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INCONSISTENCY BETWEEN WOMEN RIGHTS IN IRAN AND UNIVERSAL DECLARATION OF HUMAN RIGHTS

Abstract

The focus of this study is on women rights. Women rights is based on human rights. This study analyzed whether there is any inconsistency between Iran's Islamic constitution and Universal declaration of Human Rights. After 1979 revolution sharia rules were added to Iran's Islamic constitution. Iran's constitution and family law attachment, is compared with Universal Declaration of Human Rights which is a common standard for rights and freedoms for all people and nations. Qualitative research methodology are used for comparison of Iran's constitution and Universal declaration of Human rights. These contrastive analysis are conducted at the following domains; first, equal recognition of women in front of law. Second, The right to work and employment. Third, the right to work in political arena. Fourth, the right for education. Fifth, the right for free movement and dressing. By means of qualitative content analysis, the inconsistency between Iran's constitution and universal declaration of human rights are studied. Moreover, how these inconsistencies have affected women's real life conditions are more elaborated in this essay.

Keywords: Women Rights, Universal Declaration of Human Rights, Women's political rights, Equality in front of law

KADIN HAKLARI VE EVERNSEL İNSAN HALKLARI BİLDİRGESİ ARASINDAKİ TUTARSIZLIKLAR: İRAN ÖRNEĞİ

Özet

Bu çalışmanın odağı kadın hakları üzerinedir. Kadın hakları, insan haklarının temeline dayanmaktadır. Bu araştırmada İran Anayasası ve İnsan Hakları Evrensel Beyannamesi arasında herhangi bir tutarsızlık olup olmadığı analiz edildi. 1979 devriminden sonra, İran anayasası yeniden düzenlendi ve Sharia kuralları İran İslam Cumhuriyeti anayasasına eklendi. Bu çerçevede kadın erkek ilişkileri bu anayasa çerçevesinde yeniden gözden geçirildi. Bu araştırmada İran anayasasında kadın hakları, evrensel haklar Beyannamesi ile karşılaştırıldı. İnsan Hakları Evrensel Beyannamesinde tüm insanlar ve uluslar standart ve temel haklara sahiplerdir. Nitel araştırma yöntemleri kullanılarak İran anayasası ve İnsan hakları evrensel bildirgesi karşılaştırıldı. Bu karşılaştırma aşağıdaki alanlarda yapıldı; Birincisi, yasalar karşısında eşit haklara sahip olmak. İkincisi, çalışma hakkı, Üçüncüsü, siyasi alanda çalışma hakkı. Dördüncüsü, eğitim hakkı. Beşinci olarak, serbest dolaşım ve serbest giyinme hakkı. Nitel içerik analizi ile İran anayasası ile evrensel insan hakları beyannamesi arasındaki tutarsızlık incelenmiştir. Ayrıca, bu tutarsızlıkların kadınların gerçek yaşam koşullarını nasıl etkilediği bu makalede daha ayrıntılı olarak ele alınmıştır.

Anahtar kelimeler: Kadın Hakları, İnsan Hakları Evrensel Beyannamesi, Kadınların Siyasi Hakları, Yasalar Karşısında Eşitlik

1. INTRODUCTION

Constitution is a legal document that formulates legal relationship at various levels. Arrangement and organization of relationships were formulated under constitution. Men and Women relationship were redefined under rules and regulations. (Milli,2009:200). After 1979 Revolution in Iran, women rights were redefined in Constitution of Iran. This essay will study to see whether there is any inconsistency between women rights in constitution of Iran and Universal declaration of Human Rights.

2. EQUALITY IN FRONT OF LAW

Article two of Universal declaration of Human Rights declares that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. But in Iran's constitution the case of inheritance law (Inheritance law; <http://irandataportal.syr.edu/inheritance-law>), daughter gets half of son. In case of testimony law, two female are equal to one male (Islamic law; <https://www.alislam.org/>).

Women are not equal to men in front of Law and Judge, This is vivid contrast between article 6 of universal declaration of human rights and Iran's constitution. According to Universal declaration of Human Rights;(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.(2) Everyone has the right to equal access to public service in his country.(3) The will of the people shall be the basis of the authority of government;this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall beheld by secret vote or by equivalent free voting procedures.But these rights for Iranian women are restricted by deprivation of women of becoming Judge and participation in Judiciary system (Higgins, 1985:477- 494).

Graph one; attempts to answer the question of whether there is any equality before the law and individual liberty index. Moreover graph one clarifies to what extent are laws transparent and rigorously enforced and public administration impartial, and to what extent do citizens enjoy access to justice, secure property rights, freedom from forced labor, freedom of movement, physical integrity rights, and freedom of religion?

Also, Graph one shows women's position in front of law. And clarify whether women enjoy equal, secure, and effective access to justice?

This graph exhibits the extent to which women can bring cases before the courts without risk to their personal safety, trials are fair, and women have effective ability to seek redress if public authorities violate their rights, including the rights to counsel, defense, and appeal.

This question does not ask you to assess the relative access to justice men and women. Thus, it is possible to assign the lowest possible score to a country even if men and women enjoy equal and extremely limited access to justice.

0: represents secure and effective access to justice is non-existent.1, represents secure and effective access to justice for women is usually not established or widely respected.2, represents secure and effective access to justice is inconsistently observed. Minor problems characterize most cases or occur rather unevenly across different parts of the country.3; represents secure and effective access to justice is usually observed.4 represents secure and effective access to justice is almost always observed.

According to graph one; access to justice for men and women is negative and there is no access to justice for men and women in 2019 in Iran. And this access to justice has got worsened. And legally women have no equal rights in front of law in comparing with men and graph shows this more vividly as equality for men is -0.29 and for women is -0.74. And violation of this access to justice for women is twice negative than men. In brief, V-dem graph above, it is possible to assign the lowest possible score to a country and women enjoy extremely limited access to justice.

Graph1. Access to Justice for men and women in Iran (<https://www.v-dem.net/en/analysis/CountryGraph/>)

3. THE RIGHT FOR WORK AND EMPLOYMENT

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According to the World Bank data, Unemployment rate which means share of the labor force that is without work but available for and seeking employment for females for Iran from 1991 to 2019. The average value for Iran during that period was 18.65 percent with a minimum of 13.4 percent in 1996 and a maximum of 24.43 percent in 1991.

Graph2: (Female Unemployment:https://www.theglobaleconomy.com/Iran/Female_unemployment/)

According to Universal declaration of Human Rights ; (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination has the right to equal pay for equal work. (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

But in Iran's constitution natural right which was recognized for everyone wasn't recognized for Iranian women. Iran Islamic constitution has recognized this right for its citizens but then by adding definitive adverbs. These rights were restricted. Moreover, these rights were restricted by law.

In Iran there are legal obstacles which impede women of become judges. They cannot become head of judiciary and In Iran, Judiciary organization has converted to a monopoly which is in hands of clergymen. Women are not only marginalized by discriminatory laws and regulations. But also they have lost their rights to become a judge after Islamic Revolution of 1979. Shirin Ebadi is one of the prominent characters who was a judge in time of revolution and after revolution lost her right. Women cannot become leader because just clergymen can become leader and this is in monopoly of clergy men.

In brief, as it was showed in graphs that there are fluctuations between 1991 and 2019. there is sharp increase between 1995 to 2001. But the trend decreases from 2002 to 2019.

4. THE RIGHT TO WORK IN POLITICAL ARENA

The World Bank provides data on percentage of women in parliament for Iran from 1990 to 2018. The average value for Iran during that period was 3.87 percent with a minimum of 1.5 percent in 1990 and a maximum of 5.9 percent in 2016.

Graph 3. Women In Parliament: <https://www.theglobaleconomy.com/Iran/>

The whole number of Iran's Islamic republic parliament as the population has increased was between 260-280. And The minimum number of female members of parliament was 2.8 . Also, the maximum is 5.9. In other words, female members of the Parliament was in fluctuation between 4 and 14.

Graph 4: Shares of the seats in the Iran Parliament Ministry of Interior(Gozareshe Entekhabate Majles)

Majlis (Parliament)	% of Women Parliamentary Candidates	% of Women elected into the Parliament	No. of Women Deputies
First Majlis	3.02%	1.66%	4
Second Majlis	1.98%	1.66%	4
Third Majlis	1.99%	1.66%	4
Fourth Majlis	3%	3.6%	9
Fifth Majlis	6.43%	5.6%	14
Six Majlis	7.3%	4.4%	13
Seventh Majlis	9.89%	4.4%	13
Eighth Majlis			8

Source: Ministry of Interior, *Gozareshe Entekhabat Majlis-e Shoraye Eslami* (Majlis Election Report), 2009.

The legislative organ of Islamic republic of Iran who has patriarch structure with more strict interpretation of sharia. Women have the least representation in decision making section of the state has caused that women not be represented at different sections of the society (Moinifer, 2013;10)

We can see that the number of the bills that directly was related too women were decreasing. Women comprise half of Iran's population. But they are not represented satisfactorily even as a hidden part of the society and their issues were not declared and announced. Women and their issues don't find space to be discussed in society and parliament (Moinifer, 2013;15).

Agenda setting are important in policy making process. Women and the areas that are related to them are removed from the agendas. Women find no space to discuss their problems at different platforms. Women and women's problems, Women's entertainment, Women's sport, women's health and women's empowerment are taboos that are removed from public platform. Removing the women's agendas from public and political sphere, seems enough to solve the problem. But it is not. How long ignoration of women is possible?

After a period of time hiding injuries will become impossible. Because society shows reaction to these. And finds its own ways to move beyond these territories. In other words, women show their own reaction toward these ignoration.

For example, the right for divorce is in the hands of men and women should pass through different bureaucratic procedure in order to get divorced. Even when they have reasonable justification for divorce, women can't divorce easily.

All these have caused emergence of white marriage (Joint report from the Danish Immigration Service, 2017; 30) in which women don't register their marriage. And women move beyond legal constraints in order to solve these ignoration tactic. In response, Iranian women ignore government and this causes a kind of legitimacy loss of public sector. The absence of women in political arena and decision making procedure has converted to dominant policy of Iranian government. Intentionally and unintentionally remove agendas related to women from the daily discussed platforms. This has converted women issues and problems to a kind of injury that can bleed in case of interference.

Moreover, it can be declared that not only there are decrease in civil liberties of women. Women's participation in political arena especially in 2018, and 2019 has faced sharp fluctuations.

Graph 5: V-dem: <https://www.v-dem.net/en/analysis/CountryGraph/>

Moreover, women are absent in all administrative sections of Iran's society. Constitution removed women of all governing and administrative duties of state. Women are not active in decision making procedures. Women not only don't take part in political decision making procedures but also they don't even comment on women issues. Women's roles rarely

descriptively represented in formal political positions. Patriarchal societies in Middle East countries like Iran not only don't allow women to take part in political decision making procedures but also women are absent in decision making process which are related to women themselves (Mirhosseini, 2002).

In other words, in Iran women are not available in these interpretations. Women don't have legal rights to participate in political decision making (Sahandian, 2002). Moreover, any revision in order to improve women's rights and give more space to women in political, administrative is faced with objection of clergymen and conservative section of the society.

5. THE RIGHT FOR EDUCATION

According to Universal declaration of Human Rights (1) Everyone has the right for education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Do women have the same right and access to education in case of Iran ? Does legal system considers education as a fundamental right for women? Is there any deviation from the rule of law in women's access to education?

According to Iran's constitution, there is no discriminatory attitude toward women and girls to access education. UNESCO provides data for Iran from 1976 to 2016. The average value for Iran during that period was 87.34 percent with a minimum of 42.33 percent in 1976 and a maximum of 97.93 percent in 2016. See the global rankings for that indicator or use the country comparator to compare trends over time. According to UNESCO data for Iran from 1971 to 2017, Ratio of female to male students in secondary school has increased. The average value for Iran during that period was 0.83 percent with a minimum of 0.53 percent in 1971 and a maximum of 1 percent in 2007.

Graph 6: https://www.theglobaleconomy.com/Iran/Female_literacy_rate_15_25/

Graph 7: https://www.theglobaleconomy.com/Iran/Female_literacy_rate_15_25/

UNESCO provides data about the ratio of female to male students in tertiary level education, for Iran from 1971 to 2016. The average value for Iran during that period was 0.81 percent with a minimum of 0.36 percent in 1971 and a maximum of 1.15 percent in 2008. See the global rankings for that indicator or use the country comparator to compare trends over time.

Graph 8: https://www.theglobaleconomy.com/Iran/Female_literacy_rate_15_25/

Graph 9: https://www.theglobaleconomy.com/Iran/Female_literacy_rate_15_25/

At least, in case of right for education, women have equal rights as men in legal arena and the right to be educated is preserved for everyone and rules obliges governments to provide access for free education for everyone in Iran. Just for clarification, it should be declared that there are both private and public schools in Iran and everyone can use public schools without paying any fee. Moreover, there is not trustable information regarding how much Iranian women's rights regarding access to education is preserved during Covid 19 pandemic. And this is an area that can be studied that Covid 19 pandemic ended.

6. THE RIGHT FOR FREE MOVEMENT, FREE DRESSING

As mentioned in principle 13 of Universal declaration of human right, everyone has the right to freedom of Movement. Iranian Civil rule number 1105 declares that women without husband permission cannot leave home. Also according to the passport regulation Number 19 women cannot leave country and reside in another place without husband permission. All these rules violate Universal declaration of Human rights which gives everyone freedom of movement.

Having the right to control over his or her body is one of the fundamental human rights of a person. Body is an intimate domain. In Iran's legal system, Hijab and Obligatory Hijab is part of legal system and it is not selective. All women including women who are not Muslim are obliged to wear Hijab. Even religious minorities are obliged to wear hijab. There is no obligatory clothing for men. According to Islamic Punishment law, Number 638, in Iran women cannot be in public places without hijab. In case that violated imprisonment from ten days to two months or fining from 50000 to 500000 Riyal.

Hijab and Obligatory Hijab is part of legal system and it is not selective. All women including women who are not Muslim are obliged to wear Hijab. Even religious minorities are obliged to wear hijab. Many discriminatory laws can be found in Iran's 1936 civil code. After the Islamic republic of Iran came to power in 1979, the authorities rolled back the progress made by legislation enacted in 1976 promoting gender equality, particularly in family law, and returned to these earlier legal provisions while also enforcing a dress code as a prerequisite for appearing in public life (HRW; <https://www.hrw.org/report/2017/05/25/its-mens-club/discrimination-against-women-irans-job-market>).

Moreover, After revolution, Family law occupies a special place in sharia law. It regulates aspects such as marriage, divorce, custody, the matrimonial regime, domestic violence. Family law in most of the region declare that the husband is the head of the family, give the husband power over his wife's right to work and travel. The wife should obey his husband.¹

According to V-dem data, Women's civil liberties have decreased as comparing with 1979 (Milli, 2009, 1-288).

V-dem :<https://www.v-dem.net/en/analysis/CountryGraph>

7. CONCLUSION

Iran's constitution redefines the roles, tasks, and responsibilities which were recognized for women in Iran. There rearrangement and definition is different from Universal Declaration of Human Rights. In this research the comparison between Iran' constitution and Universal declaration of Human rights clarifies that there is no equal recognition in front of law for women in Iran's constitution. Women don't have equal rights in front of law. There is negative discrimination by Iran's regulation towards women.

In Iran constitution preserves women's right for employment but there are some areas that women are forbidden to enter. As mentioned in the article women don't have right to work as a judge. Moreover, it can be declared that women's right in Iran Islamic constitution are violated when it is compared with Universal declaration of human rights. Also, it should be declared that there is substantive difference between the written rules and real practices in society. Furthermore, political arena is patriarch and male dominant. Negative discrimination by the ruling system keeps no space for political representation.

The right for education is recognized for everyone in Iran's constitution. There is no inconsistency between women rights for education in constitution and Universal declaration of Human rights. Moreover, In practice no restriction was accepted in the area of women's education.

And at last there is inconsistency on the right for free movement and free dressing between Iran's constitution and universal declaration of human rights. In other words, Iran's constitution has more restrictive attitude towards women rights.

With evaluating Iran's constitution with Universal declaration of human rights which represents universal norms and regulations, It can be declared that absence of positive discrimination and protective attitude toward women in Iran Islamic constitution is a distinctive feature of Iran's Islamic constitution.

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