

BRIEFING PAPER SERIES:
RIGHTS OF THE CHILD

**INEQUALITY IN *DIYA* (BLOOD MONEY)
FOR GIRLS UNDER IRANIAN LAW**



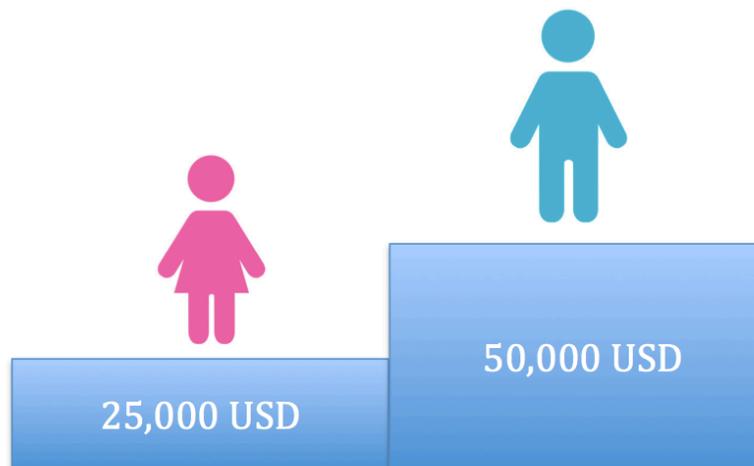
INSIGHTIRAN

Inequality in *Diya* (Blood Money) for Girls under Iranian Law

March 2015

Amongst the different laws of Islamic countries, the Iranian Penal Code is perhaps the only one that still specifies that a woman's *diya* (blood money) is not equal to the blood money of a man. In fact, the blood money for a Muslim man is the standard against which the values of all other categories of persons are measured, both for life and for injuries. According to traditional Shari'a, the standard blood money for life is 100 camels or 200 cows or 1,000 sheep, which was given a monetary value of 1,500,000,000 IRI Rials [currently around \$50,000 US Dollars] for the Iranian year 1393 (2014-15).

It must be explained at this point that the age of the victim does not make any difference with regard to the blood money. So, the same rules apply to individuals, including children, who suffer from bodily injuries regardless of their age. Unlike age, however, sex is a legal ground for inequality. Article 550 of the new Penal Code (similar to Article 300 of the old Code) provides that: “[t]he *diya* (blood money) for murdering a woman is half that of a man”.



Interestingly, although the new Penal Code insists on this unequal treatment, it has prescribed a new solution to alleviate the inequality of *diya* between men and women. The note to Article 545 provides that:

“In all cases of homicide where the victim is not a man, the difference between the diya and the diya of a man shall be paid from the Fund for Compensation of Bodily Harms.”

The Fund for Compensation of Bodily Harms was established to exclusively compensate bodily harms caused in hit and run car accidents or when the vehicle was not insured and the driver was not capable to pay the compensation. In fact, the IRI, while still insisting on this inequality, has found an unusual solution to the problem. However, this should not be viewed as a significant step towards equality for women: in the case of bodily injury that does not cause death, the *diya* for men and women is still only equal until it reaches to one-third of the full *diya*. That is, the one-third mark acts as a kind of trigger: once the *diya* of the injuries of a woman is higher than one-third of the full *diya*, it will be decreased to half that of a man’s *diya* for the same injuries. Article 560 of the new IPC states:

“The diya of [harm to] limbs and bodily abilities, up to one third of the full diya, is the same for man and woman; however if it reaches, or exceeds, one third of the full diya, the diya of woman shall be decreased to half.”

Therefore, if someone causes a 6 year old boy to go blind in both eyes, he would be given full *diya* equal to an adult man, while a 6 year old girl, if incurring the same injury, would only be given half of the full *diya*, and this is not payable from the Fund for Compensation of Bodily Harms. So, any assertion by the IRI authorities on the equality of blood money for both sexes under the new Islamic Penal Code must be dismissed.



This was made crystal clear once more when, on 5 December 2012, an elementary school in the village of Shin-Abad near Piranshahr caught in fire due to a faulty heater and 28 of the student girls were severely burnt, while two of them lost their lives. [1] According to the law, the blood money for those who had injuries that required more than one third of the full blood money were offered half of the amount payable if they were boys. This included those who had died, where their parents were offered half of the full blood money. 18 of the students and their families agreed the deal and received the halved compensation. The rest, however, resisted and it was only after an intensive campaign of their lawyer and the families that the State-run insurance company agreed to pay the difference. [2]

However, this must not be confused and seen as equal blood money for girls, as it was an exceptional case, which was concluded by the discretion of the government outside of the court. Was it not because of a specific order issued by the Cabinet of Ministers, which in itself was motivated by the scale of the tragedy and the public outrage, the insurance company would have never paid the difference as it had no such obligation under the Penal Code. Therefore, it must be firmly stressed that the Penal Code discriminates against girls and the blood money for life and bodily injuries for girls are half that of boys. The same blood money rules discriminate against non-Muslim children who belong to religious minorities that are not recognised in the IRI Constitution, such as Baha'is. This requires an independent study.

* * *

INSIGHTIRAN

Insight Iran is a non-governmental non-profit organisation aimed to provide insight into the situation of human rights in Iran.

About Briefing Papers Series:

This legal analysis belongs to a series of briefing papers on human rights in Iran authored by the legal experts of Insight Iran. Each paper provides a human rights legal analysis and examines a distinct topic to measure the IRI's international obligations against domestic laws and practices. These briefing papers provide an accurate and analytical account of the violations in Iran from the standpoint of international law, which may offer UN human rights institutions, States, and civil society advocates a better understanding of, and tools to promote, the situation of human rights in Iran.

The first series of the briefings examines some critical aspects of the rights of the child with respect to the IRI's obligations under international human rights law including the Convention on the Rights of the Child (CRC) to which Iran is a State party.

Copyright © Insight Iran 2015

Insight Iran
London, United Kingdom
www.insightiran.org