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## Stoning in Iran: A Sexist and Overlooked Practice

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# Stoning in Iran: A Sexist and Overlooked Practice

## Abstract

This paper seeks to dissect and expose the ancient practice of stoning in Iran, and to analyze the injustices that are built into this punishment.

## Disciplines

Anthropology | Ethnic Studies | Gender and Sexuality | History of Religion | Islamic World and Near East History | Near and Middle Eastern Studies | Public Affairs, Public Policy and Public Administration | Social and Cultural Anthropology | Social Policy | Social Welfare | Women's History | Women's Studies

## Comments

This paper was written for Professor Amy Evrard's course, *ANTH 218: Islam and Women*, Spring 2015.

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## Stoning in Iran: A Sexist and Overlooked Practice

by Megan Haugh

Most people have a very negative view towards Islam because of the endless stereotypes about this religion and exposure to biased media coverage of events pertaining to the Middle East. It is common for non-Muslims to automatically associate Islam with terrorism, oppression of women, and shallow but obvious features of this religion such as the hijab. While it is important to realize that these stereotypes are not true and that the majority of Muslim women are happy with their lives and feel empowered by their religion, we must also be aware that some women in the Middle East today are still subjected to horrific practices. In Iran, death by stoning is a legally sanctioned form of punishment that is outlined in the Iranian Penal Code. Richard Johnson designed a graphic demonstrating how to stone someone in accordance with this code. It begins with images of an officer preparing a woman to be stoned by wrapping her in a sheet and tying ropes around her body to keep it in place. The graphic goes on to describe the size of stones that are acceptable to use for stoning. Stones that were too small are not acceptable, and neither are stones large enough to kill someone in just one or two strikes. The final section of the graphic is the most gut wrenching part. It includes images of a woman being buried and a man throwing rocks at her. It points out that, while men are buried up to their waists, women are buried up to their shoulders.<sup>1</sup> When you

consider the feature of this punishment that allows the victim acquittal of their crimes and a pardon from death by stoning if they can free themselves from the hole, the gender differences in burial technique become clear. For this reason and many others, I have come to the conclusion that this government-sanctioned torture is discriminatory towards women and is a serious human rights issue that does not receive enough global attention.

The practice of stoning has been around since the beginning of Islam. While currently there are no verses in the Qur'an that specifically mention stoning, some scholars believe that originally there was a verse discussing stoning and adultery. The verses that discuss adultery point to flogging and lashing as punishment, not stoning.<sup>2</sup> The Hadith, specifically those narrated by 'Umar, the Second Caliph who came after Muhammad, are where sanctions on stoning can be found in religious Islamic texts. 'Umar was said to have institutionalized this practice because of the verse of stoning that was removed from the Qur'an. He claimed that Muhammad revealed the stoning verse to him, but did not include it with the passages to be written into the Qur'an. For this reason, he narrated Hadiths to institutionalize stoning.<sup>3</sup> For example, one of these Hadiths states: "Know that 'stoning' is truly prescribed against one who commits adultery and is proven on the basis of incontrovertible evidence, pregnancy, or a confession."<sup>4</sup> While this refers to both men and women, it is clearly more heavily weighted towards the female because pregnancy, a purely feminine issue, can be used as evidence for adultery. Another

Hadith that is directed exclusively towards the female population states, “Muhammad once proclaimed...God has decreed a way for the women: that for the virgin with the virgin, a hundred lashes and a year in exile, and for the non-virgin with the virgin, a hundred lashes and a year in exile, and for the non-virgin with the non-virgin, a hundred lashes and stoning”<sup>5</sup> The wording of this Hadith is problematic because no longer do we live during a time where it is acceptable to determine that someone should be put to death because of her status as a virgin or a non-virgin. Also, the word choice in this Hadith reveals that it is directed only toward the female population. ‘Umar said that Muhammad told him that God told him that this was “the way for women.” Not to diminish these sacred texts, but this sounds similar to a story being passed through the rumor mill in the hallways of a high school. This Hadith seems to be no longer relevant in society, whether it is in a Muslim majority country or not, as it condones a practice that violates many human rights, specifically the fundamental right to live and to freedom from torture. The fact that these Hadith are specifically directed towards woman makes stoning a women’s rights issue as much as well as a human rights issue.

While stoning has been around for centuries, it was not until 1983 that it became a legal form of punishment in Iran.<sup>6</sup> Because stoning was not a legal practice, stonings were not documented until 1983, so their previous rate of occurrence is unknown. Between 1983 and 2014, there were approximately 150 documented cases of stoning in Iran.<sup>7</sup> This is not to say that these are the only ones

that have occurred, as it is impossible to determine the number of stonings that occurred under the radar of public knowledge. Of the stoning victims' genders that are known, 44% of them are women. Though a slightly higher percentage of these cases involved men, it must be noted that in Iran the number of women involved in crime is significantly less than the amount of men; so proportionally fewer women are committing crimes, yet more of them are being executed by stoning.<sup>8</sup> Another statistic that is important to take note of is the number of males compared to females who are awaiting death by stoning. There are 22 people on this list, and 91% of them are women.<sup>9</sup>

In 2002, a moratorium on stoning was imposed by the Head of Iran's Judiciary. Though there is a moratorium in place that should stop stoning, it still remains legal in the Penal Code and therefore is still practiced in Iran. There are confirmed stonings that occurred after 2002, further solidifying that this moratorium was not effective.<sup>10</sup> The moratorium was not completely pointless, as it did save the life of at least one woman. Hajieh Esmalivand was convicted of adultery and imprisoned in 2000 to await death by stoning. After the 2002 moratorium, her case was publicized, and, with great effort from the Stop Stoning Forever Campaign, she was acquitted and freed from prison in 2003.<sup>11</sup> However, though this fortunate woman was spared from this terrible fate, other women more recently have not been so lucky. A woman named Mahboubeh had an affair with a man named Abbas (last names not disclosed). The couple was caught and both were sentenced to

stoning in May of 2006, over four years after the moratorium was enacted. Their stonings were confirmed to have occurred in a cemetery in Mashhad, Iran.<sup>12</sup> This case suggests that the moratorium was simply a tool used to placate the masses and was not enforced in order to bring to an end the practice of stoning.

Another issue related to stoning is the proof required in order to convict someone as having committed adultery. There must be either four confessions from each of the adulterers, eyewitness testimony of four men or three men and two women, or a pregnancy in order for adultery to be confirmed.<sup>13</sup> Men do not have the ability to get pregnant, so the requirements reflect another gender inequity. If a married man and a married woman cheat on their respective spouses with each other and the woman gets pregnant, she will be stoned. However, unless the man confesses or there were a handful of people to witness the consummation, there may not be proof that he is guilty of this crime. There is no way to know, but it is highly likely that most people guilty of adultery would not be willing to admit guilt because they are aware that the consequence is death by stoning. Outside of these requirements, there is one other way that an Iranian citizen can be condemned to be stoned. A judge can issue a stoning sentence based on his 'intuition' or 'gut feeling' even if there is no confession or testimony.<sup>14</sup> This leaves so much room for inconsistent, unfair punishments to be prescribed. In addition, by law women are not allowed to become judges in Iran. This means that those accused of adultery

only have the option to be placed before a male judge in court, so men and women's lives alike are automatically placed into the hands of a man.

The Islamic Penal Code does not solely prescribe stoning as a punishment for women. Both men and women can be sentenced to death by stoning, but there are some other circumstances making the practice discriminatory to the female gender. While the Penal Code states that the punishment is for both genders, some provisions of the Iranian Family Code cause an imbalance between the rights of men and women when it comes to marriage. First of all, Muslim men in Iran are granted the right to marry any woman they please, whether she is Muslim or not. Muslim women in Iran are not granted this right, and are only permitted to marry a Muslim man.<sup>15</sup> This makes women more likely to marry someone that they do not want to, and therefore have an increased chance of committing adultery out of passion for someone they were not legally permitted to marry. Because men can marry whomever they wish from the start, they may have less of a reason to be unfaithful to their chosen spouse.

Another unfair provision is that men are able to seek a divorce for any reason they wish, although divorce is discouraged by the courts and the rate of divorce in Iran is very low. A woman only has the right to a legal divorce for limited reasons.<sup>16</sup> Clearly, these specific circumstances do not present themselves to every woman who wishes to divorce her husband in Iran. Therefore, a woman in Iran is forced to stay in an unhappy marriage, while a man has the freedom to end it whenever he



pleases. Because of this, women may be more likely to commit adultery leading to an increased chance of being stoned.

There are many other provisions and rules sanctioned by the government that are discriminatory toward women. For example, the Hudud Ordinance, which deals with Islamic criminal punishments, specifically affects women. A woman accused of *zina*, which includes not only extramarital sex but also rape if it cannot be proven that the sex was not consensual, is liable to be sentenced to either 100 lashes or death by stoning.<sup>17</sup> For a woman to be held responsible for her own rape, under any circumstances, is an extreme violation of their rights not only as a woman but as a human being. In addition, in order for the sex to be determined a rape, the rapist must give a confession or there must be four male eyewitnesses. The testimony of the woman in question holds no legal weight.<sup>18</sup> It is difficult to obtain confession for a rape regardless of the location, even in countries where the punishment for rape would be less severe than Iran. It is likely pretty uncommon for a rapist to be willing to admit guilt in a court of law. It is equally unlikely for someone to rape a woman while there are four male eyewitnesses present. The difficulty of obtaining proof of rape is problematic, because this puts women in a position where they can be accused of adultery when in reality what they engaged in was forced, non-consensual sex.

With all of these rules and provisions relating to stoning that are obviously very sexist towards women, one would think that this would be a prominent

concern for Western feminists. The most important basic, moral insight of feminism that most people agree with, even if they do not consider themselves feminist, is that women deserve the same rights as men. Western feminists tend not only to be quiet about the practice of stoning, but the plight of Muslim women in general. Many of them do not vehemently and publicly oppose stoning, honor killings, unfair rights that men have over their wives, or the fact that women in Saudi Arabia still do not have the right to drive a vehicle.<sup>19</sup> These practices, along with lashings for improper veiling, child marriage, and female genital mutilation, which are carried out in parts of the Muslim - and non-Muslim world, may not be so strongly considered because they are seen as 'cultural practices.'<sup>20</sup> Westerners sometimes have the tendency to tread lightly around issues in the Muslim world, as well as other areas, that they do not understand due to cultural differences. While it is important to consider cultural relativism while making decisions on the practices of another culture, these legally sanctioned gender crimes are not something that we as outsiders can write off as 'cultural practices' any longer. These practices violate the basic human rights that every person is born with, and they need to be exposed to the world as such.

In her book *Feminism and Islamic Fundamentalism*, Haideh Moghissi outlines a few reasons why stoning and similar practices struggle to gain attention. One of these reasons was previously mentioned—the tendency of Westerners and non-Muslims to consider them 'cultural practices.' Another significant reason is the fact that the system of Islam favors male values over female values. There is also no free

press, and the system gets to decide what is reported to the public.<sup>21</sup> In the United States, most every crime or significant bit of news is available to the public almost immediately through various forms of media. This enables individuals and groups in this country to hear about issues and take action against them. Without this free access to the news and the ability of the media to report anything they wanted to, many of the issues in the U.S. wouldn't be widely known. If the press in Iran were free to report anything, there would be much easier access to accurate information about what is going on in that country. This would be helpful to many Iranian women who live in constant fear of the oppressive system that they live under.

Another possibility for the strange silence pertaining to Muslim women by Western feminists is the idea that the issues that Muslim women face will devalue the issues that Western feminists are fighting for. While Western women are upset about issues like women's sporting teams in college and receiving pay that is equal to men, some Muslim women in Iran do not have the right to divorce their abusive husbands and live with the concern that they could be stoned to death for being raped.<sup>22</sup> These issues might make the Western feminists' problems seem much less important, and that could be why they do not pay them as much attention as people would expect them to.

Stoning is a grotesque practice that, even if it were not discriminatory towards women, should not exist in today's world. The many provisions and rules in place that make stoning a more of a possibility for women than men only worsen the

issue. In order to abolish this practice from our world, it needs to become more publicized and discussed outside of the areas where it is happening. Though it is a hard thing to imagine for privileged people who will never personally encounter this practice, it needs to be known about so it can be dealt with properly. If this does not happen, men and especially women in Iran and other areas will be forced to continue living with the threat of being stoned to death looming over their heads.

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- <sup>1</sup> Johnson, Richard. "Graphic: Anatomy of a Stoning in Iran." National Post, 20 Nov. 2010.
  - <sup>2</sup> Kusha, Hamid R. and Nawal H Ammar. "Stoning Women in the Islamic Republic of Iran: Is It Holy Law or Gender Violence." Arts and Social Sciences Journal 5, no. 1.
  - <sup>3</sup> Kusha and Ammar. "Stoning Women in the Islamic Republic of Iran."
  - <sup>4</sup> Kusha and Ammar. "Stoning Women in the Islamic Republic of Iran."
  - <sup>5</sup> Kusha and Ammar. "Stoning Women in the Islamic Republic of Iran."
  - <sup>6</sup> "Mapping Stoning in Muslim Contexts," *Justice for Iran*, February 2012.
  - <sup>7</sup> Kusha and Ammar. "Stoning Women in the Islamic Republic of Iran."
  - <sup>8</sup> Kusha and Ammar. "Stoning Women in the Islamic Republic of Iran."
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  - <sup>11</sup> "Mapping Stoning in Muslim Contexts."
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  - <sup>13</sup> Greiff, Shaina, "No Justice in Justifications: Violence against Women in the Name of Culture, Religion, and Tradition," The Global Campaign to Stop Killing and Stoning Women and Women Living Under Muslim Laws, 2010.
  - <sup>14</sup> Terman, Rochelle and Mufuliat Fijabi, "Stoning Is Not Our Culture: A Comparative Analysis of Human Rights and Religious Discourses in Iran and Nigeria," The Global Campaign to Stop Killing and Stoning Women and Women Living Under Muslim Laws, 2010.
  - <sup>15</sup> Greiff, Shaina, "No Justice in Justifications."
  - <sup>16</sup> Greiff, Shaina, "No Justice in Justifications."
  - <sup>17</sup> Moghissi, Haideh, *Feminism and Islamic Fundamentalism: The Limits of Postmodern Analysis* (New York: Zed, 1999).
  - <sup>18</sup> Moghissi, *Feminism and Islamic Fundamentalism*.
  - <sup>19</sup> Hymowitz, Kay S., "Why Feminism Is AWOL in Islam," *City Journal*: 2003.
  - <sup>20</sup> Moghissi, *Feminism and Islamic Fundamentalism*.
  - <sup>21</sup> Moghissi, *Feminism and Islamic Fundamentalism*.
  - <sup>22</sup> Hymowitz, Kay S., "Why Feminism Is AWOL in Islam."

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