

PART VI

Gender Apartheid

In some nations, strict sex segregation and socio-sexual and economic discrimination against women and girls make equality in life and justice impossible. This gender apartheid pervades all aspects of female existence; it saturates the human, political, economic, social, and cultural experience. It not only makes females more vulnerable to human trafficking, but it also hinders them from attaining equal justice under the law in the post-trafficking experience.

In Iran the segregation of men and women is enforced in public spaces. Women are not allowed to socialize openly with men who are not relatives or who are unmarried. They must sit in specific reserved sections on the bus and must enter public buildings, airports, and universities through a separate entrance from men; they must stay in “women only” areas when swimming, skiing, or at the beach. Health care is also segregated, and there are not enough trained female physicians and health care professionals to meet the needs of all the women and girls in Iran. A woman may initiate divorce for a limited number of reasons, while a man does not need to state a reason to divorce. The age of criminal responsibility begins at age 8 years and 9 months for girls and age 14 years and 7 months for boys. Under the Penal Code, a woman may not go out in public without an appropriate hejab; those who do face lashings and fines. The fact that there is no clear legal definition of an appropriate hejab creates an arbitrariness that places the decision on appropriateness in the hands of morality police and judges. A man may have up to four wives as well as temporary wives; a sigheh (temporary marriage) is a loophole that is used for prostitution and human trafficking.

Article 3 of Iran's constitution states that women and men have the same rights and protections, yet it also states that the principles of Islamic law are the supreme law. This state of affairs poses significant challenges for female trafficking victims. For instance, a significant hurdle to obtaining equal justice for female victims is that under the Iranian government's interpretation and application of Islamic law, a woman's testimony is worth half of that of a man. Furthermore, while human trafficking is criminalized, so too are the moral offenses victims commit during the trafficking experience such as illegal border crossing, prostitution, or extramarital affairs. Punishments are severe; at times victims are sentenced to death. This was the case of a 16-year-old sex-trafficking victim who was publicly hung for crimes against chastity committed during her trafficking experience. Aside from the diminished worth of a female's testimony, the knowledge of potential punishment and execution strongly deters victims from coming forward. This situation further marginalizes the victim and also allows traffickers to continue the abuse and exploitation of females with impunity. The punishment of females for crimes associated with their trafficking experience is likely to continue. At the February 2010 Trafficking in Persons Working Group in Vienna, the Iranian delegate stated that the government of Iran would not accept recommendations that called for absolving trafficking victims for their crimes. The delegate went on to state that while the victim status of a woman may be taken into account by the judge, he opposed the idea that such a woman should not be prosecuted. In January 2012 the government of Iran adopted a new Penal Code, which retains adverse differential treatment in the punishment, age of responsibility, evidentiary standards, and compensation of females as compared to males.

Note: Throughout chapter 12 we refer to the Penal Code, which specifically means the Penal Code of 1991, unless otherwise specified. Any noteworthy changes to the code that arise from the 2012 Penal Code are discussed.

CHAPTER 12

Iran

There are many young runaway girls—I say this confidentially.
More than 4,000 young girls have come to our city. That's a lot.
On any street corner I can pick up ten girls.

—A MULLAH IN IRAN

A 16-year-old sex-trafficking victim was publicly hung in 2006. Her crime was engaging in acts incompatible with chastity. The town governor congratulated the religious leader who sentenced the young girl on his firm approach (U.S. Department of State, 2006). Just two years earlier, Iran had taken significant steps toward eliminating human trafficking within its borders. In 2004 the Iranian Parliament ratified an anti-trafficking law that prohibits the trafficking of persons by means of a threat, use of force, coercion, abuse of power or of position of vulnerability of the victim for prostitution, removal of organs, slavery, or forced marriage (UNODC, 2007; Hosseini-Divkolaye, 2009). In the same year Iran signed separate memorandums of understanding with Afghanistan, the International Labour Organization, the International Organization for Migration (IOM), and Turkey. Iran also conducted a study focusing on the trafficking of women (U.S. Department of State, 2005).

Despite these significant anti-trafficking steps, victims continue to face punishment for moral offenses resulting from their trafficking experience, including imprisonment, beatings, and execution (Hughes, 2006). Other significant problems are the lack of enforceable anti-trafficking mechanisms and that substantial disjunctures persist among policy, the judiciary, and law enforcement (UNODC, 2007; ODVV, 2009).