



A STUDY OF FAMILY ADVOCATE LAWS AND POLICIES IN IRAN (POST-ISLAMIC REVOLUTION)

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ABSTRACT

The study of social developments in Iran indicates slow but wide-ranging changes in recent years. With the Islamic Revolution (1979), Iranian society gradually faced increasing waves of fundamental cultural changes. The Islamic Republic of Iran, as the crossroads of Islam and modern law, considers the family as the fundamental unit of society and a sacred institution and therefore has always advocated “family. Based upon the tenth article of the Iranian constitution all laws, legal measures, regulations, and planning related to the family must be based on Islamic law and ethics (Islamic sharia) in order to facilitate its formation, protect its sanctity and strengthen family relations. The number of laws and policies and bills that were introduced in the period after the victory of the Islamic Revolution and in direct or indirect connection with the family institution is proof of this claim. This qualitative research has studied those policies and laws (1979 to 2020) that have represented the aim of advocating “Family”. Critical analysis has been used in the text as amethod of research. According to the results of the analysis, while “Governmental” reactions to “Family” issues have been mostly of economic essence and conservative approach, “Judicial” reactions have remained more responsible in case of addressing the contemporary problems of the “Family” institution. It is noteworthy that a review of legal policies shows that changes in the institution of the family have been identified by the government. A finding that shows the relative independence of the legal sphere from the sphere of government action. After the Iranian revolution, policies and programs have been implemented to support the family in the face of the challenges of modernization. Therefore, the purpose of this essay is to study the changes and developments of the family in the context of law and policy making and its impact on Iranian policy in the field of family.

KEYWORDS

Iran; Family support; Family institution; Developments in Family law; Policy making.



ИССЛЕДОВАНИЕ ЗАКОНОВ И ПОЛОЖЕНИЙ СЕМЕЙНОГО ПРАВА В ИРАНЕ (ПОСТ-ИСЛАМСКАЯ РЕВОЛЮЦИЯ)

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АННОТАЦИЯ

Изучение социального развития в Иране указывает на медленные, но широкомасштабные изменения, произошедшие в последние годы. После Исламской революции (1979 г.) иранское общество столкнулось с нарастающими волнами фундаментальных культурных изменений. Исламская Республика Иран, являясь перекрестком ислама и современного права, рассматривает семью как основную ячейку общества и священный институт, поэтому всегда ее поддерживает. В соответствии с десятой статьей иранской конституции все законы, правовые меры, положения и планирование, касающиеся семьи, должны основываться на исламском праве и этике (исламском шариате) для того, чтобы способствовать ее формированию, защищать ее святость и укреплять семейные отношения. Доказательством этого является количество законов и положений, а также законопроектов, которые были приняты в период после победы исламской революции и имеют прямую или косвенную связь с институтом семьи.

В рамках данного исследования были изучены те положения и законы (1979-2020 годы), которые имели своей целью пропагандировать "Семью". Методом исследования стал критический метод. Согласно результатам анализа, в то время как "Правительственные" реакции на "Семейные" вопросы в основном имели экономическую сущность и консервативный подход, "Судебное" право отвечало за решения современных проблем института "Семьи".

Примечательно, что обзор правовых положений показывает, что изменения в институте семьи были инициированы правительством. В итоге мы можем свидетельствовать об относительной независимости правовой сферы от сферы деятельности государства. После иранской революции политика и программы были направлены на поддержку семьи перед вызовами модернизации. Поэтому целью данной статьи является изучение изменений в развитии семьи в контексте процесса выработки политики и политической деятельности, их влияние на иранскую политику в области семьи.

КЛЮЧЕВЫЕ СЛОВА

Иран; поддержка семьи; семья как социальный институт; развитие семейного права; процесс выработки политики.



INTRODUCTION

The Iranian family, as one of the main social institutions in this country, has undergone many changes in recent decades. Family cultural anthropologists in Iran believe and argue that modernization is the most important factor in family change in this country. In Iran, after the arrival of modernization in the country, the family institution has experienced several changes in recent decades. According to the information and statistics available in the Civil Registration Organization of Iran, the number of registered marriages has decreased every year, and at the same time, the number of registered divorces has increased. This means that the number showing the ratio of marriage to divorce is getting smaller every year. The official website of the Civil Registration Organization defines the ratio of marriage to divorce, which shows the ratio of the total number of registered marriages to the total number of divorces registered in one year across the country. The marriage-to-divorce ratio decreased by about 4 digits between 2003 and 2015, from 10.5 in 2003 to 6.6 in 2018; This means that one divorce case was registered for every six marriages registered in 2018. This issue, along with increasing the age of marriage, increases the need to address these changes from different angles and shows that there is no significant relationship between the ideal criterion of governance in the field of family and social change. One of the influential areas that needs to be considered is family policies and regulations. This study begins the examining of the issue from the field of policy-making in order to be able to examine the formed distinctions between legal and governmental policies in a more detailed way. . Furthermore, since the subject of our study is the laws, bills, and policies that have been proposed or adopted during the post-Islamic Revolution period in Iran; these texts were categorized and their main themes were extracted using text content analysis technique and rules and policies. Iran, like other developing countries, has been taking steps towards modernization for several decades, and as a result, it is experiencing significant changes in many areas and social institutions. Findings of researches conducted in Iran indicate that some processes and phenomena that in the past decades have led to the change and transformation of the family institution in European countries, nowadays, in various ways, have emerged in Iranian families. Overall, it seems that during the modernization of society, the Iranian family has become more vulnerable and the law in this area has not been able to reduce these harms and has led to government intervention in family affairs. The purpose of this study is to study the changes and developments of the family in the context of law-making after the Islamic Revolution of Iran.

RESEARCH BACKGROUND

In Iran, the issue of family is an important matter and many researches are published in this subject every year. In the position of this article, outstanding researches have been published so far. The article "Study of Family Protection Laws and Policies in the Post-Islamic Revolution of Iran" written by Mr. Hosseini (2015), a professor at the University of Tehran, is one of the articles that has used the research method of discourse analysis



and has dealt with the laws of family protection in Iran. Also, the article on the study of legal, cultural, and sociological developments of the family in Iran, written in 2018 by Mr. Amir Nikpai, a professor at Shahid Beheshti University of Iran, refers to the aforementioned subject. In these two articles, the authors discuss the role of the government in the issue of the Iranian family and review the laws enacted. The Center for Women's Studies and Research at the University of Tehran, as an educational center, also publishes many articles and books on the role of government in family support policies each year. Book Study of gender dimensions of the third and fourth development programs and review of the achievement of gender goals; Written by Dr. Soheila Sadeghi Fasaei is one of the prominent researches in this field. In this study, the author deals with the emerging harms of the family, delinquency, crime, and the harms of women and the family, and offers suggestions for legislation.

SUPPORTIVE POLICY MAKING

Public policy-making includes the goals and actions taken by the government and other government bodies in areas beyond the capacity of existing structures. In other words, when existing structures do not have the capacity to make the desired impact, governments and states enter the policy making, which means that the public interest must also be served (Darity, 2008). Therefore, policy-making should be separated from political knowledge because it replaces political analysis with governance policy analysis. This distinction must be seen as a result of the fact that political analyzes conducted in the political arena must eventually become policies whose main audience is society. Due to this, legal and sociological issues have a special place in public policy knowledge. The interdisciplinary of policy-making knowledge is the result of distancing oneself from an institutional perspective and paying attention to various social, cultural, and legal realities. Lasswell believes that policy-making knowledge is based on problem-solving approaches and has a normative approach to various issues (Bernard & Russell & Grey 2003). According to the above explanations, policy-making refers to any government action that affects the public life of the people. Public policies are not necessarily issued by the head of the political system, but may be formulated and implemented by sub-systems or government subdivisions (Gholipour & Gholampour 2010). An important question that can be raised in the public interest is how to recognize these interests in each of the policies developed. In fact, the general public may not even have the knowledge to identify better policy options; In this case, the task of formulating policies in presenting the necessary arguments to secure the public interest will be difficult. Well-known methods of social sciences and humanities also do not have the characteristics that can be used in the details of public opinion about the best alternatives to improve the current situation. With this in mind, policy-making should be seen as a process that is knowledge-based and, at the same time, influenced by public opinion (Oskamp & Schultz 2005). The extent and quality of this impact varies according to the extent to which society has the ability to express and convey its interpretations of the



policies being developed, in the range that begins with ineffectiveness and leads to full effectiveness.

It follows from these preconditions that policies formulated to support the institution of the family must also have rationality that is commensurate with the various dimensions of this social institution (Borgatta & Montgomery 2000). The family, especially in an Islamic country, has a religious aspect that should be respected and studied as much as the economic, cultural, and social aspects.

METHOD

The method used in the present study is a qualitative method. The main purpose of this study is to study the policies of supporting the family institution in Iran and since we want to analyze, interpret and analyze texts and policies and basically, such a subject is not prone to quantitative assessment, we should use a qualitative method because such analysis requires interpretation and read the text.

The society we examine in this study includes all the policies and laws that have been approved, formulated, or presented during the years after the Islamic Revolution with the aim of supporting the institution of the family as a formation resulting from formal marriage. Our intention is to provide patterns and information that will help us link these policies and the sociological laws and theories that govern the subject matter. For this purpose, we used the text analysis method in the study of policies and rules.

FINDINGS

According to the definition given earlier in the section on theoretical foundations of policy and policy-making, the present study was required to identify all laws, programs, and policies that in the years after the Islamic Revolution (until 2020) and within the framework of the Islamic Republic, in order to support for the institution of the family and, of course, subsequent support for the institution of marriage has been approved, drafted, communicated, presented or implemented.

Table 1. Identified rules, programs and policies.

No	Title	Species	Date	Description Thematic relevance
1	Amendment of articles of civil law	law	1982	Prohibition of immature marriage, marriage of a girl with the permission of the guardian, guardianship conditions, etc.
2	Women's part-time work	law	1983	Assistance in establishing a balance between employment and family
3	Amendment of Article 1205 of the Civil Code	law	1984	Forced alimony if necessary
4	Amendment of the Civil Registration Law	law	1985	The need to record all vital events
5	Granting custody of minor children to mothers	law	1986	Strengthening the right of custody of the mother in cases of absence or incompetence



				of the religious guardian
6	Custody	law	1987	Consolidation and guarantee of custody of the parent
7	Unemployment Insurance	law	1990	Including spouse, children, needy parents, and dependents
8	Amendment of articles of civil law	law	1991	The condition of virginity for the permission of the guardian
9	Investigating the problems and issues of working women	General Policy	1991	Balancing work-home for working women
10	Amend the country's employment and pension regulations	law	1991	Retirement of female employees, with 20 years of service
11	Adding a note to the national employment law	law	1992	Possibility to use six months unpaid leave, in coordination with the sensitive job of the spouse
12	Student Welfare Fund Act	law	1993	Giving marriage loans to students while studying
13	Establishment of relief and guidance units alongside special civil courts	General Policy	1993	Maximum prevention of divorce through counseling
14	Executive regulations for nurseries and kindergartens (in workplaces)	Regulations	1993	proportion between employment and family
15	Providing orphaned women and children	law	1994	Financial, economic, cultural and social support coverage
16	Employment of women in the Islamic Republic	General Policy	1994	Improving the level of women's employment, with emphasis on the needs of the Islamic family
17	Formation of the Supreme Youth Council	General Policy	1994	Facilitate youth employment and marriage
18	Family planning and population	law	1996	Application of legal and logical restrictions on family regeneration
19	Accession to the Convention on the Rights of the Child	law	1996	Acceptance of the general principles of children's rights in the family, with emphasis on the right of reservation
20	Public health insurance of the country	law	1996	The need for insurance for dependent and needy people
21	Adding a note to paragraph 1 of Article 81 of the Social Security Law	law	1996	Rehabilitation of widows' pensions in case of death of second wife
22	Identify and determine those in need of public insurance	law	1996	Insurance support for vulnerable individuals and families
23	Promote breastfeeding and support breastfeeding mothers	law	1996	Legal protection of breastfeeding pattern



24	Book 5 of the Islamic Penal Code	law	1997	Punishment for assaulting women and children
25	Prevention of crimes against family rights and duties	law	1996	Within the framework of the Islamic Penal Code; Protecting the legal rights of marriage and family
26	Adding a note to Article 1082 of the Civil Code	law	1997	to Update dowry value
27	Adding a note to Article 76 of Social Security	law	1977	Retirement of working women with 20 years of experience, at least 42 years of age and 20 days of salary
28	Amendment of Article 1073 of the Civil Code	law	1977	Deprivation of custody of a parent with moral degeneration.
29	Statute Law of the Martyr of the Islamic Revolution Foundation	law	1978	Financial, livelihood, economic and employment support for the families of the martyrs
30	Note 11 of the national budget	law	1978	Insurance coverage and financial support for low-income families
31	Unity of procedure of the Supreme Court	law	1999	Encouraging the wife to live, even if she does not receive the dowry (separation of alms from the dowry)
32	Amendment of Article 1184 of the Civil Code	law	2000	Possibility of disqualification of the child natural guardian's, at the request of other relatives or the head of the jurisdiction
33	Amend some of the laws related to women	General Policy	2000	Modification of some materials causes discrimination in marital relationships
34	Adding a note to Article 1130 of the Civil Code	law	2000	Explain the examples of hardship
35	Support for children and adolescents	law	2002	The legal negation of harassment, exploitation, torture, and other threats against children and adolescents
36	Amendment of Article 1169 of the Civil Code	law	2003	7 years old for the age of custody by the mother
37	Rise in partition of succession	law	2003	partition of succession price updates
38	Article 14 of the title of cultural, scientific and technological affairs in the general policies of the Fourth Development Plan	General Policy	2003	Strengthening the institution of the family and the position of women in it and the realization of women's rights in all public spheres
39	Paragraph 15 of the title of cultural, scientific and technological affairs, in the general policies of the Fourth Development Plan	General Policy	2003	Facilitate employment and marriage, and combat the harm that young people suffer
40	Organizing youth marriage	Plan	2004	Empowering young people and facilitating marriage under the Fourth Plan
41	Part (5) of paragraph (a) of Article 192 of the Third Development Plan Law	Regulations	2004	Improving the living conditions of the elderly in Iran, in terms of welfare, health, treatment and rehabilitation



42	Charter of Women's Rights and Responsibilities	Plan	2004	Systematic explanation of women's rights in the areas of individual, social and family rights
43	Article 158 Third Development Plan	law	2004	Facilitate and strengthen the full participation of women and strengthen the institution of the family
44	Facilitate youth marriage	law	2005	Facilitate all aspects of marriage and promote a culture of facilitation
45	Therapeutic abortion	law	2005	Determining the conditions for abortion; Especially about the health of the mother or child
46	Paragraph 5 of the Development Document	General policy	2005	Promoting women's developmental roles and strengthening the family institution
47	Strategies for spreading chastity	Plan	2005	Promoting and deepening the pattern of Islamic marriage and facilitating marriage
48	Family formation and policies for its consolidation and excellence	policy	2005	General and executive policies to strengthen and continue the functioning of the Islamic and Iranian model of the family
49	Protecting the rights and responsibilities of women in the domestic and international arenas	law	2005	Legal implementation of the charter prepared by the Cultural Revolution Council
50	Guidance and handling of dowry and usury claims	Regulations	2005	Repair solutions to repair the damage
51	Amendment of Note 2 of the Budget Law	law	2007	Allocation of about 5 thousand billion rials to facilitate employment and marriage of young people
52	Article 112 of the Fourth Development Plan	law	2007	Facilitate economic living conditions and young people marry
53	Establishment of the National Headquarters for Women and the Family	Regulations	2010	National Center for Strengthening and Promoting the Status of Women and the Family
54	Article 39 of the Fifth Development Plan	law	2011	Empowerment of women heads of households
55	Article 43 of the Fifth Development Plan	law	2011	Licensing of marriage psychological and social counseling centers
56	Family Protection Act	law	2012	Full law regarding family
57	Article 227 Fifth Development Plan	law	2012	Preparation and compilation of a national document on social security for women and children
58	Article 230 Fifth Development Plan	law	2012	Develop and approve a comprehensive program for the development of women and the family
59	Family Protection Act	law	2013	Consists of 6 chapters, on the various legal aspects of the family institution
60	Family Protection Act	Law	2013	Family Court



61	Law on the Protection of Orphaned and Abused Children and Adolescents	law	2013	Guardianship of children and adolescents without a guardian
62	Law on Amending the Code of Criminal Procedure	law	2014	Investigating juvenile delinquency and enjoying privileges in juvenile court
63	Law of the Sixth Five-Year Plan for Economic, Social and Cultural Development of the Islamic Republic of Iran (2017-2021)	law	2017	Encourage childbearing and support the family
64	Law on the Protection of the Rights of Persons with Disabilities	law	2018	To provide a place to live
65	Child and Adolescent Protection Act	law	2020	Full law

FAILURE OF SUCCESSFUL LEGISLATION

The ancient country of Iran has historically witnessed a change in patterns of power in the family. Since 1979, the political and ideological developments produced by the Iranian government have always affected the Iranian family. As mentioned in the section on theoretical foundations and under the heading "Supportive policy-making", The definition of specific areas for policy concepts, and in particular public policy, stems from the lack of effort by the "law" tool to achieve the goals and objectives that governments have defined and are seeking to achieve. A review of policies whose content was qualitatively analyzed in the present study; indicates that there is a huge gap between the number of laws and other policy texts, which in connection with the results of this analysis can be considered as a gap or, ultimately, severe weakness of family policy in Iran (Armaki, 2010, p.28).

The relationship between laws and other policies in the field of family in Iran is also an important issue that should be noted that there are weaknesses. In explaining this weakness, one should look at the preconditions of policy-making, which are based on the need to define specific areas for policy-making in order to go beyond the existing governmental and especially governmental structures. As a result, allocating a large share of policies to legislation implies a lack of structural capacity or inaction in overcoming them. On the other hand, this contribution indicates a lack of attention to the centrality of public interest in policy-making processes. Therefore, in a situation where there are various institutions and councils such as the Cultural Revolution Council and the Women's Socio-Cultural Council, the policy vacuum or weakness does not seem to be very justifiable. Above all, the elites are expected to reduce their central role-playing in policy-making and implementation based on the basics of policy-making knowledge, and to consider citizens who are exposed to the effects and consequences of policies from different individuals. The qualitative content analysis of family protection policies and related laws in Iran suggests that the government, by relying on its independence from the family and by prioritizing the economic approach, has a position beyond its capacity to formulate and implement policies.



On the other hand, this study also leads to the conclusion that most of the developments that took place in the family sphere were the result of the interaction of non-governmental action and especially the judiciary with the family.

Thus, it seems reasonable to correct the family protection policy-making processes and reduce the role of government agents in their implementation. According to the criticisms and weaknesses of the policies adopted regarding the Iranian family, the most important effective strategies in improving family policy can be suggested.

CONCLUSION

The family, as one of the main social institutions, has undergone several changes in recent decades. As one of the Caspian littoral states, Iran, like other developing countries, has been taking steps towards modernization for several decades, and as a result, it is experiencing significant changes in many areas and social institutions. These changes are very noticeable in the cultural sphere and especially in the family.

This article was dealt with a thematic study of the provisions of the Family Protection Law in Iran, which was enacted since the beginning of the Islamic Revolution in 1979. Among the laws passed to protect the Iranian family, the Family Protection Law (adopted in 2012) provides different rules of jurisdiction and court procedures for the family court compared to what is stated in the Code of Civil Procedure. The law also has innovations in the field of time trial management, conciliation in family lawsuits, and the identification and enforcement of family rulings by foreign courts that need to be considered separately. Findings indicate that the enactment of laws by the government has been one of the most important factors of change in the Iranian family institution. Due to the changes that have taken place in the Iranian family, institutions and organizations have taken policies to support the family in Iran; But not only have these policies failed to address family problems; Rather, an examination of the social impact of these policies and laws and programs shows that some of the current problems stem from the same laws that have been enacted in the public sector. In other words, the policies adopted in the field of family institutions are not commensurate with the changes and developments that have taken place in this institution. Also, family policies in Iran mainly face several problems. These include: Lack of comprehensive family policies, lack of a holistic approach to the family, having a harm-oriented approach to the family, numerous organizations or institutions in charge of the family, unclear family policies, unclear how to achieve policies, the commodification of marriage, Considering the family institution as an economic and legal institution, ignoring the diversity of the family institution, lack of insight or sociological view in existing policies and reducing the semantic and conceptual space of the family to meet basic needs

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