

Women's Access to Family Justice in Iran: Exploring the Main Barriers

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ABSTRACT

Access to justice as a procedure and practice-based concept is defined as the capacity of people to access judicial organisations and institutions. While having the problem of access to justice is ordinary among different groups of people, women may be affected more frequently for accessing these institutions and organisations, as they have to overcome many socio-political, economic, and structural barriers that reinforce this inaccessibility. This article emphasizes on women's access to family justice in Iran. It explores the perspective of women who have experienced Iran's judiciary system in terms of divorce, custody, dowry, and alimony in the family court. The data were collected through the women referring to the family courts, and data analysis was conducted based on thematic framework. The participants acknowledged low levels of legal awareness, feminisation of poverty, and low self-esteem because of the masculine hegemonic structure as the major barriers in their access to family justice.

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INTRODUCTION

Access to justice is recognized by the Constitution of the Islamic Republic of Iran within the just trial provisions; yet there is an increasing concern that "justice for all" does not apply to every Iranian and in all

cases. There is unequal access to justice between the different groups of people in the most societies, characterized by gaps among the socioeconomic status of citizens, level of education, gender, religion, and so on. Therefore, the main contribution of this paper is to attempt to present a general understanding into women's access to family justice in Iran. It analyses a range of challenges that women confront when trying to take legal action to settle their problems. It further emphasizes that the step-by-step recognition of women's rights, access to equal legal remedies, and legal empowerment are key aspects in shaping the prospects for better access to family justice for Iranian women.

An instant review of current problems to women's access to family justice reveals three priority fields of concern: 1) Discriminatory legal structures. Despite improvement in different areas, Iran has legal provisions that discriminate against women. For example, Iran has laws that place men as head of households and legally expect wives to obey their husbands, prohibit a woman from getting a passport without her husband's permission, and has legal restrictions on what types of jobs women can do. 2) Limited justice sector capacities to dispatch family justice for women. Unresponsive justice organizations continue to discourage women from seeking family justice. In many cases, conventional justice revisions have effectively postponed the justice needs of women. For example, Iran's family justice sector often disregard inner household and community disputes, because

it sees them as private matters and outside the fields of public dispute resolution. 3) Exclusion and disempowerment of women in the family justice. In spite of the fact that there is an increasing recognition of the noteworthiness of women's inclusion, they are often excluded from fully participating in and benefiting from different dimensions of law, justice and development work. Geographic, financial and political distance from justice structures hinders women from claiming and realizing their rights. Iranian women face additional barriers due to discriminatory social and cultural norms and practices.

Women's access for getting the justice is changing. The aim of this study is to examine the status of women with access to family justice processes. Resorting to judicial organisations' authority, urban transportation facilities, poverty, economic concerns in petitioning to the courts, masculine hegemony in structure, access to legal information, illiteracy, and inequality in everyday life are some of the elements that alter the position of women in their access to family justice processes.

Theoretical Background

Access to justice

Access to justice is the subject matter of the difference between existing laws and the implementation of the same laws in two areas of social life and legal and social studies. Access to justice also provides opportunities for discussing the equality efficiency scale against the law which is

one of the principles underlying modern law (Rhode, 2004). It is very important to look at the gender issues as well as access to justice, along with the discussion of classes and social groups, because this is a topic that deals with the ambiguity between equal rights and inequalities in society. In daily life, mechanisms based on the principle of equality were not successful in solving the problems and differences arising from gender inequality. For example, the feminization of poverty or inequality in social activities affects access to justice (Morris, 1999; Sandefur, 2009).

Women's access to family justice

In her book "*Justice, Gender, and the Family*", Susan Moller Okin defines family justice as a range of issues from child custody and terms of divorce to physical and sexual abuse of women and children. She believes that family justice must be of vital importance for social justice (Okin, 2008, p. 8 / 101). Eekelaar also remarks: 'Family justice is concerned with more than simply bargaining, fairly or otherwise. It is concerned with upholding some elemental features of personal relationship. Family justice cannot do this without the law and effective means of upholding it' (Maclean, Eekelaar, & Bastard, 2016).

As many socio-legal researchers pointed out, most issues are disposed of elsewhere in the family justice system while the judiciary remains at its core. This is because, quite simply, the purpose of a justice system is ultimately to safeguard people's legal

rights. This does not, of course, mean that these legal rights should be pursued or defended in that way. There may be many occasions when the responsible thing to do is to compromise, or even abandon, one's legal rights. This could be inherent in a full concept of responsibility (Eekelaar & Maclean, 2013). However, it is one thing to make a responsible decision to compromise or abandon one's legal rights, it is another thing to yield without any knowledge of what rights are or if they are known, to yield under pressure due to lack of means to protect them.

The justice system is there to try to prevent those things from happening. A justice system is anchored in the judiciary.

However, attention should be paid to the women's challenging conditions in the context of family justice. For example, Singer (2009) has observed that the goal of maintaining relationships conflicts with another objective, often thought to be desirable, of bringing about a 'clean break' between the parties. She surmises that maintaining relationships favours men because women are likely to receive less money than under a clean break settlement and are more restricted in what they can do.

Iranian women's experience in the justice routes

The fear of being alone in a society like Iran for a divorced woman is pervasive. Being a mother in a family, many rights are sacrificed in the favour of inappropriate law. Sometimes, women, for getting custody

rights, give up other rights (especially financial rights like dowry or Mahriyeh).

The fear of separation, the fear of being alone, and the fear of how society views divorced women are among the hardest conditions that divorced women can experience in Iran. Such a condition is clearly visible in family courts. Many women from different social classes and backgrounds have experienced these circumstances. Therefore, many people have complained through talking and interviews about ignoring motherhood by courts' staff, topped by judges. Another major issue ignored by these family courts is the social position of women, which goes unnoticed.

'Maryam', a 20-year-old woman with a pale face sat on the bench of family court on the campus. After asking her whether she agreed to be interviewed, she started to cry and 'screeds out of her damn life' (this was her own expression). Having some papers and files in her hands, she said: 'I cannot continue this life. I married him at 16, and I was pregnant at 17. Before finishing my high school, I had given birth to my daughter. Now, my daughter is my life, but the judge said the custody was the right of the father and I could not live with my daughter after I got a divorce.'

Maryam's husband, is seven years older than her, is a drug addict. She is also a battered woman because her husband did beat her many times.

The judge dealing with her case believes that 'according to the existence of evidence

of case, there are not acceptable reasons for a divorce order. Her husband has a job and provides economic demands of life for Maryam and her children. The only acceptable reason in terms of what the court sees is unemployment caused by the husband's drug abuse.'

However, Maryam could not prove in the court to what extent she had suffered from her husband's violence; and, therefore, she had no choice but to give up all financial rights (which include her dowry and alimony) to get the judge to issue her divorce.

There are no approved laws on marital violence in Iranian family courts; hence, women are not able to prove violence perpetrated against them. This forces women to give up all their financial rights stated by the family law to get their divorce. According to the Iranian family protection act, women cannot claim for a divorce in the family court; only men can do it.

'Sara' is a lawyer in family justice cases; she believes 'any woman according to her family backgrounds has an especial experience of justice path.'

She said many women, for reasons related to their reputation and their children, would give up initiating a divorce claim. Many women give up this right, especially in the case of infidelity claims for divorce in the family court. However, there is no considerable support for them in the current family law.

The statistics of the National Organization for Civil Registration in Iran suggest that 13.3 % of all divorces happen during the first year of marriage, while 47.2 % take place during the first five years of marriage (2015). In Tehran, there happens one divorce out of every three marriages. Also most divorces happen for men and women between 25 and 29 years of age. Though this news is irritating, but it would increase attention to raise and discuss the problem and rethink strategies applied to prevent more problems in family justice matters through a gender-sensitive approach with a special emphasis on women as a vulnerable group in Iran.

Methodological framework

A methodological framework provides a framework for both data collection and data analysis, which basically encompasses all the aspects involved in planning and executing the research (Bryman, 2012, p. 46; D'Cruz & Jones, 2004, p. 84). Besides this framework, understanding the research purpose helps the authors pick an appropriate theoretical framework. This, then study was conducted in Iran with the purpose of identifying the family justice barriers faced by women, assisted with the participation of the 'Research Centre of Judiciary' in Tehran. The data were gathered through interviews and reviews of secondary sources (Bryman, 2012, p. 70).

Overall, 50 women (Table 1) were interviewed from June to August 2016 in

Tehran Family Courts (Shahid Mahallati; the second branch of family court). Some of the in-depth interviews could be recorded by a recorder, yet a few of the participants did not satisfy with recording some part of the interviews. All the women interviewed had passed through a court experience in the civil or criminal courts earlier. All of them had sat for litigations or hearing sessions in the family court. The authors used a semi-structured interview that taken to account questions to emphasize the most important problems related to the legal system, conventional justice systems, courts, prosecutors, police, legal aid, and determinant socioeconomic elements regarding the law. In other words, the questions of interview were designed to focus on the women's basic legal knowledge, their familiarity with legal procedure, their perceptions of cultural barriers, the issues that influence their preference for mechanisms of dispute solutions, and their level of satisfaction with their chosen courses of action.

The data analysis was initiated with open coding, where categories of information about the phenomenon being investigated were formed (Robson, 2002, p. 194). The transcriptions were read by the researcher, and codes were given to the statements in the data. Related codes, which arguably represented the pre-determined themes, were then grouped under the same category or categories, and later were gathered under themes (Saldana, 2013, pp. 10-13).

Table 1
Demographic characteristics of the interviewees

Background variables		Abundance	Total
Age (year)	18-25	9	50
	25-35	24	
	35-45	12	
	45-55	5	
	55-60	-	
Education level	Under diploma and diploma	28	50
	Undergraduate and bachelor	18	
	Masters and higher	4	
Economic class	Low	16	50
	Medium	30	
	High	4	
Employment status	Employed	15	50
	Unemployed	35	
Marital status	Married	12	50
	Divorced	14	
	Married with a life separate from the spouse	23	
	Widow	1	
Type of litigation	Civil cases	30	50
	Criminal cases	20	

Analysis and Main Themes

While the barriers to access to justice are ordinary for various groups, women may more frequently suffer from these barriers and suffer more to prevailing them due to the structural elements contributing to inequality. Such structural components of inequality for women is available in ownership, inheritance, rights, employment and family law. Women may experience obstacles to access judicial organizations that is more than anything else aggravate by poverty. Institutional barriers are caused by masculine hegemonic proceedings and security institutions and male officers worsen the situation and propel an increment in the complaints of women. In addition,

proceedings are followed up with fears, including shame of being stigmatised, particularly in such issues as domestic violence and rape. Also, elements like working at home, poverty, being elderly, and childcare have been considered as creating a dearth in time and resource for women in the processes of legal claiming. It is crucial to target certain conditions as well as on problems with regarding justiciable event while considering women's access to family justice.

According to the output resulting from the women's interviews in the family courts of Iran, there are five main themes related to their access barriers to family justice in the judiciary system (Table 2).

Table 2
The items of main barriers to women's access to family justice in Iran

Central item	Main item	Basic concepts
Main barriers to women's access to family justice in Iran	Legal awareness	Inability to distinguish between criminal and civil cases, false resources and wrong addresses, lack of access to sources of awareness in the public media and lack of awareness of the lawsuit in practice
	Language	Lack of access to legal language (lawyer language)
	Cultural stereotypes	The behavior of relatives and acquaintances, the way society looks at divorced women
	Feminization of poverty	Rental housing, low job pay, lack of job opportunity, insurance problems and employment discrimination,
	Hegemonic masculinity in the justice path	Discriminatory behaviors and norms against women in family justice institutions

Legal awareness

Legal awareness is a socio-legal term that mentions to the knowledge of the law and legal organizations, together with attitudes towards them between the members of the public. It helps the authors realize the importance of the people attachment to the law in relation to their everyday matters. Legal awareness is in the tight bond with popular culture, which depicts law, lawyers, and judges in the media and the arena of life that involves norms and expectations of behaviour, including morals and laws. According to the American Bar Association (1989), Commission on Public Understanding, legal awareness is 'the ability to make critical judgments about the substance of the law, the legal process, and available legal resources, and to effectively utilize the legal system and articulate strategies to improve its legal literacy'.

The output of the interviews, however, reveals an awareness of justice sector problems that grown consistently up

alongside with a higher educational base. Most interviewees were unable to distinguish among criminal and civil cases or civil and criminal courts. According to the definition of the Canadian Bar Association (1992, p. 23), awareness of rights and legal processes is useless if a user of justice does not have adequate awareness of the legal organizations that regulate public life (Maranlou, 2015; Wan, 2014).

'Hamideh', a 25-year-old woman, has a master's degree in Accounting but is jobless. She had claimed a divorce six months ago because of her husband's infidelity, and now she lives in her parents' house with them. She is economically dependent on her father, but before starting her divorce's claim, she gave up her job in a private organization as an accountant (without unemployment insurance) due to depression. She says: 'I did not know what I should do, and because I had no money to hire a lawyer, I had to apply for free legal advice in the family justice court, but it was not helpful ...'

The lack of knowledge of the legal organizations is a crucial matter, since the public's awareness of the judicial system is an important prerequisite of their path to justice (Hough & Roberts, 2005, p. 71). It is an obvious fact that the police or courts have the most responsibility to protect the rights of the people and keep social order up. This pervasive blindness of the legal system impresses women's perceptions of justice. 'Zohre', a 27-year-old woman who initiated a dowry case before her divorce order case, does not know anything about the procedure of her judicial case affairs, and her mental condition is not good; she is stressed out and has many worries about her only daughter after divorce. She says: 'The court staffs' behaviour is not good with me, and my case affairs have witnessed numerous delays in progress. I have an attorney for my case (alimony), but I would come to the court for some papers work myself. At first, all I knew about such a case was little information from my relatives. I was not familiar with the process of my case; I was just confused in a place like this.'

Language

All over the world people 'perform' their roles within society and become socialized by using language as one of the many ways. Language filters whatever one wants to see and, by doing so, he/she influences what is communicated to others. The communication people have with others gradually creates social conventions and norms, which subsequently, affect what

language is deemed proper and suitable in certain situations (Kramsch, 1998).

In its widespread sense, gender-neutral language is achieved by avoiding 'gendered generics', which are masculine or feminine nouns and pronouns used to refer to both men and women (Curzan, 2003). The constant use of male-gendered generics to show all people can have a psychological effect on women by making them feel excluded and by strengthening traditional gender stereotypes – even when that effect is not predestined (Chew, 2014). Social science research illustrates that language is a social force that can have an impact on how women see themselves and are seen by others. The 'Linguistic Relativity Hypothesis' argues that 'culture and language are interconnected and that the words that people use affect the way they view both the world and their self-concept' (Sniezek & Jazwinski, 1989).

Fourotan did a content analysis of educational system books in Iran. He divided words and key concepts representation in these books into two groups (male and female). The content analysis results revealed that 65% of these words were dedicated to the male group while only one out of three words referred to the female group (Fourotan, 2014, p. 133/155).

'Bani', a 57-year-old woman, lives in Qom with her daughter after her ex-husband died in Tehran; her case is financial (marital inheritance and alimony). She speaks both Farsi and Arabic. She must come from Qom to Tehran to follow her case in the

family justice court. She says: 'I came to the family court's free advice centre to pursue the matter but I could not understand the language, and I became more confused.'

Cultural stereotypes

Regarding 'The Analysis of Culture', Williams (1963, 2009) demarcates the 'three common categories in the definition of culture'. First, there is the 'ideal' in which culture is a process of human perfection in terms of certain universal values. Second, there is the 'documentary' record: the living texts and practices of a culture. Third, there is the 'social' definition of culture in which culture is an explanation of a way of life.

Based on this definition there are three new ways of thinking about culture: A) the anthropological aspect, which views culture as an explanation of a way of life; B) the idea that culture represents special meanings and values; and C) the claim that the work of cultural analysis should be the illumination of the meanings and values implicitly and explicitly in a way of life, a culture.

The considered whole paradigm of social definition of culture, the importance of culture in gender differences constructing is received centrally. This paradigm of socialisation theory - in explanation of boys' and girls' different behaviour from the first years of childhood- is faced with the public interest. The educational system is a laudable part of this process, so it guides boys and girls to different activities and achievements. In a recent analysis on gender and culture, there has been a major emphasis on literature and on deconstructing the

Theory of Derrida (Derrida, 1967) and the discourse analysis of Michael Foucault. The central emphasis here is turning to creating context, representations, and discourses, which would make the conceptions of gender (Weedon, 1987). In this approach, the authors will talk about the differences among both women and men and between women; here, the concept of 'being woman' has a messy understanding itself.

Unfortunately, the existence of hegemonic masculinity in the context of the legal space of Iran emphasizes only 'those differences that could lead to stereotyping' (Martin & Nakayama, 2010, p. 182) (that women are emotional or that men are rational). As these stereotypes of gender differences persist, it may be pervasive because of the stereotypical of women everywhere in media and specially in Iranian movies.

The attitudes and stereotypes adopted by the Iranian community regarding claims against a husband by his wife do not only affect the woman's individually but often leads to discrimination towards certain groups of them, especially many poor women who lack financial resources.

In Iran, although statistics show that the divorce rate has gone up steadily, yet divorce is pondered a social taboo (Maranlou, 2015). Women are more stigmatized by divorce, as indicated in a Persian proverb: 'A woman enters her husband's house with a white wedding dress and they should be in husbands' house till burial shroud'. This means that the women they think living with their husband and being with him is better

to divorce. ‘Sharare’, a 33-year-old woman, was dumped with her two children by her husband without any financial support: ‘My father helps us in our daily costs, but I do not like to depend on him. What would other people think of me ... Many of my relatives blame me, the court’s staffs blame me, too. The judge told me: ‘If your husband pays for your food, it is enough, but he could not understand I have many demands like emotional ones, financial progress and other ...’.

Cultural stereotypes in the judiciary in Iran have more impact on the judges’ views in issuing sentences, especially when the case is related to family justice. Such a view can leave a case pending for more than three years in the family court without any final verdict. ‘Zahra’, a 45-year-old woman from Abadan (620 miles from away Tehran), sat at the family court campus crying, and said: ‘This year is my third year of attending in the family court; I am the fourth wife of a man that had three other wives before marrying me. He lied to me about everything related to himself and his life During these three years, every time I try to file a demand of confiscating his property so that I would claim my marriage due (Mahriyeh), he comes to the court and talks to the judge, then the judge comes to this belief that he has three more wives and that he is the bread winner of all of them and his children. At the end, I get zero marital financial support because the confiscation order is rejected by the judge.’

Feminization of poverty

As Mahoozi (2015) shows in his research, there is a multi-dimensional poverty in Iran for four distinct groups (rural households with a male head, rural households with a female head, urban households with a male head, and urban households with a female head) for each of the 30 provinces in Iran. The poorest groups in each province are rural households, mostly the rural female-headed households. Poverty is more prevailing among the rural households compared with the urban households of the same region. The reason could be the inequality of welfare distribution in favour of urban areas, or could be the immigration of wealthier rural households to urban areas. But then, there is rather less poverty among the male-headed households (in both urban and rural areas) in comparison with the female-headed households, which shows an increasing risk of female-headed households falling into poverty, particularly in rural areas and the poorer provinces.

Mahoozi’s study underlines three dimensions of inequality in Iran: provincial inequality, gender inequality, and regional inequality (Mahoozi, 2015). So, there is a phenomenon in Iran in the name of the ‘feminisation of poverty’¹. Iranian women are more educated than men. A recent report²

¹“Feminization of poverty” address Increasing poverty among women in Third World countries, deprived women and women of minorities in Europe and United States. This term was first used by American sociologist “Diane Pearce”.

²<http://www.mehrnews.com/news/2364001/>

shows that nearly 70% of the university intake is female. Yet, statistics show that 80% of governmental jobs are assigned to men. Also, official reports say: 'There are two million and 500 thousand female-headed households, which means 80% of women are unemployed and 60 thousand women per year are added to them. So, these increasing statistics of female-headed households lead to many serious problems in society.' These statistics acknowledge an increasing number of divorces as a significant determinant in the feminization of poverty in Iran. Divorce adds to number of female-headed households in the country.

'Samira', a 23-year-old woman with no children, only six months after her legal marriage registration had claimed a divorce against her husband in the family justice court. She now lives with her parents. She has no job and is dependent on her father economically; she said: 'The costs of my lawsuit were so high, my father was able to provide them. But if a woman had no money, she would not have been able to do anything in the family justice court for her marital rights or court matters in Iran.'

In this context, women's poverty negatively affects their ability to invoke the family justice courts to redress themselves, and the attitude of the court clergy judges in the family court of Iran is, generally, reluctant to use their discretion in women's favour. 'Zoleikha' is a 48-year-old woman who has two children. Her case started 14 years ago. The reason for this long-lasting case is because her husband left home without any support for living costs and she

has no idea of his whereabouts. She is a gym coach in a club for women in Tehran; she said: 'I have two children who are 21 and 18 years old, I don't have an employment insurance and I provide my children with living costs. There isn't a governmental support group. I do not know anything about my husband or where he lives; he is always fleeing from his responsibilities towards me and our children. I am so tired, our home is rented; both rental payment and other costs of living have been a trouble that I had to deal with in hard conditions. Alongside these difficulties, the judge dealing with my case told me you should first publish an advertisement in the newspapers to announce your husband's disappearance and wait for his coming to the court. During this time and delays, I have had many financial concerns.' Factors like this discourage women from enforcing their rights in the family justice courts.

Hegemonic masculinity in the justice path

As Connell mentioned, 'hegemonic masculinity' is part of the gender order theory, which recognizes multiple masculinities that vary across time, culture, and the individual. Hegemonic masculinity is defined as the current configuration of practice that legitimizes men's dominant position in the society and justifies the subordination of women, and other marginalized ways of being a man (Connell, 2005). Conceptually, hegemonic masculinity suggests to explain how and why men preserve dominant social roles over women, and other gender

identities, which are perceived as ‘feminine’ in a certain society.

According to Connell, the politics of gender (in this case, of gender and law) arises from the always-contested nature of men’s power and the ever-present possibilities of resisting and contesting the present gender arrangements. It is a key feature of the thesis, in short, that hegemonic masculinity is never, finally, closed, fixed or resolved (Collier, 2010, p. 454).

The conceptual beginnings of hegemonic masculinity represented the culturally idealized form of manhood that was socially and hierarchically exclusive and concerned with bread-winning; that was anxiety-provoking and differentiated (internally and hierarchically); that was brutal and violent, pseudo-natural and tough, psychologically contradictory, and thus crisis-prone; economically rich and socially sustained (Donaldson, 1993).

The hegemonic masculinity within the Iranian family justice system seems to be pervasive. A male hegemonic system for accessing justice is closely linked to the capacity of law enforcement agencies to provide non-effective legal remedies for women. A male hegemonic system and discriminatory norms seem to pervade the administration of justice, and therefore, create more multi-dimension barriers that women must get over to access the family justice. In this system, some policies are connected to the proportion of female staff too. The number of female personnel working within the justice organizations (such as judicial officers, judges and police

in Iran), even though increasing, is still much lower than the number of male personnel (Maranlou, 2015). This hegemony is reverberated in the family laws that arrange gender relations and the rights of men and women. Islamic jurisprudential texts—which are the basis of Islamic laws in Iran, including family law—consider women as second-class citizens and locate them under men’s domination.

One result of these laws is the low representation of women as judiciary staff, especially barricaded from being judges. The prohibition began instantly after the 1979 Islamic revolution. This practice was legitimized later by adding an article to the constitution, which demonstrated that only men may become judges. The law reformation in 1992 helped women to sit as assistant judges in some civil courts, but yet, women were prevented from becoming judges (Maranlou, 2015).

In the present work, most of the interviewed women during the field study gave priority to the fairness of the legal procedure. ‘Other parallel studies have also revealed that people attach a perceived fairness to processes that result in special decisions’ (Van den Bos & Miedema, 2000). ‘Hoda’, a 32-year-old woman, has a master’s degree in law. She is an attorney in family justice cases and has a high social and economic position equal to that of her husband. She has not claimed a divorce, but has rather claimed for their son’s custody right in the family justice court. She says: My eleven-year-old son’s custody order was issued in my ex-husband’s favour, and

the judge determined 24 hours per week visitation for me; this is while I and my ex-husband have equal situation economically, socially and ...'

One of the considerable sample in the fieldwork given by the interviewees addressed the concern of whether a woman has been rendered the opportunity to voice her claim. The interviewees also noted that the male hegemonic framework of the court was a factor that influenced women's trust in the family justice system. The framework of court and the settled hierarchy may cause women to feel fragile and discrimination. 'Shiva', a 36-year-old woman, holds a high school diploma and has no job; she is economically dependent on her father now; before her divorce, she was dependent on her husband. She said: 'My ex-husband had claimed divorce and the judge issued the order in favour of him. Before divorce, I only lived with him for the sake of our children but when a man claims divorce, the woman can do nothing about it. Now, I just came to the family court to pursue my dowry and alimony cases. The divorce order issued by the judge is something not in my hands and I cannot do anything about it.'

Within a context like this, in recent years, some of the Iranian news agencies announced the increase of 'white marriages'³ in Iran, especially in the metropolis. In

this kind of cohabitation, the parties live without legally registered marriages. Some specialists argue that white marriage in Iran is the result of discriminatory laws against women, because many women, especially in the urban environments, are well-educated, and the current family law is not in accordance with the women's socially changing conditions. On the other hand, marital life in the form of white marriage would make many problems for women and young girls in the current social context of Iran.

CONCLUSIONS AND IMPLICATIONS

This study aimed to examine what kinds of obstacles are present for Iranian women so that they can access family justice. The case study and the interviews showed that wider, more complex factors have an impact on the identity and development of individuals. The results further revealed the fact that an individual can be greatly shaped by his or her wider environment to the point where he/she would not seek help for accessing family justice matters, became certain aspects mentioned as the main themes (legal awareness, feminisation of poverty, cultural stereotype, language, and a male hegemonic structure) discourage seeking support or accessing family justice. While the way an individual's environment (context) impacts his/her view towards seeking aid for Iranian women in the family justice path, the general background of these women has no impact on the type of support they receive from some organizations or advisory centres in the family court.

³White marriage is a kind of cohabitation in Iran in which the couples have no legal commitment toward each other, but are heartfelt; the judiciary system in Iran considers it illegal as non-protected, especially for women, and against the Islamic values.

Five main themes (Figure 1) as obstacles that prevent Iranian women from accessing family justice were emerged through the interviews and their outcome on women's experiences in the family justice path. First, the lack of adequate legal awareness is a problem of access to family justice. Almost all women know little

about legal organizations, procedures, and responsibilities to which they can refer to settle their legal issues. So, their awareness of their rights could not be converted into legal actions, because they are not aware of how they should use the family justice system.

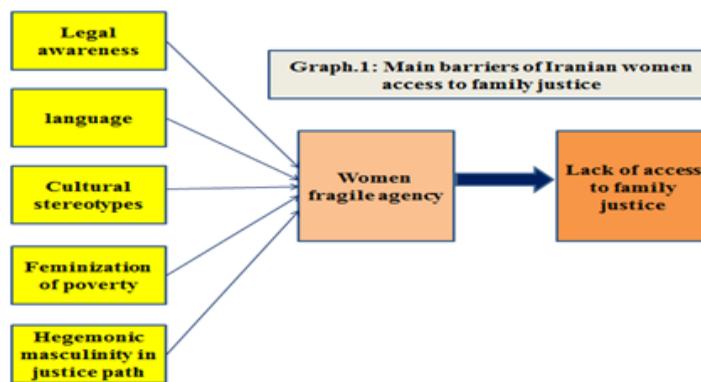


Figure 1. Main barriers of Iranian women access to family justice

The language barrier is one of the things the interviewee women frequently mentioned in their answers to the researcher's questions. Almost all of them referred to the humiliating language used by the court personnel or judges. Besides this language, there are other issues arising from cultural context; the complexity of legal technical language completely confuses many women in the family court. Many women, who have financial difficulties, would provide the attorney fees with the help of their families because of this legal technical language issue.

Cultural stereotypes comprise a certain view based on the way in which gender roles are defined by a certain community in

a given context. These stereotypes in Iran's family courts have appeared mostly in the judges' views, especially in the process of case sentencing. Many women interviewees said that both the judge and the court staff did not understand them. Many of these judges see the men as the breadwinners, and the women should obey their husbands because they provide financial needs. Unfortunately, this view is the reason of much domestic violence occurring in different Iranian families.

Feminization of poverty is a remarkable problem related to women's access to family justice in Iran. There are many educated women, even more than men in some areas, in Iran, but there is no special mechanism for

equal and supportive employment of women in the society and law. So approximately 75-80% of the governmental jobs are occupied by men, and women can only contribute to 20%. As mentioned above, many women-headed households suffer from poverty more than their male counterparts. On this path, high legal fees represent another barrier facing women's access to family justice.

High cost of court fees could be another obstacle for women finding justice. Women who are unable to pay the fees might bow to the inevitable by giving up their rights. Also, long waiting time given to women for opportunity to present their case in court can cause them to lose faith in justice system. Often families intervene and try to solve the problem by passing the court. Enhancement of human resources and number of courthouses, judges, and prosecutors adjudicating family disputes will settle this problem caused by the high workload.

A male hegemonic structure and many different obstacles within the procedural justice and sociocultural and cultural matters, play a more important role in preventing women's access to family justice in Iran. As current study has shown, despite written approved law in family matters, it is already observed that, notwithstanding the protection provided by the law, women's access to family justice in many different positions, has been ignored.

These obstacles and barriers will lead to a reduction of Iranian women's self-esteem within the society's different spheres. This decrease causes a fragile agency (Figure

1), as a main mentally severe problem for women who are barred from any action to achieve their rights and access family justice. The lack of access to justice itself in a cyclic manner would result in a wider range of problems in both personal and marital life.

The data retrieved through fieldwork also declare that Iranian women's understanding of the justice system includes depriving feelings and unmet demands. To meet these demands and empower Iranian women, it is essential to adopt and apply a gender-sensitive approach both in law-making processes and administration. In the law-making process, preserving a gender sensitive approach for anti-discrimination and making, adopting, and performing laws in accordance with this approach will sweep a main obstacle to women's access to family justice.

The present research results present a number of absorbing views into the understandings of Iranian women of access to family justice. However, like any study about such a complicated subject, there exist a number of limitations, and it is crucial to identify these limitations and to make recommendations for future study. This research has also its limitations in terms of methodological framework and application. The interviews were limited by use of a non-random sample. They were carried out in two main districts of Tehran Family Court with an almost small population. Subsequent research about women's understandings of access to family justice should overlay different cities in Iran. Furthermore, the

questions in the interviews were arranged based on the researchers' knowledge of the existing issues about legal empowerment and access to family justice literature. So, it is fair to say that the result of this paper may reflect the interests and the concerns of the researchers as much as the interests and the concerns of the respondents. Nonetheless, the interpretations demonstrated based on the items came out from the interviewees' answers seem to sufficiently indicate that the results of this study reflect the respondents' views.

Ultimately, the previous study is the next study question, and this study is no exception. It is only one of the early efforts to explore the main barriers of access to family justice from the users' view in Iran. For instance, this study has not covered the extent to which minorities or defendant or prisoner women have access to family justice. In addition, study would also be needed to present more up-to-date data in relation to these issues in Iran. Taking to account the lack of literature regarding access to family justice from the different Islamic perspectives, it would also be of great concern to examine how various schools of thought reflect on such a subject.

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