rights are well-enforced in Iran, and laws and punishments are clearly spelled out for offenders. For example, the husband's insanity and impotence are grounds for the wife's right to divorce, even if this happens after the marriage contract has been concluded. If, after the marriage contract, the husband suffers from a venereal disease, the wife has the right to refuse sexual intercourse with him, and this refusal does not terminate her right to alimony [6].

According to Iran's Family Protection Law, no man is allowed to remarry without the permission of the court or his first wife. Courts grant permission only under special circumstances, such as a serious and incurable illness of the first wife. In addition to the Iranian Constitution, there are other laws that protect women from violence in Iran. Iranian Civil Law and Related Regulations (Physical Capacity for Marriage), Article 1041 confirms that marriage of girls is prohibited before puberty without the permission of a guardian (Article 1041, 1928). This means that if a man marries a girl before the age of puberty, contrary to the provisions of Article 1041 of the Civil Code, he faces correctional deprivation of liberty from six months to two years, and if the girl has not yet reached the age of 13, the person faces correctional deprivation of liberty for a term of at least 2-3 years [4].

If sexual activity causes a permanent illness of the wife, the husband is sentenced to imprisonment for a term of 5 to 10 years with physical labor (Article 3, 1931). Iranian Civil Law and Related Regulations (Mutual Rights and Responsibilities of a Married Couple Towards Each Other), Article 1115, states that if a wife's cohabitation with her husband is due to fear of physical harm, financial loss, or damage of prestige for the wife can choose a separate place of residence, and in case the suspicion of harm is proven, the court will not allow the wife to return to the husband's house, and as long as she is exempt from returning, the husband is obliged to pay alimony [5].

Iran also has specific laws against trafficking of women and girls. Article 2 of the Anti-Trafficking Law emphasizes that trafficking of women, even with their consent, is punishable by imprisonment for two to ten years and a fine of double the amount of the property or property as a result of a felony (Article 2, 2004). Pornography is also prohibited in the Islamic Republic of Iran. For this reason, on November 19, 2008, the Iranian parliament approved a new law on computer crime, which came into force on June 29, 2009. According to this law, the production, publication and distribution of any real or unreal images, audio or video recordings showing full female or male nudity are crimes against public morality. A person involved in this crime may be punished with imprisonment for a term of 91 days to two years or a fine of 5,000,000 to 40,000,000 rials or both (Art. 14 of 2008) [4].

One of the most discussed topics in the field of reproductive rights is abortion. Currently, Iranian law allows therapeutic abortion after an accurate diagnosis by three experts, which is confirmed by the Organization of Forensic Medicine. This decision may be based on conditions of the fetus resulting in suffering or illness of the mother due to disability, such as fetal malformations or developmental delay, or on life-threatening conditions of the mother. In the Therapeutic Abortion Law, the parliament of the Islamic Republic of Iran states



that abortion can be performed before the acquisition of a human soul with the woman's consent. In this case, no liability, legal or otherwise, or punishment will be directed at the doctor. Offenders who act contrary to the provisions of the Act will be punished with imprisonment for a term of two to five years and compensatory payment in accordance with the penalties of Islamic law. The size of the payment is calculated according to the stage of fetal development [4].

Taking into account the significant requests of infertile couples, Iran's parliament approved a law in 2003 called the Law on Embryo Donation for Infertile Couples. According to the new law, embryo donation is allowed under certain conditions. In recent years, this law has been quite effective in preventing the breakdown of many marriages, although no data has yet been published. The cost of assisted reproductive technologies (ART) is generally high, although costs in the Islamic Republic of Iran are much lower than in many other countries. In this regard, the Higher Council of Insurance considered the possibility of covering the cost of one DRT cycle, so it will be free for infertile couples. In addition, the Iranian legal system has accepted surrogacy as a method that can provide the possibility of parenthood to some infertile couples. Article 10 of Iran's Civil Code on the surrogacy contract between the surrogate and intended parents' states: 'Private contracts shall be valid for those who enter into them, unless they are contrary to the law' [5].

In conclusion, the law is a powerful tool to achieve the goal of empowering women. One of the strategies for formulating laws on the empowerment of women is to conceptualize issues in a separate national law. There are a number of national laws on women's empowerment in Iranian jurisdictions, and many commentators believe that such an approach could better clarify women's empowerment within the state's legal framework. Despite the passage of numerous laws, women's empowerment in some areas, such as elected politics, needs more attention.

In accordance to the conditions for gender equality promoted by the national constitution improve, some planning and executive processes affecting women's empowerment need to be reviewed to assess their specific impact on women. Therefore, a realistic assessment of how laws work in practice requires the identification of obstacles to the expansion of women's rights and opportunities. Although good strides have been made since the Islamic Revolution in Iran to preserve empowerment in the areas of education, economics, politics, and reproductive and sexual rights.

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