



A Jurisprudential Analysis of the Necessity to Revise Paragraph 3 of Article 18 of the Iranian Passport Law with Respect to Elite Women

Mahdieh Ghanizadeh¹

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1. Introduction

Paragraph 3 of Article 18 of the Iranian Passport Law (1972) requires married women to obtain the written consent of their husbands before a passport may be issued or before they are permitted to leave the country. Although this provision was originally enacted to preserve family order within the traditional legal framework, its application over the past five decades has generated significant legal and practical challenges, particularly for elite women whose scientific, cultural, artistic, or athletic achievements represent valuable national assets. Numerous cases have demonstrated that the husband's refusal to grant permission has prevented distinguished Iranian women from participating in international conferences, academic exchanges, sports competitions, cultural festivals, and other global events. Such restrictions not only deprive these women of professional opportunities and personal development but also undermine the country's scientific, cultural, and diplomatic interests. Preventing internationally recognized women from representing Iran on the global stage weakens national competitiveness and limits the effective use of human capital. Consequently, the continued application of Article 18 in its current form raises important questions concerning the

1. Assistant Professor, Department of Jurisprudence and Foundations of Islamic Law, University of Qom, Qom, Iran. M.ghanizadeh@qom.ac.ir

compatibility of the existing legal rule with contemporary social realities, the objectives of Islamic law, and the public interest. This study seeks to examine whether Islamic jurisprudence provides sufficient grounds for revising Paragraph 3 of Article 18 with respect to elite married women. Rather than questioning the legitimacy of the husband's permission as a general legal principle, the article investigates whether exceptional circumstances justify creating a specific legal exception for women whose international activities directly serve significant public interests. The study therefore attempts to propose a jurisprudentially sound and legally practical solution capable of reconciling family rights with national interests.

2. Literature Review

Previous studies have mainly examined practical mechanisms for overcoming the travel restrictions imposed upon married women. Some scholars have argued that the problem may be resolved by incorporating a contractual condition into the marriage contract authorizing the wife to leave the country without obtaining subsequent permission from her husband. Although this contractual solution may be effective in individual cases, it remains dependent upon the parties' prior agreement and cannot address situations in which no such condition exists.

Other researchers have critically analysed Articles 18 and 19 of the Passport Law, arguing that the current legal framework inadequately defines concepts such as necessity and judicial intervention while imposing unnecessary restrictions upon women's freedom of movement. Nevertheless, existing studies have generally focused on legal criticism rather than developing an independent jurisprudential foundation for exempting elite women from the statutory requirement of spousal consent.

Accordingly, the present research fills this gap by examining the issue directly through the principles of Imami jurisprudence, particularly those relating to public interest, secondary legal rulings, changing social circumstances, and the prioritisation of competing obligations.

3. Research Methodology

This research employs a descriptive-analytical approach based on library sources. Relevant jurisprudential texts, statutory provisions, judicial practices, and contemporary legal discussions were analysed to identify the Islamic legal principles governing the issue. Particular attention was devoted to the interaction between primary legal rules and secondary jurisprudential doctrines applicable in exceptional circumstances.

4. Research Findings

The findings indicate that several jurisprudential considerations support revising Paragraph 3 of Article 18 with respect to elite women.

First, international travel undertaken by elite women may constitute a social or even religious obligation rather than merely a personal choice. When participation in international scientific, athletic, or cultural events contributes to national interests, strengthens Iran's international standing, or fulfils responsibilities arising from publicly funded education and training, such participation acquires a public dimension. In situations where this public obligation conflicts with the private requirement of obtaining the husband's permission, the jurisprudential principle of prioritising the more important obligation (*al-aham fa al-muhim*) supports giving precedence to the public interest.

Second, Islamic jurisprudence recognises the significance of changing social circumstances in determining the application of legal rules. The social role of women has undergone substantial

transformation since the enactment of the Passport Law. Elite women today actively contribute to scientific advancement, economic development, diplomacy, sports, higher education, and international cooperation. Consequently, legal rules designed for earlier social conditions should be re-evaluated in light of these fundamental changes while remaining consistent with Islamic legal principles.

Third, preventing elite women from participating in international events may trigger secondary jurisprudential doctrines, particularly the principle of preventing harm (*La Darar*). Such restrictions frequently result in substantial personal, professional, and economic losses for the women concerned while simultaneously harming broader societal interests by limiting national achievements and international representation. Under these circumstances, the secondary ruling based upon preventing significant harm justifies modifying the application of the general rule.

Fourth, the principle of public welfare (*Maslahah 'Ammah*) provides additional support for legal reform. Islamic jurisprudence consistently recognises that where individual interests conflict with substantial public interests, the latter may prevail, provided that the restriction remains proportionate and serves a legitimate objective. Since elite women's participation in international events often produces measurable benefits for society, public welfare justifies creating a carefully limited exception to the existing legal requirement.

Based upon these findings, the study proposes replacing the ordinary passport procedure with a temporary travel permit issued exclusively for participation in specified international events. Such a document would eliminate the need for the husband's consent while simultaneously restricting its validity to the particular journey for which it was granted. This

mechanism would preserve the general legal structure of the Passport Law while accommodating exceptional cases in which overriding public interests are present.

5. Conclusion

The study concludes that revising Paragraph 3 of Article 18 of the Iranian Passport Law concerning elite married women is both jurisprudentially justifiable and legally desirable. Four principal arguments support this conclusion. First, participation in internationally significant activities may constitute a social obligation that takes precedence over private family restrictions. Second, contemporary social developments require legal rules to reflect the expanded public role of women. Third, preventing elite women from travelling may cause serious harm not only to the individual but also to society and national interests, thereby activating secondary jurisprudential principles such as the prohibition of harm. Finally, the protection of public welfare justifies recognising a limited exception where national interests clearly outweigh private concerns.

Rather than abolishing the husband's right entirely, this study recommends establishing a narrowly tailored legal mechanism through which elite women may receive temporary travel permits for specific international missions without requiring spousal consent. Such an approach maintains respect for the institution of marriage while ensuring that valuable national opportunities are not lost because of procedural legal restrictions. The proposed reform therefore represents a balanced solution consistent with both the principles of Islamic jurisprudence and the evolving needs of contemporary Iranian society.

Keywords: Elite Women; Passport Law; Freedom of Travel; Spousal Consent; Islamic Jurisprudence; Public Interest; Secondary Legal Rulings.