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Review Article

What does the Constitutional Right to Health Mean for Women in Iran?

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Abstract

In Iran, discrimination based on gender in the enjoyment of right to health is prohibited. Health of Iranian women has improved considerably in recent years. Making health services physically and financially accessible to all the population and removing social and cultural barriers of women's access to health services are main considerations of health laws and policies of Iran. But in practice, disparities in health indicators and access of women to health services can be seen. Some groups of women including unemployed women, women without an appropriate male guardian, widows, divorced women, women living with disabilities, migrant and indigenous women, women belonging to ethnic and religious minorities, elderly women, street women, rural women, and poor women do not have equal access to health services in Iran. To realise everyone's right to health, this country should immediately remove the disparities.Empowerment of women and providing opportunities for them to work and participate in the society will help them to enjoy their rights too. Defining rights in the Constitution or legislation is not enough for the protection of rights, they must be translated into realities. Iran should use all the necessary means; legislative, administrative, budgetary, and judicial towards the full realisation of women's right to health. National plans on women's empowerment and support should be interpreted in provincial programs and action plans with detailed lists of related authorities and their responsibilities. Moreover, a monitoring system and defined benchmarks for assessment of women's enjoyment of right to health should be established in the health system of Iran. Realising other economic, social and cultural rights including the rights to food, shelter, education, employment and a standard of life will improve the enjoyment of Iranian women's of their right to health.

Introduction

Right to health is recognised by several international human rights treaties such as Universal Declaration of Human Rights (UDHR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). According to 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]. ICESCR defines right to health as a right to "enjoyment of the highest attainable standard of physical and mental health." Any discrimination of any kind 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 probably to be poor, unemployed and economically dependent to men [3]. Therefore, women's right to health and equal access to health services should get special attention in national and international health policies.

Equality of men and women in the enjoyment of their human rights including right to health does not mean that difference is not admitted at all. Being a man or women must not be regarded as an advantage in access to health care. Sociocultural and biological factors influencing health of men and women are different and it may call for special care for women, for example during pregnancy. Therefore, national health policies should have a gender-based approach. 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 them from domestic violence and harmful traditional practices and removing all the barriers of women's access to health services and information [4]. According to General Comment no. 14 of ICESCR, accessibility of health care services has four overlapping dimensions; non-discrimination, physical availability, affordability and information availability.

Iran has ratified ICESCR and several other international treaties which recognize 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 is in conflict with the country's laws. However, the conflict is not about women's right to health and still Iran

has obligations regarding women's right to health. In this country, there are several vulnerable groups of women from different socio-economic statuses such as the poor women, female heads of families, the indigenous and women without a male guardian who sometimes face difficulties accessing health services. Based on studies of Karyani and et al. (2015) Haghdust and et al. (2011) and Mostafavi and et al. (2015) women do not have equal access to gynaecologists and midwives in less developed, rural and sparsely populated areas of Iran [5-8]. Another study by Seyedfatemi and et al. (2015) female-heads of households have a lower health status and less access to health care [9,10]. These studies often focused on health status and access of small groups of women living in a specific area to health services. However, laws recognising rights of Iranian women to health care are rarely studied and compared to international laws. Lack of access to health care can have a root in inadequacy of national laws. Also, upon ratification of an international instrument, it is binding and must be performed and given effect in domestic laws.

This study aims to determine that according to national and international laws, what women's rights to health in Iran are and whether the national laws have addressed all the vulnerable groups of women and to find out if there is any obligations determined by international human rights law that has not got attention in national laws of the country. Looking to international laws is helpful to find shortcomings of national laws and analyzing the implementation of national laws shows which parts of national laws do not work and need to improve. In the following sections, first, Women's health and right to health in Iran are reviewed. Next, women's access to health care in Iran from four points of views (non-discrimination, physical availability, affordability and information availability) is analysed. The conclusion section suggests necessary changes in the policies and laws of Iran to better respect 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 human rights laws and the reports of related committees and organisations and at national level, the constitution, development plans, health policies and laws, state's reports to Unite Nations Treaty Bodies and academic literature are securitized.

Women's health and right to health in Iran

In the Constitution of Iran, the principle of non-discrimination in the enjoyment of human rights is guaranteed and right to health services is recognised as a universal right. The Constitutionobliges the government to support pregnant women during pregnancy, child bearing and custody, as well as poor women without a guardian and old women (11). Women's health is defined as a complete physical, mental, spiritual and social welfare and not absence of diseases and disability by the law in Iran [12]. Iran's laws on health of women have a comprehensive approach that encompass health and determinants of health such as nutritious food, social security, welfare, education and work, and involve different stockholders and consider the health needs of women's life spams [13].

Charter of Rights and Responsibilities of Women in Iran 2004 which is the main legal document determining rights and responsibilities of Iranian women guarantees right of women to health services, in particular, maternity care, safe delivery, prevention and treatment of sexually transmitted diseases and reproductive health [14]. Moreover according to this charter, the government is needed to consider the health needs of women in all the policies and programs, to remove cultural, social and financial barriers of women's access to healthcare, and to increase women's knowledge and participation in making decisions related to their health. Moreover, the government is required to take all the necessary means for prevention and reduction of domestic violation against women and enhance the knowledge of families about equal treatment of girls and boys [12]. Also, the government is obliged to provide a system of advocacy and consultancy for protection of women's rights and remedying the inequalities [13]. The right to a healthy work place and equal opportunities to work and development for men and women are other government's obligations addressed by law in Iran [12].

In recent years, health of women has improved significantly in Iran and now, it is ranked as one of the best in the Eastern Mediterranean region. Life expectancy at birth of women increased from 51 in 1980 to 74.5 in 2014 [15]. Also, maternal mortality rate reduced by more than 80% from 1990 to 2008. Establishment of PHC network throughout the country, prioritization of maternity care, training a large number of community midwives and establishment of confinement facilities in rural areas have had the main role in improving maternal health in Iran [16]. More than 95% of child deliveries are assisted by an educated health assistant. However, there are significant disparities in health indicators such as life expectancy and maternal deaths in different provinces. For example, health indicators are the worst in the province of Sistan and Baluchestan. Life expectancy in this province is 12.6% less than the capital city, Tehran. Furthermore, more than 50% of maternal mortality in deprived provinces are reported to be preventable. Also, the number of health facilities is not enough in in remote rural areas of this province [17,18].

Another issue related to health of women is child marriage that is respected by law in Iran. Girls are allowed to get married at the age of 13 and even younger (if court agrees) [19]. In 2013, about 32.000 girls younger than 15 years old got officially married [20]. The number of children's unofficial marriages is much more. In addition, 2.8% of all the births were from mothers younger than 18 years old in 2012 [21]. Early marriage and childbearing can endanger health of mother and her child. A more important issue about girl-children is that the knowledge of children about sexual and reproductive health (SRH) is not enough. Unavailability of SRH information and skills threatens health of adults too. Iran does not have a national policy on SRH; but, it used to have a 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 provision of family planning services in Primary Health Care system. Now these services are given to people with high risk behaviour and high risk pregnancies [22]. Limited access to reproductive health information and contraceptives can result in unwanted pregnancies, sexually transmitted diseases, HIV infection, and pregnancy-related illness and death. Studies showed that the prevalence of HIV/AIDS among Iranian women has increased by 550 % from 2007 to 2015 [18]. Most of these women are infected via sexual relationship with their partners [23]. It seems that Iran is in an immediate need for a national SRH policy which empowers women in preserving their health.

Other major programs of Iran about the health of women are reducing rates of CS section and control of non-communicable diseases (NCDs). Because of high percentage of pregnant women who decide to have CS section without any medical reason, the government defined incentives for natural confinement and put limitations on unnecessary CS sections in the Health Sector Evolution Program 2014. All the health services related to natural confinement is free in public hospitals. In the case of unnecessary CS section, the specialist performing it and the hospital administrators will face punitive measures. Also, health insurance organisations will not pay the costs of such procedure [24]. On the other hand, 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 life style [25]. Chronic respiratory diseases, cancer and other NCDs are ranked as the major causes of death among women [26]. Iran recently has advised a health program for control of NCDs that includes periodical check-ups and education on healthy life style of adults [27]. However, mental health has not got enough attention in the health policies of Iran. The prevalence of psychological disorders, particularly depression and anxiety is high among Iranian women [25]. While, insurance companies do not cover mental health services appropriately, and there is a shortage of related facilities and specialists around the country.

Women's Right to Determinants of Health

Right to health is an inclusive right that includes not only a right to health facilities, goods and services, 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 [4]. Almost all the development plans of Iran include programs on empowerment of women. Through providing equal educational opportunities for girls and boys, the rate of literacy among Iranians women has improved considerably. Statistics showed that more than 80% of women were literate in 2013 [28]. But, still the rate of employment of women is much less than men [29]. They are often financially dependent to their spouses, fathers or children.

In the laws of Iran, men are regarded as the breadwinners of family and women are considered in the need of a male guardian to provide necessities of life for them. This notion of different roles of men and women has influenced employment policies of the government. 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. Moreover, the government has introduced an insurance and social security package to support housewives but it is not accessible for women who do not have any source of income for paying the premium. In general, Iran's programs for supporting women do not support all the target population. Moreover, in recent years, the number of women in need of financial support has increased. Economic crisis of the country caused by international economic sanctions, years of war and inappropriate resource management of the government have had a sever effect on welfare of Iranians [30]. It increased inflation and unemployment and decreased financial accessibility of health services [31]. The effects has been more immense on Iranian women. In recent years, Iran is confronting a new phenomenon of street women and significant increase of poor addicted women and sex workers [32]. These women face more violence and do not have equal access to necessities of life such as health services, food and shelter.

Protection from violence is another important part of women's right to health. In Iran, there is no official statistics about the prevalence of violence against women. While, the legislative framework to combat domestic violence against women is not sufficient [33]. Being free from harmful traditions such as female genital mutilation (FGM) is a part of right to health. Different studies showed that FGM is common among some ethnic communities living in Iran [34-36]. Based on the Islamic Punishment Law of Iran, mutilation is a criminal act [37]. However, to eradicate such an act which is rooted in the culture of people, legislation is not enough. The government should use all the necessary means such as education in this regard.

Women's access to health care in Iran

According to General Comment no 14 ICESCR, to realise right to health, states must ensure health services, goods and facilities are accessible to all. Accessibility has four dimensions; non-discrimination, financial, physical and information accessibility. Health services, goods and facilities should be provided to everyone without any kinds of discrimination. They should be affordable to all; people without necessary means should be supported by appropriate health insurance. Also, they should be in a safe physical reach of everyone and the information related to them should be accessible to all [4].

Non-discrimination: Equality of men and women is guaranteed by the Constitution of Iran. It also defines abolition of all forms of unjust discrimination, as well as provision of equal opportunities for everybody to access food, housing, work, healthcare and social security as two important goals of the country [11]. The only difference that Iran's low recognises between men and women is that husband's consent is a prerequisite for access to some health services such as tubectomy, abortion, CS Section, infertility treatment, hysterectomy, sex reassignment surgery, organ transplantation and cosmetic surgeries [38]. Third party authorization requirements for accessing health care is against the right to health according to the Committee on ESCR; therefore, Iran should reconsider this law.

Financial accessibility: Primary health services 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 past years, the share of people of health services' costs was considerable. In 2014, Iran advised the Health Sector Evolution Program, which aims to decrease patient's share of hospital services and provide special financial support to poor patients with chronic diseases [39]. However, still lowest income population cannot afford health services. They prefer to spend their little money on other necessities of life such as food; also, they prioritise meeting the needs of their children's lives over themselves.

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 prioritised in all national development plans and insurance and welfare policies of Iran; however, these women, particularly if they are refugees or disabled or inhabitants of informal urban settlements or remote rural areas, are more probably to suffer from poverty [33]. Female heads of families have lower socio-economic status, standard of life and health than others. The rate of malnutrition and mental diseases such as depression and drug abuse are more in this group. While most of them are not employed and

often cannot afford quality hospital care [9,10]. Another vulnerable group is old women who often are economically dependent to their spouses and children in provision of instrumental support and care. Iran has several plans such as National Strategic Plan for Elderly 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. Recently, the number of old people who are deserted in the streets has been increasing [40].

Physical accessibility: Iran is a very large country with a lot of cities and villages scattered throughout the country in mountainous and desert areas. Primary Health Care system in Iran provides minimum necessary care including immunisation, maternity and child care, health education and school, environmental and occupational health throughout the country. Only a few rural areas do not have access to health houses and trained attendance in child birth [41]. Moreover, the number of secondary and tertiary health facilities are satisfactory; but they do not distributed equally all over the country [42]. The government has provided several incentives to attract specialists to work in remote and rural areas, however, still less developed provinces lack specialists and hospital care [10,16,30]. Frequently, lack of access to gynecologists and midwifes in less developed, rural and sparsely populated areas is reported [5-8]. Some of the villages in remote or mountainous areas are blocked by snow for several months a year. Moreover, villagers might not have access to public transportation to visit a specialist in city. Iran has trained a large number of community health workers and midwives; but they are not able to manage emergencies. Shortage of ambulance, medical equipment and female doctors endanger the health of pregnant women. This situation has resulted in more maternal deaths and decreased women's quality of life in these areas [43]. Iran must take steps immediately to improve health situation of inhabitants of remote and rural areas by focusing on the health infrastructure and providing appropriate sanitation and safe water. Particularly, Iran should increase access to midwives and gynaecologists in these areas.

Information availability: States are required to provide adequate resources of health information for everybody and to refrain from censoring, withholding or misrepresenting of health information according to General Comment no 14 ICESCR [4]. In Iran, health education is an important service of PHC network that has had a significant role in the improvement of health of women and their families. However, at the level of specialist and hospital care, the opportunities to acquire health information and participate in decision making is much less [44]. For instance, a study showed that a significant number of pregnant women decided to have CS section because of lack of knowledge on delivery process and unnecessary concerns about the health of child. Also, specialists recommend them to have CS section without any medical reason [45].

Discussion and conclusion

Constitution and health laws of Iran guarantee equity in access to health care for all. The laws of Iran do not exclude people from accessing health services, while often obliges the government to provide necessary financial means for disadvantaged groups particularly vulnerable women. Making health services physically and financially accessible to all the population and removing social and cultural barriers of women's access to health services are main considerations of health policies of Iran. But in practice, disparities in health indicators and access of women to health services can be seen. Many groups of women including unemployed women, women without an appropriate male guardian, widows, divorced women, women living with disabilities, migrant and indigenous women, women belonging to ethnic and religious minorities, elderly women, street women, rural women, and poor women do not have equal access to health services in Iran. To facilitate access of everyone to health services, this country should immediately remove the disparities.

While the Constitution recognizes right to health as a fundamental human right of everyone, there should not be anyone deprived from enjoyment of this right. All the vulnerable groups of women who cannot afford health care and are not covered by current programs must be identified and supported. Empowering women and 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 about women's rights will be helpful in the removing discrimination and violence against women. Nevertheless, effective deterrent and judicial means for protection of women against violence are necessary. The law that requires the consent of husband to access health services seems to be in contrast with women's right to autonomy and control one's body and health and should be reviewed. Also, at the level of health services, more attention should be paid to mental and sexual and reproductive health of women. Even though, there is a policy on prevention and control of NCDs, still the approach of PHC has not appropriately changed to implement this policy.

Review of health laws and policies of Iran indicates 1) that almost all the obligations defined in international human rights treaties are covered by national laws; 2) most of necessary legal means for protection of women's right to health are provided. However, defining the rights in the Constitution or legislation is not enough for protection of rights, they must be translated into realities. Iran should use all the necessary means; legislative, administrative, budgetary, and judicial towards the full realisation of women's right to health. National plans on women's empowerment and support should be interpreted in provincial programs and action plans with detailed lists of related authorities and their responsibilities. Moreover, a monitoring system and defined benchmarks for assessment of women's enjoyment of right to health should be established in the health system of Iran.

Health of girl-children is very important from individual and public health points of views. Child marriage should be prohibited in Iran and children should receive age-appropriate education about sexual and reproductive health. Increase of divorced girl-children in Iran means that the government should pay special attention to empowerment of these children and providing them with social security measures and support. Since child marriage often happens among low socio-economic groups of societies, government's ignorance of economic and social rights of these children will endanger their future lives. Finally, right to health is a right to determinates of health too. Therefore, homeless women should be provided with a shelter; malnourished women should receive nutritious food, poor women should be given social security means. Everyone, according to the Constitution and international human rights laws should be provided with a standard life.

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