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Re: Information on Iran for Adoption of List of Issues at its 136th Session (10 Oct. - 4 Nov. 2022)

Introduction

1. We present the following submission in advance of the 136th session of the Human Rights Committee ('the Committee'), taking place between 10 October - 4 November 2022, for consideration of the List of Issues for Iran. Equality Now is writing to express its concern about sex discriminatory personal status laws, the continued prevalence of Female Genital Mutilation (FGM) and child marriage in Iran and the failure of the Iranian government to take concrete and effective action to end FGM and child marriage and provide support for survivors, which constitute a violation of its obligations under the International Covenant on Civil and Political Rights (ICCPR). The issues detailed in this submission highlight the failure of the State to comply with its obligations under Article 2 (non-discrimination), Article 3 (equality for men and women), Article 7 (torture and degrading treatment), Article 24 (children's right to non-discrimination) and Article 26 (equality before the law) of the ICCPR.
2. Equality Now is an international human rights NGO with ECOSOC status with the mission to achieve legal and systemic change that addresses violence and discrimination against women and girls around the world. Founded in 1992, Equality Now is a global organization with partners and members in every region. Ending sexual violence, ending sex trafficking, ending harmful practices and achieving legal equality are the main areas of Equality Now's work. This submission also references Equality Now's report '*Female Genital Mutilation/Cutting: A Call for a Global Response*' published in 2020, jointly with the End FGM European Network and the U.S. End FGM/C Network.¹

Prevalence of Female Genital Mutilation in Iran

¹ Equality Now, End FGM European Network, US End FGM/C Network, *Female Genital Mutilation/Cutting: A Call for a Global Response*, 2020. https://www.equalitynow.org/fgmc_a_call_for_a_global_response_report

3. FGM is a harmful practice that involves the partial or total removal of the female genitalia for non-medical reasons. It is recognised internationally as a violation of the rights of women and girls and an extreme form of violence which infringes on their right to be free from all forms of discrimination, right to life and physical integrity, including freedom from violence and the right to health.
4. FGM in Iran has been documented for over a century.² However, to date, there are no official, nationwide estimates on the prevalence of FGM in Iran and little to no action has been taken by the government to address the practice.
5. A number of independent, academic studies indicate that the practice of FGM is continuing in certain parts of Iran at high rates - particularly in the Western and Southern provinces.³ A 2015 study by Ahmady which surveyed 4,000 participants (3,000 women and 1,000 men) found the existence of FGM in the Western and Southern provinces of Iran. The estimated prevalence of FGM within the sampled population from these regions ranged from 60% in Hormozgan province, 21% in West Azerbaijan, 18% in Kermanshah, and 16% in Kurdistan.⁴ Another study also reported an FGM prevalence of 83.2% among 400 participants on Qeshm island.⁵ Another study from 2015 found an FGM prevalence rate of 68.5% among 780 participants in Hormozgan province.⁶ A 2002 study had also found an FGM prevalence rate of 69.7% in Minab, a city in Hormozgan Province based on a survey of 400 women.⁷ There was also a 55% prevalence rate of FGM among a survey sample of 348 women referred to five health centers in Ravansar city in Kermanshah province.⁸
6. The most recent study on FGM in Iran, published in 2020, also found evidence of the continuing practice of FGM in Lorestan province in Western Iran (through interviews of 26 survivors), though it was previously thought that the practice had died out in that region.⁹ This latest research highlights the critical need for systematic, large-scale and

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https://www.fairobserver.com/region/middle_east_north_africa/rayehe-mozafarian-divya-srinivasan-iran-female-genital-mutilation-womens-rights-human-rights-32930/

³ See also Fatemeh Karimi, *Tragedy of the Body* (2007); and Fatemeh Karimi, *Repetition of silence in the circle of tradition: a comparative study of female circumcision* (2016).

⁴ Kameel Ahmady, *A Comprehensive Research Study on Female Genital Mutilation/Cutting (FGM/C) in Iran – 2015*. Available at <http://kameelahmady.com/wp-content/uploads/Kameel%20-%20EN%20Final.pdf>

⁵ Rayehe Mozafarian, *Razor and Tradition*, Roshangaran Publications

⁶ Maryam Dehghankhalili et. al., *Epidemiology, Regional Characteristics, Knowledge, and Attitude Toward Female Genital Mutilation/Cutting in Southern Iran*, 12(7) *Journal of Sexual Medicine* 1577 (2015). Available at [https://www.jsm.jsexmed.org/article/S1743-6095\(15\)34162-X/fulltext](https://www.jsm.jsexmed.org/article/S1743-6095(15)34162-X/fulltext)

⁷ Talat Khadivzadeh, M. Ahadi & G. Seyedialavi, *Female circumcision and women's attitude to it, Minab, Iran, 2002-2003*, 107(2) *International Journal of Gynecology & Obstetrics* 887 (2009). Available at <https://obgyn.onlinelibrary.wiley.com/doi/abs/10.1016/S0020-7292%2809%2962375-4>

⁸ Pashaei T, Rahimi A, Ardalan A, Felah A and Majlessi F, *Related Factors of Female Genital Mutilation (FGM) in Ravansar (Iran)*, 2012, <https://www.longdom.org/open-access/related-factors-of-female-genital-mutilation-fgm-in-ravansar-iran-2167-0420.1000108.pdf>

⁹ Mahboobeh Babaie, Fariba Seddighi. R. Mozafarian, *Female Genital Mutilation Amongst Lak Women in Iran*, *Woman Interdisciplinary Researches Journal* Vol. 2, No. 1, Winter 2020 Pages 7-22 (available in Farsi).

nation-wide data on the prevalence of FGM in the country, since it still remains unclear how widespread the practice is across the country.

7. The practice of FGM in Iran is usually performed on girls under the age of 10, though in some areas it is done soon after birth. It is largely carried out by traditional practitioners using razors or knives. Type 1 (clitoridectomy) and Type 2 (excision) are the most common types of FGM practised in Iran¹⁰, though there is some emerging evidence of Type 3 (infibulation) also being practised in certain areas.¹¹ Many women practicing FGM still believe in harmful myths and misconceptions about the practice - including that women who have undergone FGM have lower rates of divorce, that FGM prevents infertility and rape, that men prefer to marry girls who are cut, and that women who have undergone FGM will deliver more sons.¹²

Legal Status of FGM in Iran

8. In contravention of its obligations under the Convention of the Rights of the Child, as well as the ICCPR¹³ as elaborated on in the Human Rights Committee's General Comment No 28,¹⁴ the Iranian government has failed to take sufficient measures to prohibit FGM under law or to prevent the practice.
9. There is no specific law against FGM nor a specific provision in the Islamic Penal Code addressing FGM. However, certain general criminal provisions in the Penal code could potentially be used to prosecute cases of FGM, including the prohibition on the mutilation of body parts or organs; as well as provisions against child abuse in the Law on the Protection of the Rights of Children and Adolescents.¹⁵ However, in practice, there have been no known prosecutions for FGM under these provisions. Further, public belief that FGM is a religious duty (constitutionally protected under Article 12 of the Constitution) could also contribute to confusion about whether criminal complaints can be made in relation to FGM.¹⁶

¹⁰ Sudwind, *Violations of Girl's Rights: Child Marriage and Girls Rights in the I.R. Iran*,

<http://www.stopfgmmideast.org/wp-content/uploads/2014/07/Iran-FGM-Child-Marriage-2014.pdf>

¹¹ Mahboobeh Babaie, Fariba Seddighi. R. Mozafarian, *Female Genital Mutilation Amongst Lak Women in Iran*, *Woman Interdisciplinary Researches Journal* Vol. 2, No. 1, Winter 2020 Pages 7-22 (available in Farsi).

¹² Bokaie M, Khaledi ZB, Roozbeh N, Mojahed S. Female genital mutilation in Southern Iran. *Afr Health Sci*. 2020 Jun;20(2):666-667. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7609098/>

¹³ In the Human Rights Committee's Concluding Observations to the Sudan (2011), it recommended that "The State party should ensure that the necessary amendments to the Criminal Code are adopted swiftly to criminalize female genital mutilation throughout its territory, with sanctions commensurate with the gravity of the offence and adequate compensation for victims. The State party should guarantee that victims of these practices have access to rehabilitation services." CCPR/C/SDN/CO/5, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSDN%2fCO%2f5&Lang=en

¹⁴ General Comment No. 28 on Article 3 (The equality of rights between men and women), paras 9 and 11.

¹⁵ Article 386, Islamic Penal Code

¹⁶ See Kameel Ahmady, *A Comprehensive Research Study on Female Genital Mutilation/Cutting (FGM/C) in Iran* – 2015. Available at <http://kameelahmady.com/wp-content/uploads/Kameel%20-%20EN%20Final.pdf>

10. There is a need for a comprehensive law specifically prohibiting the practice of FGM in Iran. A law explicitly banning FGM in Iran would make it clear to the public that FGM is a human rights violation and provide a deterrent effect to would-be offenders. It would also grant specific legal recourse to survivors within the criminal justice system. Many gynecological centers in Iran advertise under the pretext of genital cosmetic surgery, sometimes even under the name of female circumcision, and exploit the lack of public awareness. No government authority has been given the responsibility for raising public awareness against this human rights violation.
11. The Iranian government needs to take a comprehensive approach towards ending FGM, starting with the establishment of national prevalence statistics to inform policies. Public awareness programs to educate women and girls about the harmful effects of FGM, and the gender discrimination underlying the practice are crucial to its eradication. Further, the government must develop a multi-sectorial cross-country National Action Plan coordinated by a lead ministry which initiates policy development, monitors and further coordinates policy action on FGM, and facilitates cross-sectoral initiatives in the fields of education, health, and child protection. Adequate funding should be granted to non-governmental and community organizations to support survivors, implement prevention strategies in community organizations, and develop and deliver FGM related trainings.

Child, Early and Forced Marriage

12. As per Article 1041 of the Iranian Civil Code, the minimum age of marriage is set at 13 for girls and 15 for boys. Additionally, the child's guardian can request the court for permission to marry the child off even at an earlier age, with no absolute minimum age being imposed by the law for this exception.¹⁷ This means that girls even as young as five years old are being married off - for instance, there were 172 marriages of girls between the ages of 5-9 reported between March 2021 - January 2022.¹⁸ Despite the Human Rights Committee's latest recommendations that the Iranian government should "ensure that the minimum age complies with international standards and should adopt active measures preventing forced, early and temporary marriage of girls", this has yet to be implemented.¹⁹
13. Further, in 2019, Iran's parliament passed a bill, to be approved by the Guardian Council of clerics and jurists, allowing fathers to marry their adopted daughters.²⁰ After concerns that were raised regarding this provision, the parliament amended the Bill to provide that marriage is prohibited between a guardian and the adopted child, whether during custody or after that, unless a competent court, after obtaining the organization's advisory opinion,

¹⁷ Civil Code of the Islamic Republic of Iran, <https://www.refworld.org/docid/49997adb27.html>

¹⁸ *Iran registers 172 marriages of young girls between 5 and 9 years old*, <https://women.ncr-iran.org/2022/01/17/172-marriages-of-young-girls/#:~:text=Early%20marriage%20has%20turned%20into,girls%20under%2013%20years%20old>.

¹⁹ Concluding observations of the Human Rights Committee to the Islamic Republic of Iran, 103rd session 17 October - 4 November 2011, CCPR/C/IRN/CO/3, para 28.

²⁰ The Guardian, Iran lawmakers pass bill allowing men to marry adopted daughters; <https://www.theguardian.com/world/2013/sep/26/iranlawmakers-men-wed-adopted-daughters>

finds this to be in the interest of the adopted child.²¹ However, even this revised version of the Bill, by allowing court-approved marriages of guardians with adopted children, encourages child sexual abuse and forced marriage by adoptive fathers and deprives girls of the security and care they need within the family environment, in contravention of the State's obligations under the ICCPR.

14. In its report submitted to the Human Rights Committee, the Islamic government states that "there are several legal and administrative guarantees to prevent early or forced marriage, which are also controlled by conducting periodic inspections and legal strictures on practice".²² However, in reality, there are reports that the number of child, early and forced marriages have increased in recent years. Data from the Statistics Center of Iran show that in the past five years, more than 131,000 girls under the age of 15 have been married.²³ Official records from 2021 show that there has been a 30% increase of girls between the ages of 10-14 getting married as compared to the previous year.²⁴ Alarming, these statistics only refer to the number of registered marriages, with the number of unregistered marriages estimated to be much higher. Child marriage in Iran is caused by many factors including poverty, lack of access to education, harmful traditions and notions of family "honour".²⁵
15. Further, it has been reported that while approving marriages of girls under the age of 13, courts often only seek the father/guardian's consent and consider the child's physical maturity, without being concerned about the best interests of the child, or taking into account the child's views, awareness or intellectual maturity.²⁶ This leads to judges granting permission for such marriages in a large number of cases, though it was found that female judges applied the law more strictly, keeping in mind the best interests of the child.²⁷

²¹ The Law on the Protection of Unsupervised and Abused Children and Adolescents, <https://rc.majlis.ir/fa/law/show/866926>

²² Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, due in 2014*, CCPR/C/IRN/4, 23 August 2021

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<https://www.eurasiareview.com/11042022-child-marriage-in-iran-a-painful-reality-oped/#:~:text=According%20to%20a%20report%20by,in%20the%20past%20five%20years>

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<https://www.isna.ir/news/1400083023744/%D8%A7%D8%B2-%DA%A9%D9%88%D8%AF%DA%A9-%D9%87%D9%85%D8%B3%D8%B1-%D8%AA%D8%A7-%DA%A9%D9%88%D8%AF%DA%A9-%D9%85%D8%A7%D8%AF%D8%B1-%D9%88-%DA%A9%D9%88%D8%AF%DA%A9-%D9%85%D8%B7%D9%84%D9%82%D9%87-%D8%B1%DA%A9%D9%88%D8%B1%D8%AF%D8%B4%DA%A9%D9%86%DB%8C-%D8%A7%D8%B2%D8%AF%D9%88%D8%A7%D8%AC>

²⁵ Shamin Asghari, Early Marriage in Iran: A Pragmatic Approach, 11(3) *Journal of Human Rights Practice* 569 (2019), <https://academic.oup.com/jhrp/article/11/3/569/5652057>

²⁶ ISNA, Based on what criteria does the court allow children to marry?, 20 February 2019,

<https://www.isna.ir/news/99111913718/%D8%AF%D8%A7%D8%AF%DA%AF%D8%A7%D9%87-%D8%A8%D8%B1-%D8%A7%D8%B3%D8%A7%D8%B3-%DA%86%D9%87-%D9%85%D8%B9%DB%8C%D8%A7%D8%B1%D9%87%D8%A7%DB%8C%DB%8C-%D8%A8%D9%87-%DA%A9%D9%88%D8%AF%DA%A9%D8%A7%D9%86-%D8%A7%D8%AC%D8%A7%D8%B2%D9%87-%D8%A7%D8%B2%D8%AF%D9%88%D8%A7%D8%AC-%D9%85%DB%8C-%D8%AF%D9%87%D8%AF>

²⁷ Ibid.

16. In 2018, the Prohibition of Child Marriage Bill was introduced in parliament, which aimed to increase the minimum age of marriage to 16 for girls and 18 for boys and to prohibit the marriage of children under 13 altogether. However, the proposal did not gain approval and was not passed. Despite broad societal condemnation of the practice, clerics, conservative lawmakers, and other state officials continue to block attempts to raise the minimum marriageable age in Iran.²⁸
17. These “marriages” have resulted in harmful health, social and economic consequences for girls forced into marriage at young ages. For instance, the National Statistics Center recorded 364 childbirths among mothers under 15 in the summer of 2020.²⁹
18. The Iranian government must amend the law to increase the minimum age of marriage under the law to 18 for both boys and girls, without any exceptions. Legal reforms relating to the minimum age of marriage must also be accompanied by the establishment of a well-defined, rights-based and locally relevant holistic strategy comprised of supportive legal and policy measures, including social measures and accountability at all levels.³⁰ This includes a mandatory marriage registration process which is strictly enforced to limit the number of unregistered marriages; complementary measures to address root causes of child, early and forced marriage including improving girls’ access to education and address economic and gender-transformative programming that addresses gender inequality and lack of autonomy and decision-making for girls.³¹

Sex discriminatory personal status laws

19. Articles 199 and 209³² and of Iran’s Islamic Penal Code of 2013, Books I and II provide that in cases of adultery and other sexual activity and where diya³³ is involved, the testimony of a woman is worth half that of a man. Specifically, Article 199 prescribes the standard of proof for testimony in all offenses shall be two male witnesses, unless in cases of ‘illicit sex outside of marriage’ (‘zina’) or various forms of homosexual sexual activity either between men or women (‘livat’, ‘tafkhez’ and ‘musaheqeh’) where four male witnesses are required. In order to prove zina, punishable by the hadd punishment

²⁸ Hossein Beizayi, *Child Marriage in Iran: A Painful Reality*, 11 April 2022, <https://www.eurasiareview.com/11042022-child-marriage-in-iran-a-painful-reality-oped/#:~:text=According%20to%20a%20report%20by,in%20the%20past%20five%20years>

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<https://women.ncr-iran.org/2021/08/23/official-statistics-on-early-marriage-in-iran-the-tip-of-the-iceberg-of-disaster/>

³⁰ Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, para. 33.

³¹ See Report by the United Nations High Commissioner for Human Rights, *Progress, gaps and challenges in addressing child, early and forced marriage, and measures to ensure accountability at the community and national levels, including for women and girls at risk of and those subjected to this harmful practice*, A/HRC/50/44 , 12 May 2022

³² “Where, in financial claims such as diya for bodily offenses, and also in claims which are about claiming a sum of money such as a negligent or quasi-intentional bodily offense which must be compensated by a diya, the private claimant is unable to provide an admissible evidence which meets the requirements under Shari’a, s/he [still] can produce one male witness or two female witnesses together with an oath and prove the financial part of his/her claim.”

³³ Diya are fines imposed under Shari’a for certain crimes.

of flogging, shaving [of head] and/or banishment, the testimony of two just men and four just women are considered sufficient. If the punishment provided is other than the above, testimony of at least three men and two women shall be required. In such cases, if two just men and four just women testify for the offense, only the hadd³⁴ punishment of flogging shall be given. Bodily offenses punishable by diya shall also be proved by one male witness and two female witnesses.

20. Further, Article 638³⁵ of the Islamic Penal Code provides that women may be imprisoned or fined for failure to wear prescribed Islamic dress.³⁶ Laws which provide that a woman's testimony in court is worth only half that of a man's mean that the woman herself is seen by the law as only worth half that of a man, limiting access to justice and legal remedies. Sex discrimination in personal status laws negatively impacts the ability of women to conduct various aspects of their daily lives and should be amended to ensure that women are treated equally with men in line with the Human Rights Council's jurisprudence.

Suggested Questions for State Party's List of Issues

21. We respectfully urge the Committee to raise the following requests and questions with the Iranian government:

- Please provide statistical and other relevant data on the number of women and girls living in Iran who have either undergone FGM or are at risk of undergoing FGM. If this data is not available, what are the government's plans and timeframe for collecting such data?
- What are the government's plans and timeframe for enacting and enforcing a comprehensive law that prohibits Female Genital Mutilation (FGM) and guarantees the protection of women and girls who are at risk of undergoing FGM?
- What measures have been taken by the Iranian government to raise awareness of, eliminate and address the harmful practice of FGM within the country?
- What are the government's plans to increase the minimum age of marriage of both boys and girls to 18, without any exceptions?
- What measures is the Iranian government taking to prevent and reduce child, early and forced marriage including addressing its root causes?

³⁴ Hadd is a punishment for certain crimes as specified under Shari'a.

³⁵ "Women who appear in public without prescribed Islamic dress (hejab-e-shar'i), shall be sentenced to either imprisonment of between 10 days and 2 months, or a fine of between 50,000 and 500,000 rials."

³⁶ https://www.equalitynow.org/discriminatory_law/iran_the_islamic_penal_code_of_2013_books_i_ii_and_v/

- What measures are being undertaken to ensure that the personal status laws, in particular Articles 199, 209 and 638 of Iran's Islamic Penal Code of 2013, Books I, II and V, are amended and premised on the equality of men and women under the law?