

Women's right to health in Iran: Domestic implementation of international human rights law

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Summary

In Iran, discrimination based on gender in enjoyment of the right to health is prohibited. Making health services physically and financially accessible to the entire population and removing social and cultural barriers of women's access to health services are main considerations of the health laws and policies of Iran. The health of Iranian women has improved considerably in recent years. But there are disparities in health status and access of women to health services around the country. Some groups of women, including the poor, the elderly, the disabled, the illegal immigrant, and those without an appropriate male guardian, and rural women have limited access to health services in Iran. To realize women's right to health, this country should immediately remove the disparities and use all the necessary means including legislative, administrative, budgetary, promotional, and judicial measures. National plans on women's empowerment and support should be interpreted in provincial programs and action plans. Moreover, a monitoring system and certain benchmarks for tracing the progress of the plans should be established. Realizing other economic, social, and cultural rights including the rights to food, shelter, education, work, social security, and participation in society will improve the Iranian women's enjoyment of their right.

KEYWORDS

human rights, Iran, right to health, women's health, women's rights

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1 | INTRODUCTION

The right to health has been recognized by several international human rights treaties such as the Universal Declaration of Human Rights (UDHR) 1945 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966. According to the UDHR, everyone has a "right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."¹ Article 12 of the ICESCR defines the right to health as "a right to the enjoyment of the highest attainable standard of physical and mental health." Any discrimination on any prohibited grounds such as race, sex, language, national or social origin, and religion in the exercise of this right is prohibited.² However, around the world, women face more obstacles to access health services than men. They often have less power in making decisions in their families and about their health and lives. Furthermore, they are more likely to be poor, unemployed, and economically dependent on men.³ Therefore, women's right to health and equal access to health services should get especial attention in national and international health policies.

Equality of men and women in the enjoyment of their human rights including the right to health does not mean that difference is not admitted at all. Being a man or women should not be regarded as an advantage in access to healthcare. Sociocultural and biological factors influencing health of men and women are different that may necessitate special care for women, for example during pregnancy. National health policies should have a gender-based approach.⁴ The strategies for promotion of women's health shall include prevention and treatment of women's diseases, reducing risks to women's health, lowering maternal mortality rate, protecting women from domestic violence and harmful traditional practices, and removing all the barriers to women's access to health services and information. According to General Comment No. 14 of ICESCR, accessibility of healthcare services has four overlapping dimensions: nondiscrimination, physical accessibility, affordability, and information accessibility.⁵

Iran has ratified the ICESCR and several other international human rights treaties that recognize the equality of men and women in their fundamental rights, but it has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women. Some provisions of this convention, such as equality of men and women regarding marital rights, inheritance, age of legal responsibility, and the nationality of their children, are in conflict with the country's laws. However, the conflict is not about women's right to health, and Iran does have obligations regarding women's right to health based on other accepted human rights treaties. In this country, there are several vulnerable groups of women such as poor women, female heads of families, the indigenous, and women without a male guardian. They frequently face difficulties accessing health services. Based on the studies of Karyani et al, Haghdust et al, and Mostafavi et al, women do not have equal access to gynaecologists and midwives in less developed, rural, and sparsely populated areas of Iran.⁶⁻⁹ Another study by Seyedfatemi et al showed that female heads of households have a lower health status and less access to healthcare.^{10,11} These studies often focused on the health status and access of small groups of women living in a specific area of the country. However, the laws guaranteeing rights of Iranian women to healthcare are rarely studied and compared with international laws. Limitation in the access to healthcare can have its root in the inadequacy of national laws.

This paper aims to answer two questions: (1) What are women's rights to health in Iran according to national laws and policies? (2) In comparison with international human rights laws and the situation of women's right to health in Iran, do national laws adequately protect women's right to health? The answers to these questions will indicate which parts of national laws do not meet their intended purpose and need to be improved. Also, results will be helpful in finding the probable inconsistencies between the provisions of international human rights laws and domestic laws. In the following sections, first, the laws and policies on women's health and right to health in Iran are reviewed. Next, the situation of women's access to healthcare in Iran from four aspects (nondiscrimination, physical accessibility, affordability, and information accessibility) is analysed. The conclusion section suggests necessary changes in the laws and policies of Iran to better realize women's right to health. The method of this study is content analysis of key international and national laws and documents on equality of men and women,

as well as women's health and right to health. At international level, main laws and the reports of UN human rights committees and organizations and at national level, the constitution, development plans, health policies and laws, state's reports to United Nations treaty bodies, and academic literature are securitized. The data are collected from academic web-based databases and official webpages of Iran's government, such as Iran's Parliament Research Centre, and of UN treaty bodies such as United Nations Treaty Collections and the United Nations Official Document System.

2 | WOMEN'S HEALTH AND THE RIGHT TO HEALTH IN IRAN

The Constitution of Iran guarantees nondiscrimination in the enjoyment of right to health. It obliges the government to support women during pregnancy, child-bearing, and custody, as well as poor women without a guardian and old women.¹² Women's health is defined as a complete physical, mental, spiritual, and social welfare and not the absence of diseases and disability by the law in Iran.¹³ Iran's laws on the health of women have a comprehensive approach that encompass health and underlying determinants of health such as nutritious food, social security, education, and work and involve different stockholders and consider the health needs of women's life span.¹⁴

The Charter of the Rights and Responsibilities of Women in Iran 2004 which is a nonbinding statement about the rights and responsibilities of Iranian women recognizes the right of women to health services, in particular, maternity care, safe delivery, prevention and treatment of sexually transmitted diseases, and reproductive health.¹⁵ According to this charter, the government is needed to consider the health needs of women in all the policies and programs; to remove all cultural, social, and financial barriers to women's access to healthcare; and to increase women's knowledge and participation in making decisions related to their health. The government should take all the necessary means for the prevention of domestic violence against women and enhancing the knowledge of families about equal treatment of girls and boys according to this document.¹³ Also, the government is obliged to provide a system of advocacy and consultancy for the protection of women's rights and remedying the inequalities.¹⁴ The rights to a healthy working conditions and equal opportunities to work and development for men and women are other government's obligations addressed by the law in Iran.¹³

In recent years, the health of women has improved significantly in Iran, and now, it is ranked as one of the best in the Eastern Mediterranean Region. Women's life expectancy at birth increased from 51 in 1980 to 74.5 in 2014. Also, maternal mortality rate reduced by more than 80% from 1990 to 2008.¹⁶ Establishment of countrywide Primary Healthcare network and rural confinement facilities, prioritization of maternity care, and training a large number of community midwives have had the main roles in improving maternal health in Iran.¹⁷ More than 95% of child deliveries are assisted by an educated healthcare assistant. However, there are significant disparities in the health status (particularly average of life expectancy and number of maternal mortality) of women belonging to different socioeconomic groups of population living in different provinces of Iran. For example, life expectancy in the provinces of Sistan and Baluchestan is 12.6% less than in the capital city, Tehran. Also, the number of health facilities is not enough in remote rural areas of this province. Furthermore, more than 50% of maternal mortalities in deprived provinces are reported to be preventable.^{18,19}

By successful control of communicable diseases and improvement of maternity health around the country, now the main causes of Iranian women's diseases are related to their lifestyle.²⁰ Chronic respiratory diseases, cancer, and other NCDs are ranked as the major causes of death among Iranian women.²¹ Iran recently has advised a health program for the control of NCDs among adults that includes periodic checkups and education on healthy lifestyle. But still the approach of the PHC has not appropriately changed to implement this program properly. Moreover, mental health has not gotten enough attention in the health policies of Iran. The prevalence of psychological disorders, particularly depression and anxiety, is high among Iranian women.²² While insurance companies do not cover mental health services appropriately, there is a shortage of related facilities and specialists around the country.^{23,24}

Another issue related to the health of women is child marriage that is permitted by the law in Iran. Girls are allowed to get married at the age of 13 and even younger (if the court agrees).²⁵ In 2013, about 32,000 girls younger than 15 years got officially married.²⁶ The number of children's unofficial marriages is likely to be much more. In addition, 2.8% of all the births were from mothers younger than 18 years in 2012.²⁷ Early marriage and child-bearing can endanger the health of the mother and her child. A more important issue about girls is that in general, the knowledge of Iranian children about sexual and reproductive health (SRH) is not enough. Insufficient SRH information and skills threatens the health of Iranian adults too. Iran does not have a national policy on SRH, but it used to have a countrywide family-planning program. Through this program, people could have access to some SRH services. Recently, in order to enlarge the size of population, policymakers decided to stop the provision of family-planning services in the PHC system. Now these services are given to people with high-risk behaviour and high-risk pregnancies.²⁸ Limited access to reproductive health information and contraceptives can result in unwanted pregnancies, sexually transmitted diseases, HIV infection, and pregnancy-related illnesses and death. Studies showed that the prevalence of HIV/AIDS among Iranian women has increased by 550% from 2007 to 2015.¹⁹ Most of these women are infected via having sex with their partners.²⁹ It seems that Iran has an immediate need of a national SRH policy that empowers women and men in preserving their health.

Another major program of Iran about the health of women is reducing rates of caesarean section (C-section). Because of the high percentage of pregnant women who decide to have C-section without any medical reason, in the law for the Health Sector Reform 2014, the government offered incentives for natural confinement and put limitations on unnecessary C-sections. All the health services related to natural confinement are free in public hospitals. In the case of unnecessary C-section, the medical specialist performing it and the hospital administrator will face punitive measures. Also, health insurance organizations will not reimburse the costs of such a procedure.³⁰

3 | WOMEN'S RIGHT TO UNDERLYING DETERMINANTS OF HEALTH

The right to health is an inclusive right that includes not only a right to health facilities, services, and products, but also a right to the underlying determinants of health such as food, shelter, healthy working conditions, a healthy environment, and access to health-related information.⁵ Almost all the development plans of Iran include programs for improving the determinants of health and empowerment of women. Through providing equal educational opportunities for girls and boys, the rate of literacy among Iranian women has increased considerably in recent years. Statistics show that more than 80% of women were literate in 2013.³¹ But still, the rate of employment of women is much less than men.³² They are often financially dependent to their spouses, fathers, or children.

In the laws of Iran, men are regarded as the breadwinners of the family, and women are considered to be in need of a male guardian to provide the necessities of life for them.²⁵ This notion of different roles of men and women has influenced employment and social security policies of the government.³³ To support women who do not have a male guardian, Iran enacted the law on the Protection of Women and Children Without a Guardian in 1992. This law guarantees the rights to financial support, vocational training, and social security for these women and children.³⁴ Moreover, the government has issued an insurance and social security package for housewives, but it is not accessible to women who do not have any source of income for paying the premium.³⁵

In general, Iran's programs for supporting women do not cover the entire target population. In recent years, the number of women in need of financial support has increased. The economic crisis of the country caused by international economic sanctions, years of war, and inappropriate resource management of the government has had a severe effect on the welfare of Iranians.^{36,37} It increased inflation and unemployment and decreased the financial accessibility of health services.³⁸ The effects have been more serious for Iranian poor women. In recent years, Iran is confronted to a new phenomenon of street women and significant increase of poor addicted women and sex workers.³⁹ These women face more acts of violence and do not have equal access to the necessities of life such as health services, food, and shelter. Protection from violence is an important part of women's right to health. In Iran,

there is no official data about the prevalence of violence against women. In addition, the legislative means to combat domestic violence against women is not sufficient.³⁸ The right to health includes a right to be free from harmful traditions such as female genital mutilation (FGM). Different studies showed that FGM is common among some ethnic communities living in Iran.⁴⁰⁻⁴² Based on the Islamic Punishment Law of Iran, mutilation is a criminal act.⁴³ However, to eradicate such an act that is rooted in the culture of people, legislation is not enough.

4 | WOMEN'S ACCESS TO HEALTHCARE IN IRAN

According to General Comment No. 14 ICESCR, to realize the right to health, states should ensure that health facilities, services, and products are accessible to all. Accessibility has four dimensions: nondiscrimination and financial, physical, and information accessibility. Health facilities, services, and products should be provided to everyone without any kind of discrimination. They should be affordable to all; people without the necessary means should be supported by appropriate health insurance. Also, health facilities, services, and products should be physically accessible and within a safe physical reach of everyone, and the information related to them should be accessible to all.⁵ In the following paragraphs, these aspects of the right to access healthcare in the health system of Iran are analysed.

4.1 | Nondiscrimination

The constitution and health laws of Iran guarantee equity in access to healthcare for all. They do not exclude any individuals or groups from accessing health services and often oblige the government to provide necessary financial means for disadvantaged groups of the population particularly vulnerable women to access healthcare.¹² Women without an appropriate male guardian, widows, divorced women, women living with disabilities, immigrant and indigenous women, women belonging to ethnic and religious minorities, elderly women, street women, rural women, and poor women might have limited access to health services.

According to Iran's Constitution, abolition of all forms of unjust discrimination and provision of equal opportunities for everyone to access food, housing, work, healthcare, and social security are two important goals of the country.¹² However, in Iran's law, men and women are not equal in all of their rights. An example about the right to health is that the husband's consent is a prerequisite to women's access to some health services such as permanent sterilization, abortion, C-section, infertility treatment, hysterectomy, sex reassignment surgery, organ transplant, and cosmetic surgery.⁴⁴ Third-party authorization requirements for accessing healthcare are against the right to health according to the Committee on Economic, Social and Cultural Rights (CESCR).⁴⁵

4.2 | Financial accessibility

Primary healthcare services such as immunization, maternity and child care, health education, and school, environmental, and occupational health are free and funded by the government in Iran. The costs of secondary and tertiary health services are paid by patients, insurance companies, and the government. In the past years, the share of people of health services' costs has been considerably high. In 2014, Iran enacted the Law for Health Sector Reform that aims to decrease patient's share of hospital services and to provide special financial support for the treatment of patients with certain chronic diseases.⁴⁶ However, still those people on the lowest income cannot afford health services. They prefer to spend their little money on other necessities of life such as food; also, they prioritize meeting the needs of their children's lives over themselves.¹¹

Examples of vulnerable women who face more financial barriers to access healthcare are female heads of households and old women. Female heads of households are prioritized in all national development plans and health insurance and welfare policies of Iran; however, these women, particularly if they are refugee, disabled, or inhabitants of informal urban settlements or remote rural areas, are more likely to suffer from poverty.³⁸ Female heads of families

have a lower socioeconomic status, standard of living, and health than others. The rate of malnutrition and mental diseases such as depression and drug addiction are higher in this group. Most of them are not employed and often cannot afford quality hospital care.^{10,11} Another vulnerable group is the old women who often are economically dependent to their spouses and children in the provision of instrumental support and care. Iran has several plans to support old poor people. However, the support is not adequate to overcome the socioeconomic vulnerabilities of this group. Current economic crisis and increase of the costs of necessities of life have made the provision of instrumental support and care by children even more difficult.⁴⁷ Recently, the number of old people who are living in the streets has been increasing.⁴⁸

4.3 | Physical accessibility

Iran is a very large country with a lot of cities and villages scattered throughout the country in mountainous and desert areas. The Primary Healthcare system in Iran provides minimum necessary care throughout the country. Only a few rural areas do not have access to the health facilities and trained attendance in child birth.⁴⁹ In Iran, the number of secondary and tertiary health facilities is satisfactory; but they are not distributed equally all over the country.⁵⁰ The government has offered several incentives to attract medical specialists to work in remote and rural areas; however, less-developed provinces still lack specialists and hospital care.¹⁰ As an example, frequently, lack of access to gynaecologists and midwives in less developed, rural, and sparsely populated areas is reported.⁶⁻⁸ Some villages in remote or mountainous areas are cut off by snow for several months a year. Moreover, villagers might not have access to public transportation to visit a medical specialist in a city. Iran has trained a large number of community health workers and midwives, but they are not able to manage emergencies and complicated cases. Shortage of ambulances, medical equipment, and female doctors endanger the health of pregnant women. This situation has resulted in more maternal mortality and decreased women's quality of life in these areas.⁵¹ In some of the rural and remote areas, access to safe water and sanitation is limited too.³⁶

4.4 | Information accessibility

States are required to provide adequate resources of health information for everyone and to refrain from censoring, withholding, or misrepresenting of health information according to General Comment No. 14 ICESCR.⁵ In Iran, health information is an important service provided by the PHC network. It has had a significant role in the improvement of the health of women and their families. However, at the level of medical specialist and hospital care, the opportunities to acquire health information and to participate in decisionmaking are not satisfactory.⁵² For instance, a study showed that a significant number of pregnant women decided to have a C-section because of a lack of knowledge on delivery process and unnecessary concerns about the health of the child. In some cases, medical specialists even recommend them to have a C-section without any medical reason.⁵³

5 | DISCUSSION AND CONCLUSION

The review of health laws and policies of Iran indicates that almost all the obligations defined in international human rights treaties for protection of women's right to health are covered by national laws. Iran's Constitution recognizes the right to health as a fundamental human right of everyone. To realize the right to health, there should not be anyone deprived from the enjoyment of this right. All the vulnerable groups of women who cannot afford healthcare and are not covered by current support programs should be identified and supported. Disparities in the health status of women belonging to different socioeconomic groups of population and their access to healthcare should be removed. Iran should take steps immediately to improve the health and living situation of inhabitants of remote and rural areas

by providing enough healthcare facilities and urban infrastructure such as appropriate sanitation and safe water. Particularly, Iran should increase access to midwives and gynaecologists in these areas.

Empowering women by providing more opportunities for them to work will help them to become independent and have more control over their lives and health. Besides, enhancing the knowledge of society and women themselves about women's rights will be helpful in the removing discrimination and violence against women. Nevertheless, effective deterrent judicial means for the protection of women against violence are necessary.⁴⁵ The law that requires the consent of the husband to access health services is in contrast with the wife's rights to autonomy and control of her body and health, and should be amended. Also, at the level of health services, more attention should be paid to the mental and sexual and reproductive health of women and prevention of NCDs.

The health of girls is very important from individual and public health points of view. Child marriage should be prohibited in Iran, and children should receive age-appropriate education about sexual and reproductive health. An increase in the number of divorced girls in Iran necessitates special attention of the government to the empowerment of these children and providing them with social security measures and support. Since child marriage often happens among low socioeconomic groups of society, the government's ignorance of the economic and social rights of these children will endanger their future lives. Finally, the right to health is a right to underlying determinants of health too. Therefore, homeless women should be provided with a shelter; malnourished women should receive nutritious food, and poor women should be given social security means. Everyone, according to the Iran's Constitution and international human rights laws, should be provided with an adequate standard of living.

Finally, defining the rights in the constitution or legislation is not enough for protection of rights; they should be translated into reality. Iran should use all the necessary means including legislative, administrative, budgetary, and judicial measures towards the full realization of women's right to health. National plans on women's empowerment and support should be interpreted in provincial programs and action plans. They should include detailed lists of related authorities and their responsibilities. Moreover, a monitoring system and certain national benchmarks for tracing the progress of these plans should be established in Iran. Appropriate deterrent laws and sanctions should be defined for every third party, including men who violate the rights of women to access healthcare. Society has the potential to help the government to identify women suffering violation of their rights. The government should facilitate this collaboration and prepare needed facilities.

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