

*Sidwina*



# **Violations of Girls' Rights**

## **Child Marriage and FGM in the I.R. Iran**



**ALL HUMAN RIGHTS FOR ALL IN IRAN**



Südwind is an Austrian non-governmental organization, founded in 1979, and has been in consultative status with the Economic and Social Council since 2009. Since 2010 Südwind has participated in the Human Rights Council, delivering statements and organising parallel events amongst others on human rights in Iran.

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# Violations of Girls' Rights



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## Introduction

The past few years have seen an increasing concern about issues of gender and human rights in Iran – the woman's and girl's place in the private and public arena, gender segregation in education and discrimination against women and girls in law. Such issues include the phenomenon of female genital mutilation and child marriage, especially arranged marriages of girls to adult men, or even to elderly men.

Child marriage is a serious human rights violation affecting girl's and women's rights to health, education, equality, and to live free from violence. Children in the I.R. Iran are bought and sold under the guise of marriage for the purposes of sexual and labour exploitation or are even trafficked into forced marriages.

Female genital mutilation/cutting (FGM) violates girl's and women's human rights, denying them their physical and mental integrity, their right to freedom from violence and discrimination and, in the most extreme cases, their

lives. These are rights enshrined in the Universal Declaration of Human Rights and the Convention on the Rights of the Child (CRC). Iran is a signatory to both and has ratified the CRC in November 2001. Nevertheless, violence against women and children, especially girls, in this context continues to exist in various areas and regions.

*Wedding in Sirik, Hormozgan Province, Iran*





# Child Marriage in the Islamic Republic of Iran

Article 1 of the International Convention on the Right of the Child determines that everyone under the age of 18 is considered as a minor and therefore is unable to make informed decisions. Marriage before the age of consent is one category in which the child has no or little perceptive of the nature and the consequences of the act.

Article 1041 of the Iranian Civil Code states the age of marriage for girls is 13 and boys 15.

In addition, if the child's guardian (father or grandfather) requests and the court conclude that she/he is adult enough to be married off, the child can be married even at an earlier age. Furthermore, in September 2013, a bill on adoption of children under state care passed through the Iranian parliament and approved by the Guardian Council and consequently became law on 23 October 2013. Article 27 of the Bill sanctions the marriage of the adopted child to the man who is considered to be her father and raised by him.

The statistical figures presented by "vital information and statistics on the Islamic Republic of Iran" indicate the scope of violence of the rights of the child in this regard. Child early marriage and divorce in Iran is viewed according to official statistics. The total number of child marriages is considered far higher. This is because many marriages are not officially registered and records of small villages and rural areas are often not systematically collected.

Unofficial reports on the marriage of minors in rural and tribal areas between tribes as a way to settle bloody disputes are also not included in this report. The "blood gift" is usually an under-aged girl who will be exchanged without official marriage documents and acknowledgement and therefore treated as slave thereafter .

Issa Mussavi Nasab, foreign affairs general director

at the greater Tehran province, reported that in some rural areas young girls are sold to Afghan families in exchange of little money. Such marriages are not officially registered.

In 1385 (2006-2007) the national Personal Status Registration Organisation of the Islamic Republic of Iran reported a total of 33,383 marriages of girl children under the age of 15. This figure rose to 43,459 in 1389 (2010-2011) and declined to 40,651 in 1391 (2012-2013) from which 187 were under 10 years old. The number of boys who were married under 15 years old in 1391 (2012-2013) was 359.

## Marriage under 10

A total of 317 girl children under 10 were married in 302 ,(2007-2008) 1386 in 449 ,(2008-2009) 1387 in 716 ,(2009-2010) 1388 in 220 ,(2010-2011) 1389 in 2012-2011) 1390) and 187 in 2013-2012) 1391) in the I.R. Iran.

Regional data exists on marriages of children under

the age of 10 and their husbands' ages. According to Gholampour, former director general of the Personal

Status Registration Organisation in the Hormozgan province, 458 marriages of girls under the age of 14 were registered in the first 8 months of 2010) 1389), out of which 5 cases involved children under 10 years. Other figures include: 107 in Bandar Abass, 78 in the city of Minab, 37 in the city of Roodan, 72 in Jask and Bashagard, 10 in the port of Khamir, 34 in Bestak, 26 in port Lengeh, 6 in Parsian and 46 in Ghesm and 24 in Hajiabad. The husbands' ages varied between 27-17."

The number of registered marriage of girl-children under 10 was 540 in the province of Sistan



and Baluchestan, 16 in West Azarbaijan and 34 in Khuzestan.

Director General of Personal Status Registration Office in Tehran State reported 75 marriages of girls and boys under age of 10 in 1390 (2011-2012).

According to official statistics the rural areas of Esfahan and Sistan and Baluchestan registered the highest number of child marriages under 10.

### Marriage above 10

In 1388 (2009-2010) in the whole country 100 girls under 15 years old were married off to men over 50 years of age. This figure rose to 131 in 1389 (2010-2011).<sup>9</sup>

In 1389 (2010-2011) around 7200 children between 10-14 were married off in Sistan and Baluchestan; 5200 in Khuzestan and 2600 in Eastern Azarbaijan.<sup>4</sup>

In 1390 (2011-2012) Director General of Personal Status Registration Office in Tehran State reported the number of marriages of children between 10 to 14 was 3929 and 19,237 between 15-19 in the same year.

#### Provinces with the highest rate of child marriage

Year	Sex & age	Numbers in each province
2011	Girls under 10	Sistan & Baluchestan ( 79), Khuzestan (21), Kohkiloyeh & Boyer Ahmand (17)
2011	Girls between 10-14	Khorasan Razavi (6759), Eastern Azarbaijan (3348), Sistan & Baluchestan (2355), Khuzestan (2150), Fars(2097)
2011	Boys under 15	Sistan & Baluchestan (156), Khorasan Razavi(59), Khuzestan (54), Western Azarbaijan(52)
2012	Girls under 10	Sistan & Baluchestan (36), Khuzestan (35), Zanjan(15), Fars(12)
2012	Girls between 10-14	Khorasan Razavi(7350), Eas- tern Azarbaijan(3920), Khu- zestan (2243), Fars(1935), Hamadan(1972),Tehran(175 2),Western Azarbaijan(1681), sistan& Baluchestan (1664)





## Cousin Marriage

In the southwestern province of Khuzestan, cousin marriage is a norm. In such cases if the child bride declines such a marriage, her cousin has the right to kill her. In some cases other male family members such as male siblings or the bride's father join in the honour killing.<sup>11</sup> Article 301 of the Islamic Penal Code states "if the father or grandfather murder their daughter they will not receive Ghasas (retribution), the punishment will be: 1- paying the Dieh (compensation). 2- Exile from home by order of the judge. 3- Punishment (Ta'ziir) according to the judge's discretion. 4- Punishment of taking fast for two months (Kafareh).

If the father, brother or the cousin murders the girl, the father is recognised as the next of kin and eligible to forgive the murderers and settle the whole affair. According to the statistics, honour killings in the region of Kurdistan take the life of many women in only one city one woman is killed each month. Honour killing is carried out in other regions. According to official statistics, in 1388 (2009-

2010), 15 women were murdered due to honour killing in the province of Khuzestan.<sup>10</sup>

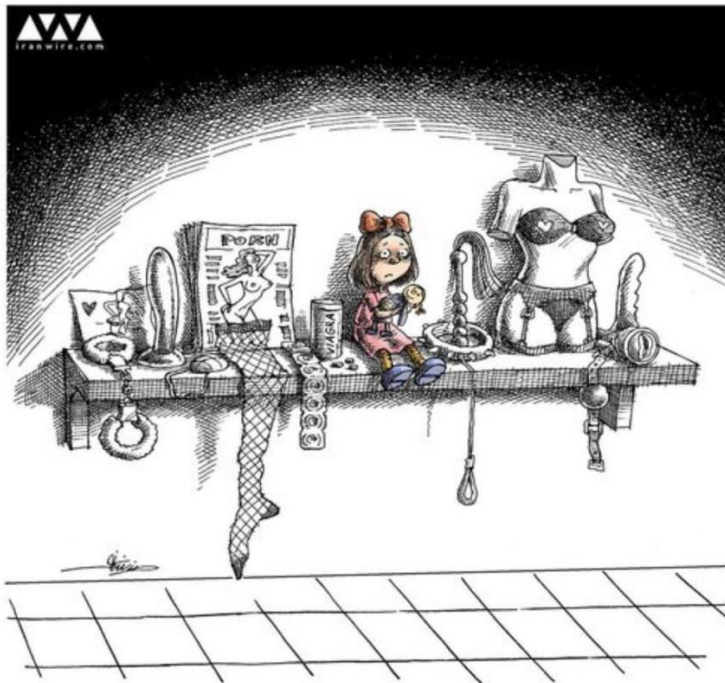
An official who did not want his name published reported that: "In 2006-2007 every two months one murder was reported in the south western regions; 10 murders each year."<sup>11</sup> In 2013, in the city of Bushehr 6 women were murdered under honour killing."<sup>12</sup>

## Causes and Consequences of Child Marriage

Child early marriage in poorer families and deprived areas can be compared to human trafficking and slavery. The family receives money in exchange for an under-aged child who can be abused both sexually and psychologically. Prevention of sin and unlawful sexual relations is another reason behind some cases of early child marriage.

(c) Cartoon website TAVAANA





(c) cartoon iranwire.com

#### Consequences for under-aged married girls

Deprivation from continuation of education and normal childhood. Article 53 of the education bill states conditions for married children as follows:

**Participation in the final exams without participation in the classes**

**Attending adult evening classes**

**Registering at school but not attending classes**

**Attending classes but not allowed to speak of married life**

Article 53 does not mention the gender of the married child but in effect married boys have no difficulty to continue their education as normal.<sup>13</sup>

**Long-term consequences of early child marriage:**

**Irreversible psychological damages**

**Tear of the vagina and bleeding, infection and sexual diseases**

**Early pregnancy and its consequences to the body of the child**

**Deprivation of normal childhood and having adult responsibilities which brings about anxiety, fear, depression and domestic violence.**

Changes to the Bill on the adoption of children under state care have sanctioned the possible marriage of the father to the child in his care. Article 27 of the Bill reads: "If the head of family wants to marry the adopted child, he should send her details to a court for approval. If the marriage has already taken place, Welfare State Organisation must report it to the court, upon which the decision on the continuation of the care by the same family or its cancellation will be decided."

Article 27 of the Bill on Adoption will have various consequences for the children under state care. Families will be cautious and more reluctant to adopt girls. Sanction of marriage between a child and the man whom she had considered her father while growing up will constitute instability and destroys the fabrics of the family. It contributes to rise in paedophilia which exists in many settings but not researched and acknowledged publicly. In the process of adopting and raising a child, the Bill allows the father to consider the child as a possible sexual being and deprive her of the security and care she needs within the family environment. The Bill paves way for the mother to consider the adopted child as a threat to her livelihood while growing up and that creates a situation with dire consequences for all involved especially the adopted child and other siblings and adoption of female children as a whole.





## Recommendations:

Changes in the Article 53 of the school rules, so that under-aged married children can continue their studies alongside their peers.

Steps taken to prohibit child, early and forced marriage by cancellation of Article 1041 of the Civil Law and bringing the age of marriage to the international standards and conventions which I.R.Iran is a signatory.

Implementation of strict rules on the registration of child marriages at the Notary offices and punishment for those who bend the rules and adopting measures and implementing strategies to eliminate the issue.

Setting heavy punishment for parents who marry their children or sell them at an early age. Simultaneously combat poverty and social exclusion as a preventative method.

Setting up courses and workshops for judges who work at family courts, on international convention on the right of the child. Setting up courses and workshops on international conventions on the right of child to all involved including those

at the welfare state, teachers, and the notary offices, the civil society activists and other relevant stakeholders to promote the elimination of child early and forced marriage.

Action taken to address the issue in communities involved and to address or mitigate its impact, making specific reference to the outcomes of such policies for the health of the nation especially children and women.

Inclusion of sex education and family planning to the school curriculum.

Cancellation of Article 27 from the bill on adoption.

Regular research, assessment and study at national and sub-national level on the prevalence of child, early and forced marriage and/or its impact on the human rights of women and girls and other affected groups.



## Female Genital Mutilation in the I.R. Iran

Female genital mutilation (FGM) is an age-old tradition which had since 1991 come to the attention of the world under a new definition. To reflect the severity of the practice, international organisations have defined it as: "mutilation of women's sexual organs". In the Islamic Republic of I.R. Iran, cutting women's genital organ is widely practiced in the southern regions. So far, two books and a number of articles had been published on this subject. The following report is based on the books "Tragedy of the Body", written by Fatemeh Karimi<sup>14</sup> and "Razor and Tradition" by Rayekeh Mozafarian.<sup>15</sup>

FGM is a violation of the human rights of women and girls as recognized in numerous international human rights instruments. International human rights covenants underscore the obligations of the United Nations member States to ensure the protection and promotion of human rights, including the rights to non-discrimination, to integrity of the per-

son and to the highest attainable standard of physical and mental health. Because FGM predominantly affects girls under the age of 18, the issue is also fundamentally one of protection of the rights of children. Furthermore, the present report will seek to analyse, the cruel, inhuman or degrading treatment and its damaging effects on the health of women and girls as well as punishment under the Islamic Penal Code of I.R. Iran.

### Statistic on Girls and Women undergoing FGM

Genital mutilation of women in the I.R. Iran is a taboo. Health organisations do not deal with, nor react to the issue and its dimension. Age pattern is different in the areas where FGM is carried out. Usually, it is performed on girls under 10 years of age. In some areas it is done after birth. But in the provinces of Ilam and Lorestan researched cases took place right before marriage. In the province of Hormozgan girls are mutilated at very young age. The girls are accompanied by their mothers and in clandestine. The practice is carried out without anesthesia and under catastrophic hygienic conditions. In some cases, some local traditional medications, in some cases Betadine<sup>16</sup> and alcohol, are used to clean the genitals. Sometimes the girls are forced to sit in a bucket full of ice to stop the bleeding.

The research of WADI<sup>17</sup>, a non-governmental organization (NGO), on FGM in the Iraqi Kurdistan, led to the assumption that FGM is solely performed in that region. Gradually, it was revealed that the practice exists in the Iranian Kurdistan and some other regions such as Hormozgan, Ilam and Kermanshah. Research has not expanded to other regions such as Khuzestan, Sistan & Baluchistan, Khorasan, Turkeman Sahra and Semnan. Howe-

*Razor to cut young girls' genitals*





ver, there is sample evidence that FGM is practiced in the six provinces of Kurdistan, Western Azarbaijan, Kermanshah, Ilam, Lorestan and Hormozgan and it is estimated that 70% of all FGM's in I.R. Iran belong to the provinces above.

In the I.R. Iran, as well as in other parts of the world where FGM is practiced, there is a strong belief that it will turn women into pure Muslims and the food they will be Halal. In some cases, women were not allowed to have sexual relations with their husbands unless circumcised. Some women consider it as fashion. According to women practicing FGM in Ilam and Lorestan after birth the clitorises becomes big and ugly and cutting it

makes it more attractive. Furthermore, a Hadith<sup>18</sup> tradition quotes that cutting the clitorises makes women prettier which seems to be another strong motive behind the practice. However, the most important reason behind mutilation is depriving women of sexual desires.

Statistics compiled by Mr Kameel Ahmady<sup>19</sup> and presented to WADI and UNESCO indicate widespread practice of FGM in the Iranian Kurdistan. Out of 1,000 respondents and 85 villages, where research was carried out, Western Azarbaijan had the highest number.

*Statistics by Mr Kameel Ahmady and presented to WADI and UNESCO indicate widespread practice of FGM*

<i>Province</i>	<i>Town</i>	<i>Number of Villages</i>	<i>Women Respondants</i>	<i>Circumsised Women</i>
Western Azarbaijan	Oshnavieh	7	84	56
Western Azarbaijan	Naghadeh	4	61	36
Western Azarbaijan	Mahabad	9	107	79
Western Azarbaijan	Sardasht	7	59	41
Western Azarbaijan	PI.R. Iranshahr	11	169	132
Western Azarbaijan	Bukan	8	76	45
Western Azarbaijan	Takab	10	127	98
Kurdistan	Baneh/ Marivan	10	133	84
Kurdistan	Sanandadj	4	39	16





*FGM carried out without anesthesia and under catastrophic hygienic conditions, in some cases Betadine and alcohol, are used to clean the genitals.*

Tahereh Pashaiee<sup>20,21</sup>, carried out a research on the prevalence and related factors on FGM among women in Ravansar<sup>22</sup>, Kermanshah. The total number of interviewed females was 348, aged between 15-49. 15% were illiterate, 27% had high school diploma, 85% married and 15% of which were housewives. Prevalence of FGM among women was 55.7%. The majority of FGM operations (87.7%) had been performed by traditional local female circumcisers. The respondents were also asked about their intention of subjecting their daughters to FGM in the future. About 47% of the respondents replied that their daughters should undergo FGM. Educational level of the mothers and women were negatively correlated with FGM ( $P < 0.001$ ). Keeping traditions (66.7%), cleanliness (17.2%), religious recommendations (2.7%) and sexual desire control (1%) were the main reasons for performing FGM. A large number of respondents, 56.9% believed legal ban on FGM will be effective to prevent it.

The age at which the practice was carried out and the also the number of girls who, themselves decided to be circumcised:

Age	Percentage
Before 7	54,4%
7 - 14	37,9%
After 14	7,7%



In a research carried out by Ahadi and colleagues<sup>23</sup>, in Minab, on 400 respondents, between 15-49, with 70% FGM rate, they noted two types of mutilation as shown in the table 4 below: 244 had damaged clitorises while in 35, the smaller lobes were also mutilated.

In Kong region<sup>24</sup>, research carried out by Jalali<sup>25</sup> on 400 women, aged 15-49 indicates 244 women have undergone mutilation of type 1 and 35 women have undergone mutilation of type 2. In this region, 53% who were in favour of the practice were Sunnis. A direct connection between education of women, that of parents and that of husbands, cultural limitations and the right to choose husband were recorded.

In a research carried out by Rayekeh Mozafarian in the island of Gheshm, among 400 women who used health centres, 333 (83.2%) were already mutilated, 59.7% were in favour to mutilate their daughters, while 73.3% had experienced it in their families. There is a direct and meaningful connection between sexual cliché, control of women's sexual desires and religious beliefs.<sup>26</sup>



Positive answer to Phrases	Circumcised type 2		Circumcised type 1		Not Circumcised	
	#	%	#	%	#	%
FGM is a tradition and should be done	23	65.7	143	58.6	26	21.5
FGM will cause the girls to be real Muslims	26	74.3	173	70.9	33	27.3
Men prefer circumcised girls for marriage	20	57.1	100	41	20	16.5
FGM preserves the girls from men rapes	11	31.4	76	31.1	11	9.1
more marriage chances for circumcised girls	10	28.6	36	14.8	10	8.3
Circumcised and non- circumcised girls are valued equally in society	12	34.3	125	51.2	106	87.6
Circumcised women give birth to the healthier children	19	54.3	115	47.1	16	13.2

### Qualitative Research

In the two books published on FGM; “Razor and Tradition” and “Tragedy of Body”<sup>27</sup>, interviews with victims and those who perform the practice had been recorded.

In Gheshm Island, Hava, a 65 year old, jolly woman tells that she had been performing FGM for 30 years in the island and Hormozgan province. She travels around, selling materials and offering her services to local women.

“I spread a plastic sheet on the floor with a piece of material on it. The girl sits opposite me between my legs in an L shape and a woman holds her from behind. If she cries I show no mercy and draw the razor and cut to where the vein is. I then hold the cut for 5 minutes to stop bleeding. To sterile, I use Betadine or alcohol. The whole operation takes 10 minutes, I advise them to avoid eating eggs, shark meat and shrimp for short while. At the end, the girls are awarded by throwing chocolate on their heads as confetti”.

When we met Hava she had just circumcised an older girl who was held by two men, who had closed their eyes. She uses half a razor for each girl. In the past two months she has circumcised 6 girls from Minab region who live in GheshmIsland. The busiest season for FGM is around March when the weather is mild.

Hava believes “an uncircumcised girl should not read the Quran. Whatever she touches is Dirty (Najes). This is the Prophet’s tradition (Sonat) and religious authorities have sanctioned it.”

Hava’s daughter-in-law says: “FGM will reduce women’s sexual desires and create a strong barrier to misbehaviour.”

Fereshteh is a young midwife in Basaeed village with two daughters. A short while ago, an old village midwife “circumcised” her older daughter and due to poor sight, cut the vein as well. Fereshteh decided to circumcise her second daughter herself. She washed the scissors, cleaned both the scissors and the clitorises with Betadine and cut the tip of it.

Fereshteh performs FGM on other girls in her village. She shows the mothers, the piece she cuts to assure them of the degree she has cut. Villagers are very grateful as they should not worry over finding a midwife. Fereshteh has asked the clergy who performs Friday prayers and he had emphasised on the importance of the act. She says if he orders me to stop the practice I will obey.

Farkhnodeh is a 30 year old married woman with a diploma in computing. She had studied just 5 years primary education when she got married. Her husband encouraged her to continue her studies. She had also studied midwifery and for that





she is often called in the middle of night to tend emergency deliveries or accompany women to hospital. Her husband, Ahmad has a BA in business administration. He had been working as mayor, administering the village of Dargahan and head of municipal for 4 years before being assigned as member of city council in Anbouhsazan in Hormozgan province.

Ahmad believes women's presence in the society is a necessity. This couple have planned their daughter's future and want her to go to medical school as the GhesmIsland needs local doctors. Non-local doctors leave the island after short stay due to unsuitable weather. Farkhondeh and her 11 year old daughter are both victims of FGM.

She says she dreaded the practice until she was 15 years old. She has circumcised her daughter when she was 9 months old. At the time she was not aware of the consequences of FGM. Now, she runs classes on health and "dangers of FGM". Despite this, her close relatives circumcise their daughters, as future husbands' rela-

ves require it. Farkhondeh says if she ever had another girl, she would never circumcise her.

Fatkhondeh believes women in GhesmIsland are unaware of orgasm and men never let them have such experience. They are happy with FGM as they can have intercourse as much as they want.

Reasons used to justify FGM are summarised as follows:

#### **Religion**

Nermin, 33 says her father was the village clergy and told her mother to circumcise her because the Supreme religion leaders have ordered Muslim boys and girls to be circumcised.

#### **Reducing sexual desire**

A 38 year old doctor believes a non-circumcised girls will be problematic for herself and family as they become old!

#### **Beautiful sexual organ**

Traditionell women in Sirik, Homozgan Province, Iran







Farideh, 28 believes in older age, the clitoris turns long and ugly. Cutting it keeps it prettier.

### Facilitating marriage

Sadieh, 46 says: "My mother did not insist on my FGM until I reached 16 and with a group of friends decided to do it."

### Family pressures

Chiman, 24 says: "My mother was being blamed for not circumcising my younger sister, as women in the family believed it is the Prophet's tradition and not practicing it was a risk to the faith of my sister."

## Human Rights Conventions & I.R. Iran

In 1994, I.R. Iran ratified the Convention on the Right of the Child (CRC). Girl/children are the main targets of the FGM.

Article 2 paragraph 2 of the Convention states that "States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."

Genital mutilation is performed by traditional practitioners who have learnt the skill from their predecessors. It is performed with the least hygiene and no anaesthetics. Shaving razor blade is used to cut the designated part (in I.R. Iran, only cutting the whole of clitorises or parts of it had been registered). Article 24 of the CRC put emphasis on the health of children.

According to Article 24 of the CRC: "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care.

States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 27 of the CRC: States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

A-Convention on the rights of persons with disabilities

Every year, thousands of women fall victim of mutilation of their sexual organs which are vital to a healthy sexual relationship. Victims of mutilation of their clitorises will be deprived for life of sexual pleasure during intercourse.

Having categorised cutting parts of female genitals as mutilation, the question would be raised whether it can be categorised as a disability. WHO defines Disabilities as an umbrella term, covering impairments, activity limitations, and participation restrictions, an impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations.

In 2004, the Islamic Consultative Assembly (parliament) of I.R. Iran passed a comprehensive bill on the right of persons with disabilities and the ministries of health and medical education were assigned to oversee its implementation. Under Article 1, the term person with disability is refer-



red to “Those identified by the medical commission as having physical, mental or both disorders with a lasting effect on their health and general ability, limiting their independence socially and economically.”<sup>28</sup>

In 4th September 2008, I.R. Iran ratified the Convention on the rights of persons with disabilities (CRD). The convention states that persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Women’s genital mutilation disrupts women’s health as it affects women’s ability to equally enjoy and participate in sex. As stated in the Convention, women’s genital mutilation is both physical disability and long term psychological harm especially in young girls.

Article 6 & 7 of the Convention refers to women with disabilities and children with disabilities. Both these articles are violated in cases of FGM. We should keep in mind that most FGM’s are practiced on girl children below 10 years old.

#### Article 6:

1-States Parties recognize that women and girls with disabilities are subject to multiple discriminations, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2- States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

#### Article 7:

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and

fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

In 2002, the Islamic Republic of I.R. Iran assigned the Welfare Organisation to be responsible for the persons with disabilities. This organisation has various departments, such as cultural and social department which includes between all, the office of “family and women empowerment” and also the office of “children and juveniles”. The department of prevention and treatment of addiction includes a sub office on preventing disabilities. However the most important department working with persons with disabilities is the rehabilitation department and one of its offices is assigned to empowerment of persons with disabilities. The welfare organisation is responsible for the mutilation of women as all its departments have the power to prevent, empower, inform and eradicate FGM.

### Islamic Republic Laws and Mutilation of Organs

In the Islamic Penal Code, there is no mention of genital mutilation. However, mutilation a part of the body or organs is a crime. Genital mutilation can be classified as a crime and the victim can petition the court under this law.

Since mutilation is carried out in childhood, it should be clear who can petition on behalf of the victim and how long after the crime committed will the complaint be dealt with? Does





the victim have the psychological strength to go through with a court proceeding?

#### Retaliation of body organs

Article 386 of the Islamic Penal Code effective since 27th May 2013 provides: "If done intentionally, any criminal act on a body organ will be punished due to the retaliation "Qisas" law in case that the person against whom the crime was committed or the guardian request it and other conditions specified in the law exist, else he will be punished due to the Blood money "Diya" and Ta'zir law.

Definition of retaliation (Qisas): It is the punishment to which the criminal shall be sentenced and is equal to his/her crime.

Definition of blood money (Diya): It is the monetary compensation prescribed by Shari'a for the crime. In cases in which an unintentional accident has occurred and as its consequence, a person is injured or dead, a liability for blood money is created.

Definition of Ta'zir: Ta'zir is the chastisement or punishment which its type and amount is not determined by Shari'a but left to discretion of the judge, such as imprisonment, fine and lashes.

Surely, a person who performs FGM has the intention of severing part of the organ and mutilating it. Muslims believe women have been created in keeping with the requirements of their nature. Their FGM is an interference of man, who deforms God's perfect creation. This interference does not respond to medical necessity or reasons of hygiene but rather aims to deprive women of pleasure and of the right that God has established for them.

Accomplice to the crime: Section 3 of Article 126 of said law: Everyone who supplies the means for committing a crime or showing him/her the method is considered an accomplice.

Given the above circumstances, is not the father, mother or any other person who is entrusted with the guardianship of a girl and delivers her up to the "FGM" blade an accomplice?

#### Complainant

As FGM takes place when a girl is still a child and legally considered a minor, who may file a complaint for the crime that was committed against her?

According to Article 2 of the law regulating the procedure at general and Islamic courts in civil matters ratified in 1379 (2000/2001 A.D.): "No court may handle a complaint unless the person or persons concerned, their lawyer, proxy or legal representative has requested the handling of the complaint in accordance with the law."

Pursuant to Article 66, repeating the Criminal Court Procedure Act: "In cases where the person against whom the crime was committed is a minor or without legal capacity and criminal prosecution is dependent on the complaint of a private plaintiff and there is no access to the father, paternal grandfather or guardian of the person without legal capacity or if the person against whom the crime was committed does not have a representative or guardian, the public prosecutor or interrogator or any other authorities who are legally responsible for prosecuting criminal matters must implement the required measures for preserving and gathering the evidence of the crime and for preventing the escape of the accused."

According to Amendment 219 to the law regulating the procedure at general and Islamic courts (in criminal matters) ratified in 1378 (1999/2000 A.D.): "A minor is a person who has not reached maturity in terms of Islamic law." And, according to Amendment 1 to Article 1210 of the Civil Code: "Boys reach maturity when they complete 15 years and girls when they complete 9 years." A minor is under the guardianship of his or her father or paternal grandfather.

Article 1180 of the Civil Code: "A minor is under the automatic guardianship of his or her father or paternal grandfather." Article 1188 of the same law: "The father and paternal grandfather, respectively, may after the passing of the other appoint a guardian for the children who are under his guardianship so that the guardian will take care to protect and raise them after his death and to manage their assets."





Article 1194 of the above-mentioned law states: The father and paternal grandfather of the guardian who has been appointed by one of them is designated as the special guardian. In case the child does not have a father or paternal grandfather or a guardian appointed by them (special guardian), a representative is appointed for him or her by the court. The representative can be the mother. Article 1218 of the same law states: “For the following persons a representative is appointed: for minors who do not have a special guardian [...]”

To seek justice, the child’s legal guardian has to send application to the court and in the absence of such person, the carer can file the complaint.

In the I.R. Iranian context, there is a difference between the guardian and the legal carer. Father and grandfather is the legal guardian and do not require court sanction; while the legal carer is assigned by the court with less power over the child.

In crimes where the victim must be the plaintiff, age of maturity is taken into account. In I.R. Iran, this is 9 for girls and 15 for boys. However, as 18 is recognised the age of adulthood, the courts take that into account. If the plaintiff is under-aged, her guardian or legal carer must file the complaint.

#### Time limit

Parents or the guardian will not file a complaint against themselves for genital mutilation of their daughter. Therefore, the girl must reach the legal age to file the complaint and seek justice, in which case there will be years of gap in between and the courts will be reluctant to accept the complaint. Lawyers need to look at the issue from a legal point of view.

#### Psychological capacity

Genital mutilation is a crime but the time gap between the crime and filing the complaint and the psychological strength of the victim are important factors. Most victims come from traditional backgrounds where women are con-

sidered to give men sexual pleasure. Filing complaint in such families against other members requires tremendous courage as she might be prone to other types of violence should she file the complaint.

### Islam and FGM in the I.R. Iran

FGM is not directly addressed in the Quran and other reliable religious sources. However, various interpretations indicate an acceptance of the practice. Quran teach Muslims that “In God’s creation, everything is complete. God does not create anything with fault.”

In researching relations between religion and FGM, it was understood that in the Shafi’i Fiqh I.R. Iran (one of the 4 directives of Sunni Islam), circumcision for both men and women is mandatory and all followers must follow it. Reasons are quoted from Prophet Ibrahim and Prophet Mohammed and those who had looked into archaic texts repeatedly emphasised on it.

In the societies where the research was carried out, most of the population were Sunnis of Shafi’i branch of Islam. However, there is difference of opinion among the clergy on the necessity of circumcision for both men and women. The majority of them emphasised on the necessity of this harmful practice rather than it being a mere tradition.

#### Shi’a branch of Islam and FGM

In some parts of the world FGM is not related to any religion. Rather, it is a tradition and cultural practice. In I.R. Iran, it is mostly practiced among the Sunni Shafi’i. But evidence indicate that Shi’a women in Illam, Kermanshah (women followers of AhlehHagh sect) and Lorestan provinces practice it, mostly because they live in close proximity with the Shafi’i Sunnis.

The official religion in I.R. Iran is Shi’a. Furthermore, laws that pass through parliament and Fatwas play an important role in people’s perception on various social issues. A Supreme religious leader is a clergy of high ran-

king degree with followers who obey his orders on religious matters. A change in the perception of the clergy, both Shi'a and Sunni is an important step to stop FGM.

RayehMozafarian asked some of the Supreme religious leaders about FGM. Apart from 3, who publicly denounced it, the rest were in favour of the practice.

The question was: „What is your sentence (Fatwa) about FGM?“

„It is not Haram.“<sup>28</sup>

Ayatollah Sistani



„It is permissible but not obligatory. Discussion of reasons is in place of argumentative and juridical topics.“

Ayatollah Khameneie

„Women are not circumcised. Islam has been the subject of circumcision of the male penis. Because the women do not have this part of genital.“

Ayatollah BayatZanjani



„We have ordered a ban on it.“

Ayatollah MakaremShirazi (Ayatollah

Makarem Shirazi's book is titled "Fatwa and Gender Roles" (Istifta)

„Female circumcision is an obligatory consensus among Shiite scholars, but they have stated that the practice is recommended (Mustahabb). Now Shi'a Muslims do not practice it. All the Shi'a

scholars believe that the practice is not necessary. It does not need to be done. (Volume 2, p 377)“

„Circumcision is a tradition and it should be done only for men. It is not Wajib<sup>30</sup> for women.“



Ayatollah Saanei

„Some Hadith<sup>31</sup> indicated that this operation is desirable for women.“

NouriHamedani



„Circumcision is not Wajib for women. Please see the book which is titled "First University and Last Prophet" that Mr Pak-Nejad wrote published.

First university and last prophet": Female circumcision entered into Islam for women who have large clitoris. Then they enjoy more during intercourse. The remaining sections of male and female circumcision the Prophet Mohammed said: Um Atiyat al-Ansariyyah, a woman used to perform circumcision in Medina: Do not cut too severely as that is better for a woman and more desirable for a husband. P 561- 661 “

Safi Golpaygani



„Women can do circumcision like men. It means they can cut some part around their vagina. This action is not haram in Islam religion and is common among the Sunnis. It is believed that woman become more desirable for their husbands. In a hadith the Prophet confirmed and sanctioned the practice.“

Javadi-Amoli



There was also a more comprehensive answer of the Supreme Leader of IR. I.R. Iran on the following question:





“Although Female Genital Mutilation is harmful to women, why had the Supreme Religious leaders not taken a decisive stand against it?”

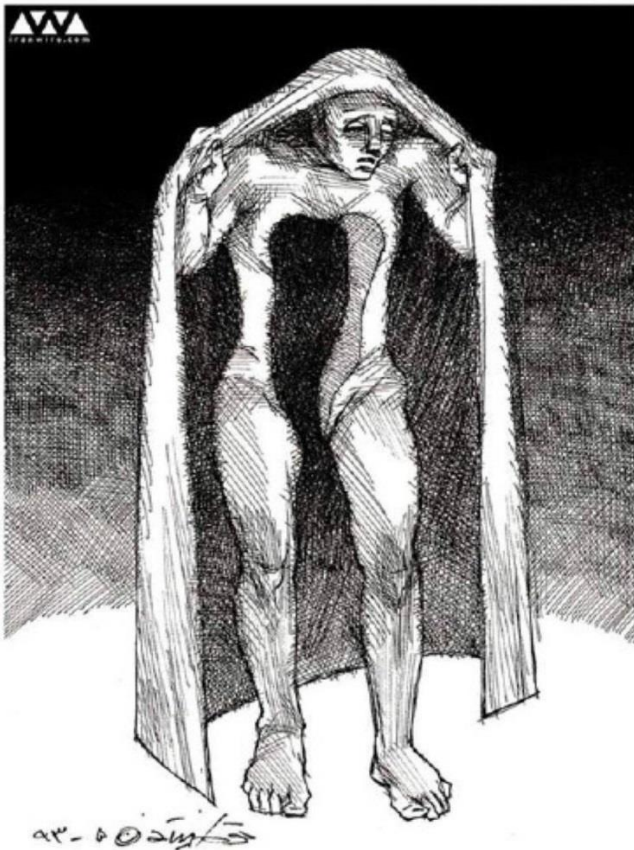
Of course, we looked at the relevant Hadith on the matter. The overall view of the Imamas affirms male circumcision as obligatory practice but FGM is not obligatory.

If FGM is harmful why had it not been prohibited but left to the discretion of the society?”

On the Supreme leader’s advisory site it reads:

“Circumcision is not a custom among the Shi’a but some references indicate that it is not harmful either (given the hygienic condition provided). Since nowadays social norms and traditions have changed this act like many other practices is outdated.

Cartoon Iranwire.com



Women can be circumcised like men, meaning cutting around the vagina. In Islam this is not forbidden (haraam). The Sunnis practice female circumcision. It makes women more attractive in the eyes of their husbands.

In a credible Hadith it is noted that when Prophet Mohammed was migrating, a woman named Umma Habib who circumcised women came to the Prophet. The Prophet asked her whether she still did what she had been doing?

She replied, yes, oh God’s Messenger unless you order me to stop.

The Prophet replied: “No, it is permissible (*halal*). Just be careful not to cut deep. A little and that make the woman’s skin shining and smooth and dearer to her husband”

This Hadith is used to affirm that the practice brought much pleasure to the husband. Secondly, it advises to avoid excessive mutilation as it leaves negative impact on the future of marital relations.

In another Hadith it is quoted that “Hajar, Ismail’s mother was circumcised by Sareh, Ishaq’s mother out of spite but that made her better and thereon the practice continued”<sup>1</sup>.

Of course today, it is not practiced among the Shi’a but referring to the Hadith it is not forbidden either (considering hygiene issues)

For further questions contact the Supreme Leader’s office.”

### Recommendations:

In her book “The Tragedy of Body”, Fatemeh-Karimi summarises reasons and offers suggestion to eradicate FGM.

More modern interpretations by religious leaders who are not in favour of FGM.

Decreasing of the number of surgeons because of death or old-age.





fWomen's serious attention to the nurses and doctors advices.

Watching satellite channels

In 2010, RayeheMozafarian organised a workshop at the UNFPA office in the city of Shiraz. Recommendations of the participants were as follows

Attempts to ban the practice through law

Awareness and developments in local communities

Religious leaders to participate in communication networks

Asking the media to create self-help campaigns

IEncouraging women to talk about their experiences

Unless the I.R. Iranian government take vital steps towards the elimination of the practice of

FGM, efforts of limited number of social activists and enthusiasts without necessary financial support will not uproot the practice. To encourage the government to address the issue will be an important step forward. The government is able to allocate resources to the existing health centres which are operating in almost all rural areas to educate the people to the necessity of the elimination of FGM. TV documentaries can also play a vital role on the issue. Religious authorities and local sheikhs can play a decisive role as people traditionally obey and respect their views. Therefore, their approval would be the final step towards elimination of FGM.





- 1 . A/HRC/24/NGO/112 (Forced marriages to stop revenge)
- 2 . <http://www.tebyan.net/newindex.aspx?pid=240397>
- 3 . The Calendar year in Iran begins with 21st March and this report is prepared in 1392 of Iranian Calendar. All Statistic prepared in the country are due to Iranian Calendar, i.e. 1385 (21 March 2006-20 March 2007).
- 4 . Public Notary <http://www.sabteahval.ir/Upload/Modules/Contents/asset90/engbo.pdf>
- 5 . <http://www.magiran.com/ppdf/nppdf/2387/p0238715930111.pdf>
- 6 . <http://www.feministschool.com/spip.php?article7389>
- 7 . Demographics year book 1391; printed in September 2013 by the Organisation of Public Notary Offices of the Islamic Republic of Iran
- 8 . <http://www.magiran.com/ppdf/nppdf/2835/p0283534140151.pdf>
- 9 . <http://www.tebyan.net/newmobile.aspx/Comment/index.aspx?pid=239366>
- 10 . <http://www.radiozamaneh.com/101566#.Upc-L-JGam0>
- 11 . <http://www.tabnak.ir/fa/pages/?cid=68015>
- 12 . <http://www.etemaad.ir/Released/92-05-07/97.htm>
- 13 . <http://www.tabnak.ir/fa/pages/?cid=77082>
- 14 . Karimi, F. (2010). Tragedy of the Body. Tehran: Roshangaran Women
- 15 . Mozafarian, R. (2013). Razor and Tradition. Paris: Naakojaa Human science
- 16 . Antiseptic iodine tincture (Povidone Iodine) which is widely used in Iran
- 17 . Verband für Krisenhilfe und solidarische Entwicklungszusammenarbeit
- 18 . Hadith in religious use is often translated as ,tradition‘, meaning a report of the teachings, deeds and sayings of the Islamic prophet Muhammad. The hadith literature was compiled from oral reports that were present in society around the time of their compilation, well after the death of Muhammad.
- 19 [www.Kameelahmady.com](http://www.Kameelahmady.com)
- 20 . Pashaei T, Rahimi A, Ardalan A, Felah A, Majlessi F (2012) Related Factors of Female Genital Mutilation (FGM) in Ravansar (Iran). J Women’s Health Care 1:108. doi:10.4172/2167-0420.1000108 (<http://www.intact->





21 . Pashaei T, Rahimi A, Ardalan A, Felah A, Majlessi F (2012), Prevalence and related factors of FGM among women referring to the Health Centres in Ravansar. *Journal of School of Public Health and Institute of Public Health Research* 2012;9(4): 57-68 ([http://sjsph.tums.ac.ir/browse.php?a\\_id=38&slc\\_lang=fa&sid=1&ftxt=1](http://sjsph.tums.ac.ir/browse.php?a_id=38&slc_lang=fa&sid=1&ftxt=1))

22 . Ravansar is a city in Kermanshah Province, west of Iran. This city is about 120 km far from the Iran-Iraq border and Kurdish is the language which is predominantly spoken in this region.

Ahadi H.,Khadivzadeh T., Seyyedialavi Gh, Esmail H. (2003), Women's circumcision in Minab : Prevalence, knowledge, attitude, *The Journal of Qazvin Univ. of Med. Sci.* No. 28 , Autumn Supplement 2003 ([http://journal.qums.ac.ir/files/site1/user\\_files\\_cc066c/admin-A-10-1-82-89ebf90.pdf](http://journal.qums.ac.ir/files/site1/user_files_cc066c/admin-A-10-1-82-89ebf90.pdf))

24 . Bandar-e Kong (Kong port) is a Coastal region in south Iran in Hormozgan province.

25 . Reza Zade Jalali P. (2007), Cultural backgrounds of violence against women with emphasise on FGM in Kong port, PHD thesis, Free University of Rude Hen, NBN: 1149464

26 . Same as reference 2

27 . Same as reference 1

28 . Islamic Consultative Assembly correspondence no. 16078, dated 26th May 2004

29 . Haram is used to refer to any act that is forbidden by the God. Acts that are haram are typically mentioned in the religious texts of the Quran and the Sunnah (tradition)

30 . Wajib is an Islamic term which denotes a religious duty commanded by God

31 . In the religious usage Hadith is often translated as ,tradition', meaning a report of the deeds and sayings of Prophet Muhammad. The Hadith literature does not qualify as primary source material as it was compiled from oral reports that were present in society around the time of their compilation, well after the death of the Prophet Muhammad.