

Iranian Women

The Quest for their Legal Equality since the Constitutional Revolution

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ABSTRACT

The active presence of Iranian women in the public arena and their efforts to obtain equal rights date back to the early twentieth century, when the Constitutional Revolution took place in Iran. The Constitutional Revolution of 1906 was a liberal movement aimed at creating a Parliament, limiting the Shah's powers and enforcing constitutional laws. This article will explore the historical background of the women's movement in Iran, in order to identify all the means utilized to demand equality in order to trace the process of demanding equality and the obstacles that Iranian women have encountered in their efforts to achieve it. It looks at the transformation of women's rights movement in the context of socio-legal reforms in the country. The study will examine three distinct periods in the women's rights movement, with particular focus on the post-1979 Revolution era. The Qajar Dynasty, 1796-1921, where women were systematically and socio-culturally deprived of their basic economic, social and political rights. The Pahlavi era, 1925-79, where there was a period of some positive changes for women. Finally, post-1979 Revolution and the rise of the Islamic Republic, where women lost the rights they had previously obtained. This study will attempt to demonstrate that though legal equality has yet to be obtained by Iranian women, they continue to actively pursue it. In this pursuit, they have successfully challenged the gender bias of the Iranian legal system, and it has lost its legitimacy. More pertinently, the social context has been primed to accommodate equal rights for women.

Keywords: Women's Rights, Iran, Legal Rights, Islamic Law

RESUMEN

La presencia activa de mujeres iraníes en la arena pública y sus esfuerzos por obtener la igualdad de derechos se remontan a principios del siglo XX, cuando tuvo lugar la Revolución Constitucional en Irán. La Revolución de 1906 fue un movimiento liberal destinado a crear un Parlamento, limitar los poderes del Sha y hacer cumplir las leyes constitucionales. Este artículo explorará los antecedentes históricos del movimiento de mujeres en Irán, con el fin de identificar todos los medios utilizados

para exigir la igualdad a fin de rastrear el proceso de exigencia de la igualdad y los obstáculos que encontrados en sus esfuerzos para lograrlo. Analiza la transformación del movimiento por los derechos de las mujeres en el contexto de las reformas socio-legales en el país. El estudio examinará tres períodos distintos en el movimiento por los derechos de las mujeres, con especial atención a la era de la Revolución posterior a 1979. La dinastía Qajar, 1796-1921, donde las mujeres fueron privadas sistemática y socioculturalmente de sus derechos económicos, sociales y políticos básicos. La era Pahlavi, 1925-79, donde hubo un período de algunos cambios positivos para las mujeres. Finalmente, la Revolución posterior a 1979 y el surgimiento de la República Islámica, donde las mujeres perdieron los derechos que habían obtenido con anterioridad. Este estudio intentará demostrar que, aunque las mujeres iraníes aún no han logrado la igualdad legal, continúan persiguiéndola activamente. En esta búsqueda, han desafiado con éxito el sesgo de género del sistema legal iraní, el cual ha perdido en ello su legitimidad. De forma más relevante, el contexto social ha ido evolucionando a fin de dar cabida a la igualdad de derechos para las mujeres.

Palabras clave: Derechos de la mujer, Irán, Derechos legales, Ley islámica

RESUM

La presència activa de dones iranianes en l'arena pública i els seus esforços per obtenir la igualtat de drets es remunten a principis del segle XX, quan va tenir lloc la Revolució Constitucional a l'Iran. La Revolució de 1906 va ser un moviment liberal destinat a crear un Parlament, limitar els poders del Xa i fer complir les lleis constitucionals. Aquest article explorarà els antecedents històrics del moviment de dones a l'Iran, per tal d'identificar tots els mitjans utilitzats per exigir la igualtat per tal de rastrear el procés d'exigència de la igualtat i els obstacles que trobats en els seus esforços per aconseguir-ho. Analitza la transformació del moviment pels drets de les dones en el context de les reformes soci-legals al país. L'estudi examinarà tres períodes diferents en el moviment pels drets de les dones, amb especial atenció a l'era de la Revolució posterior a 1979; la dinastia Qajar, 1796-1921, on les dones van ser privades sistemàtica i socioculturalment dels seus drets econòmics, socials i polítics bàsics, l'era Pahlavi, 1925-1979, on hi va haver un període d'alguns canvis positius per a les dones. Finalment, la Revolució posterior a 1979 i el sorgiment de la República Islàmica, on les dones van perdre els drets que havien obtingut amb anterioritat. Aquest estudi intentarà demostrar que, tot i que les dones iranianes encara no han aconseguit la igualtat legal, continuen perseguint activament. En aquesta recerca, les dones han desafiat amb èxit el biaix de gènere del sistema legal iranià, el qual ha perdut en això la seva legitimitat. De forma més rellevant, el context social ha anat evolucionant per tal de donar cabuda a la igualtat de drets per a les dones.

Paraules clau: Drets de la dona, l'Iran, Drets legals, Llei islàmica

Introduction

To gain a better understanding of the women's movement in Iran, the historical background of the movement should be examined. This article analyses the transformation of women's rights movement since the Qajar dynasty in the context of socio-legal reforms in the country. The purpose of this analysis is to measure the success and failure of the movement in the course of the past century. The objective is to outline the existing obstacles and restrictions that prevent the movement from bringing about substantial changes to or amendments of discriminatory laws against Iranian women. This will be achieved by examining socio-legal reforms in the country through Qajar, Pahlavi and Islamic Republic era.

In the first section, the article will take readers through the Qajar dynasty, during which the need to codify laws emerged and moved Iran toward a modern state. The adoption of the constitution during this period recognized the need for public education, which became instrumental for women to advocate for their rights.

In the second section, the article will argue that the modernisation of laws pertaining to women was conducive to the advancement of women's rights during the Pahlavi era. However, as this was in line with Shah's 'great civilisation' ideology, all positive changes became dismantled following the removal of the Shah from the country's political scene.

The 1979 Revolution, which will be discussed in section three, stopped the drive toward further female emancipation in its track. The course of events after the revolution did not favour women's rights. Most of the gains of previous decades – including rights painstakingly achieved through the long and difficult process of prying concessions from a Shah whose commitment to modernization was often more apparent than real – were rolled back.

The Qajar Dynasty, 1796-1921

There are two periods during the Qajar dynasty that are distinctive in the societal conditions for women in Iran: pre-Constitutional Revolution of 1906 and post-Constitutional Revolution.

Prior to the Constitutional Revolution, discrimination against women was more prevalent in the social context. For example, women would be held responsible and shamed for giving birth to a girl over the preferred male child. During childhood, a girl was required to conduct themselves in a manner more befitting a woman than a child and was required to keep silent in public spaces. At the age of maturity, nine years old for girls, she would be confronted with the social norms of arranged and/or forced marriage, including entering into polygamist arrangements, a male privilege that was popular during that time. The rights of women began to enter the social discourse, though minimally, as the constitutional movement began to pick up momentum.

Naser al-Din Shah's increased relationship with the Western countries, both economically and culturally sparked reservations by the *olamā* (*High ranking religious figures*) and a call for the codification of the law by diverse segments of society to limit the power of the Shah. The lack of codified laws was perceived as the main component blocking modernisation for Iranian society. A preliminary draft of a constitution, consisting of ten articles, was developed for the establishment of a modern state based on democratic elements included: equal rights

among citizens, freedom of religion, state secularisation, social rights, state responsibility and the separation of powers.¹

Despite introducing these reforms, the Qajars were unable to build an effective administration and failed to establish a centralised state. Attempts to bring reform to crucial sectors of the state bureaucracy, such as the customs division, compelled the merchant classes to join elements of the intelligentsia and clergy in supporting modernist ideas that limited the powers of the monarch, establishing other permanent state institutions, such as a parliament and the office of prime minister. Women were amongst those who joined the constitutionalist movement and engaged in a range of political activities, including active presentation in public demonstrations. The movement succeeded in bringing together a variety of different forces, which in turn created a cross-societal alliance that, while not fully aligned in its objectives, made significant changes to the structure of the state. As a result, on 5 August 1906, Muzaffar al-Din Shah agreed to sign the royal proclamation that held the first national elections for a Constituent Assembly.² The Constitutional Revolution of 1906 moved Iran into a new era during which the Constitution and its Supplement were drafted and approved.³

Women were amongst those who took to the streets during the revolution, remained in the public sphere to demand their share of rights, including the right to vote, political and economic participation, and access to education. However, despite their contribution in the movement, the final draft of the constitution lumped women into a category of criminals and people with mental health who were still deprived of the right to vote.⁴ This naturally restricted their ability to actively participate in public life.

The women's movement did not have a distinct identity during the constitutional revolution. It was only after the blatant denial of rights in final draft of the 1906

¹ Articles of the constitution relating to social rights and the separation of powers resulted in Naser al-Din Shah not ratifying it. The constitution was then adeptly redrafted to minimise any risk of displeasing the Shah. The second draft received a positive response from the Shah and became a key point of reference in Iran's evolving legal and political system. Adamiyat, F. [1973]: pp. 196–207

² Abrahamian, E. [2008]: p. 45

³ The Constitution was ratified in December 1906 and the Supplement was adopted in October 1907

The constitutional text of 1906 consisted of a short preamble and fifty-one articles. For the English text of the Constitution, see Marayati, A. A. [1968]: pp. 4–31. "These two documents, with minor amendments, survived as the fundamental laws of the land all the way to the 1979 revolution at least on paper." Abrahamian, E. [2008]: p. 47

⁴ Ettehadieh, M. [2014]

constitution, that the movement became distinct in its character with the organizations of women's association and schools.

The Constitution did however, provided for public education, and women activists took creative liberty of this provision to promote education for girls to build the ground work for greater rights. Women challenged the *status quo*, insisting that unless Iranian women were educated, Iran could not advance.⁵ Their efforts in promoting women's education led to the establishment of schools for girls. The first private school for girls was founded in 1907 and became the springboard for the women's movement in Iran.⁶

After the revolution women established associations to advance their presence in public sphere. In 1907, Anjoman-e āzādi-e zanān (also known as Anjoman-e ħrīyat-e zanān, or Association for the Freedom of Women) was established. This association aimed at promoting the participation of women in social life. The Association had sixty female members as well as male members. Most of the female members were women from the royal family, aristocrats, and families of political leaders. For example, two daughters of Naser-al-Din Shah, Taj-al-Saltana and Eftekar-al-Saltana Eftekar-al-Saltana were amongst the members.⁷ Anjoman-e āzādi-e zanān, like other associations established in the early Constitutional Revolution era, did not last long. Another example is Anjoman Mokhad-darāt-e Vatan or National Ladies' Society which was formed in 1910 to advocate for women's social and political demands alongside its political mobilisation of Iranians around nationalism. Several associations were established to promote women's rights, often with short life spans, though contributing to the development of a momentum.⁸

Women also took advantage of laws that granted freedom of the press and began to publish women's newspapers aimed at promoting women's education, as well as their social and political inclusion. In the course of 10 years, during 1906-1916 thirty women were writing in media. In 1911, Dānesh or Knowledge, the first women's publication came into existence. This publication although covering issues such as the right to education did not explicitly seek legal equality. Shokufeh was another women's magazine published in 1914. However, it was only in 1920 that the first feminist journal, Zābane-e Zan or Women Language was published in Isfahan.⁹

⁵ Ettehadieh, M. [2004]: pp. 91-94

⁶ Ibid., pp. 86-95

⁷ Taftian, F. [2013]

⁸ Paidar, P. [1995]: pp. 67-70

⁹ Ibid.

The Pahlavi Era, 1925–1979

The newly established parliament in conjunction of incompetent Qajar Shahs were unable to implement their reform agenda, owing to its lack of centralised machinery. This fact, together with its financial strains, external pressures and wartime disruptions, alongside bad harvests and diseases, caused Iran to become a 'failed state' by 1920.¹⁰

On 21 February 1921, General Reza Khan, commander of the Cossack garrison in Qazvin, took control of Tehran and ushered in a new era in the history of Iran. The dream of a powerful central government became a reality with Reza Shah. As Abrahamian aptly states, 'Reza Shah came to power in a country where the government had little presence outside the capital. He left the country with an extensive state structure—the first in two thousand years.'¹¹ During the era of modernisation, a new judicial system was established in 1926, in line with Reza Shah's policy and strategy for reform.¹² The process of modernisation moved the Iranian legislative regime towards a national legal framework in which the State not only created the law but also guaranteed its application.

However, the conditions and context surrounding this process could not be compared with European legal positivism. The State did not consider itself bound by its legislation. A secular legal system was seen as a tool to establish and maintain a centralised state. The political elite assumed that the concerns of both the modernist and traditional strata of society could be met by presenting religious law within the guise of a secular legal system.¹³ New legal frameworks, including a criminal code (1926), a civil code (passed 1928 and amended in 1934 and 1935), a commercial code, and a code of civil procedure (1939) were devised through reliance on European models.

By the end of Reza Shah's era, the process of codification was to a great extent completed, thereby proving Watson's theory on the context of codification:

[The] impetus towards codification of the law in the interest of clarity or simplicity often does not come from lawyers or legislatures and traditional

¹⁰ Abrahamian, E. [2008]: pp. 54–62

¹¹ Ibid., p. 65

¹² As a result, the judicial power of clerical courts became less significant even at the provincial level and in religious cities like Mashhad and Qom

¹³ Mohammadi, M. [2008]: pp. 96–97

lawmakers but dictators or other powerful leaders who have made their reputation in other activities.¹⁴

These changes led to the improvement of women's lives. During the Reza Shah regime (1925-41), women were encouraged to participate in public affairs. As a result, the number of women in schools increased, and some women occupied positions in governmental agencies. But despite all the changes in women's situation, they still did not have rights equal to men under the law. For example, in the area of Family law the state policy was to codify exiting patriarchal norms. In fact, the family was under the control of the clergy.¹⁵ The civil code adopted by Parliament in 1925 included a section on the family, which considered men superior to women and granted them more rights. For example, divorce was a right exclusively reserved to men; women had no right to divorce their husbands. However, significant changes occurred in social life of women, which allowed them more active participation in public life.

Although Reza Shah was successful in his state-building policy and changed Iran into a modern state, he failed to establish the rule of law within the country, attracting the opposition of the intelligentsia. The policy of removing the female veil, adopted by Reza Shah in 1936, was the most visible example of the non-democratic nature of Iranian governance at the time. In 1941, the Soviet Union and the Great Britain, with the help of the United States, invaded Iran and removed Reza Shah from power.

The modernisation of the legal system and judiciary continued during Mohammad Reza Shah's reign between 1941 and 1979. One important aspect of this policy was the government's focus on modernising laws pertaining to women. Although the Shah himself was not a supporter of feminism, he believed that development was impossible without the full participation of women and a complete change in their existing situation. In his speech at the general congress of the Women's Organisation of Iran (WOI) on 27 February 1978, he said: 'Let us not forget that problems such as human rights, family planning, campaign against illiteracy and poverty, on which the fate of the human rights depends, cannot be resolved without the complete and effective participation of women'.¹⁶ Despite opposition by the clergy, the legal status of women improved during this period. The most significant improvement, which in fact had a key role in improving the status of women, was the extension to women of the right to vote. Ayatol-

¹⁴ Watson, A. [1983]: p. 1156. Cited in *ibid.*, p. 95

¹⁵ See Paidar, P. [1995]: pp. 109-117

¹⁶ Afkhami. M. [2004]: p. 126

lah Khomeini expressly objected to the enfranchisement of women and sent a long telegram to Alam, the prime minister at the time, warning him that:

Your illegal bill [on local elections] is contrary to Islamic law, the Constitution and the laws of the Majles. The *olamā* have publicly stated that the franchise for women and the abrogation of the condition that one must be a Muslim in order to be allowed to vote or to run in an election is contrary to Islam and the Constitution.¹⁷

On 26 January 1963, women were allowed to take part in voting. In subsequent elections, six women were elected to parliament and two were appointed to the Senate.¹⁸ The Women Organization of Iran (WOI), a non-profit organization was established in 1966. It was working mostly through volunteers, with local branches and centres for women all over the country, determined to enhance the rights of women in Iran. According to Mahnaz Afkhami, the WOI gradually 'convinced the government that its services were necessary for national development and that the government was obliged to assist the organization in the best possible manner.'¹⁹ The WOI was successful in bringing together Iranian women from different parts of the country and from different societal strata based on a common belief in their unsatisfactory and unfair situations.

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When the Family Protection Law was adopted in 1967 (amended 1975), women were given equal rights in family matters, including divorce, marriage settlements and the custody of children. The age of marriage increased to 18 and men were forced to get permission from the court to marry more than one wife. The new family law reflected the needs of Iranian women and to a great extent was successful in presenting a more tolerant reading of Islam on issues related to women.

By 1977, the cultural contours of Iranian society were dominated by the Shah's 'great civilisation' ideology. Political influence was extremely restricted, and the Shah became the sole source of power. While the State strongly limited the political power of the Shi'ite leaders, it allowed Islam to spread at the grassroots level.²⁰ As Mohammadi aptly stated 'alongside with the centralisation of the State and secularisation of the society and polity, the authority of the religious leader-

¹⁷ Cited in Paidar, P. [1995]: p. 142

¹⁸ Afkhami, M. [2004]: p.114

¹⁹ Ibid., pp. 115-16

²⁰ Ibid., pp. 172, 186

ship was also centralised and the ideology of the traditional opposition gradually Islamicized'²¹

In addition, the rise in monetary liquidity within society during the 1970s, extended the gap between the rich and the poor, and between those living in the capital city and people in villages or small towns.²² Political and social tensions caused mass public protest, which led to emergence of an anti-Shah movement with the single goal of removing the Shah from the country's political scene. The movement's leadership eventually narrowed down, by 1978, to the figure of Ayatollah Khomeini, a veteran opposition figure who had been in exile since 1964 and was perceived as being uninterested in monopolising political power after the overthrow of the Shah.²³

After the Revolution of 1979

A few months after the Revolution of 1979, clerics took control of the country's most powerful institutions. The clerics in power claimed that Islamic law was all-encompassing and that there was no need to adopt legislation from other countries. According to Shirin Ebadi, "in Mehr 1358 [21 September to 21 October 1979] the Revolutionary Council (which was in charge of running the country's affairs) approved a bill which in effect revived the provisions of the Civil Law on family issues, and in that way, it took the women and their rights some 70 years back."²⁴

In July 1982, Ayatollah Khomeini issued an order to modify all the laws deemed to be contradictory to the Islamic Shari'a. After this decree, the Supreme Judiciary Council issued a circular and ordered all the courts to use authentic Islamic texts and reliable fatwas, mainly Khomeini's main jurisprudential book, *Tahrir al-Wasila* (Drafting the Means).²⁵

The Islamisation of the legal system focused on two crucial elements. The first step concerned the Islamisation of pre-revolutionary legislation which to a large

²¹ Mohammadi, M. [2008]: p.109

²² By the mid-1970s, more than 68 per cent of civil servants; 82 per cent of registered companies; 50 per cent of manufacturing production; 66 per cent of university students, 50 per cent of doctors; 42 per cent of hospital beds; 40 per cent of the cinema-going public; 70 per cent of travellers abroad; 72 per cent of printing presses; 80 per cent of newspaper readers belonged to Tehran which only constituted 20 per cent of Iran's population. Kazemi, F. [1980]: p. 25

²³ For a detailed analysis of the 'social and political tensions' that led to the revolution, see Abrahamian, E. [2008]: pp. 123–54

²⁴ Ebadi, Sh. Interview by the author, London, June 2017

²⁵ Mohammadi, M. [2008]: p. 130

extent affected laws concerning women. The second involved the injection of thousands of clerics and revolutionaries into a variety of positions within the legal system, from the judicial to the administrative. This Islamisation drive was the last stage in the construction of the post-revolutionary state order. It represented an attempt by the Khomeinist political elite who had, by the mid-1980s, gained full control over the state system, to extend their worldview and ideological leanings into the judicial framework, thereby consolidating their control over society.

Iranian women played a vital role in the Revolution of 1979. Despite some changes in their situation during the Pahlavi era, women were not satisfied with the existing legal and political systems in Iran. Some women argued that the changes introduced were not effective, as several of their basic rights were not granted. They also argued that discrimination remained in the country's laws, and that changes introduced from the top down and with no roots among the ordinary people could not be considered effective. In 1979, the Iranian Revolution changed the country's political system from a monarchy to an Islamic republic. According to the Islamic Constitution (introduced in 1979), all laws in Iran should be compatible with Islamic law. Some Islamic jurists argue that the principle of equality violates Islam because according to Islamic Law, women and men should not be treated equally, as there are different roles and responsibilities for each sex. Iranian law largely follows this school of thought and does not legislate equal rights for men and women. Iran's Constitution does not identify any rights for women as independent entities; it only recognizes some rights for married and pregnant women.

Although Iran's Constitution provides for the principles of non-discrimination/non-privilege²⁶ and equality before the law,²⁷ these rights are regulated, according to Article 4, by "Islamic criteria."²⁸ However, there is no definition of "Islamic criteria" in the Constitution itself. Therefore, different interpretations of these criteria may be used to prevent criticism of the laws and, by implication of the government.

For the purpose of this article, it is important to acknowledge the fact that 'the Constitution constructed the new "Islamic" link between nation and gender and specified a corresponding position for women'.²⁹ The constitution recognized women and family as two specified characteristics of the 'Islamic nation'.³⁰

²⁶ Article 19 of the Constitution of Iran (1979)

²⁷ Article 20 of the Constitution of Iran (1979)

²⁸ Article 4 of the Constitution of Iran (1979)

²⁹ Paidar, P. [1995]: p. 257

³⁰ Ibid. p. 258

Therefore, Article 10 states that all pertinent laws, regulations and programs must tend to facilitate the foundation of the family, as well as to protect the sanctity and stability of family relations on the basis of the law and the ethics of Islam. Moreover, the constitution privileges women as a particular section of Islamic society and states that:

Through the creation of Islamic social infrastructures, all the elements of humanity that served the multifaceted foreign exploitation shall regain their true identity and human rights. As a part of this process, it is only natural that women should benefit from a particularly large augmentation of their rights, because of the greater oppression that they suffered under the old regime.³¹

Article 21 of the Constitution contains a substantive provision on women's rights.³² Four of the five objectives of Article 21 concern a woman's role as mother and wife. As Paidar argues, "women were granted social and political rights because they were mothers and potential mothers."³³ She explains how the Constitution constructed a particular set of patriarchal gender relations.

Women's loyalty could now be shared between the family and the nation. The woman was constructed as a mother; the mother as creator of the Islamic family; and the family as the foundation of the Islamic nation. Women were granted rights and obligations as the creators and nurturers of the Islamic family and nation. The state was given the task of creating "Muslim mothers" and of putting them in the service of the Islamic nation. The rights and responsibilities of "Muslim mothers", however, were left to be determined by the Islamic state in conformity with an unspecified Islamic law.³⁴

³¹ "Women in the Constitution", Preamble of the Constitution

³² The goals mentioned in Article 21 are as follows:

- (1) create a favourable environment for the growth of a woman's personality and the restoration of her rights, both the material and intellectual;
- (2) the protection of mothers, particularly during pregnancy and childrearing, and the protection of children without guardians;
- (3) establishing competent courts to protect and preserve the family;
- (4) the provision of special insurance for widows, aged women, and women without support;
- (5) the awarding of guardianship of children to worthy mothers to protect the interests of the children in the absence of a legal guardian

³³ Paidar P. [1995]: p. 260

³⁴ Ibid, p. 262

The drafters of the Constitution emphasized the ideological and “Islamic nature” of their struggle.³⁵ They positioned themselves as the guardians of Islamic tenets and, as such, drafted all principles with an eye to the religion's stricter mandates. For instance, Article 20 of Iran's Constitution states that:

All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.

It might be argued that the Constitution does not grant the same rights to men and women even though it states that they enjoy equality under “the protection of the law.” Many religious scholars and Islamic jurists believe that men and women should not have equal rights. It is therefore plausible to infer that the drafters of the Constitution did not believe that women should enjoy the same rights as men. Rather, for every right accorded to men, women should have their own unique rights. As an example, the right of sexual intercourse belongs to men—wives cannot refuse the desires of their husbands.³⁶ In return, men must pay *nafaqeh* (maintenance)³⁷ to their wives. Since women have the right to maintenance, the two rights are equated in value. This is the equality that is enshrined under the protection of the law.

Following the 1979 Revolution, although women have been participating more actively in society, returning to Shari'a law has restricted women's mobility in various aspects of their lives. The compulsory *hijab*, for example, has prevented women from participating in several social activities. Although it has been argued that the *hijab* is not compulsory according to Shari'a, Iran's penal code considers

³⁵ According to the Preamble of Iran's Constitution 1979 “the basic characteristic of this revolution, which distinguishes it from other movements that have taken place in Iran during the past hundred years, is its ideological and Islamic nature. After experiencing the anti-despotic constitutional and the anti-colonialist nationalization of oil movements, the Muslim people of Iran learned from these costly experiences that the obvious and fundamental reason for these movements' failures was their lack of an ideological basis. Although the Islamic line of thought and the direction provided by militant religious leaders played an essential role in these recent movements, the struggles waged in the course of those movements quickly fell into stagnation due to their departure from genuine Islamic positions. Thus, it was that the awakened conscience of the nation, under the leadership of Imam Khomeini, came to perceive the necessity of pursuing a genuinely Islamic and ideological line in its struggles. This time, the militant '*olamā*' of the country, who had always been at the forefront of popular movements, together with committed writers and intellectuals, found new impetus by following his leadership”. The English translation of the Constitution is available from: <http://www.servat.unibe.ch/icl/ir00000.html>, Accessed 10 June 2018

³⁶ Iran's Civil Code, Article 1108. Badrian, F. [2001]

³⁷ Ibid. Article 1106

it an Islamic obligation and penalizes its absence.³⁸ Furthermore, Iran's Law has deprived women of some of their social and legal rights. Being prohibited from doing a number of jobs is an example of this deprivation. Women who were judges during the Mohammad-Reza Shah era, for instance, lost their jobs under the new law. Moreover, according to the Iranian criminal code, a woman's life is worth half that of a man's life in terms of the compensation—known as blood money—paid to the family of a murder victim. Under Iranian law, a woman's nationality is not automatically transferred to her children. However, the same does not apply for a man. According to a statistic released in 2011 by the Tehran Governor's Office of Foreign Nationality, around 32,000 children in Iran do not have a birth certificate because their fathers are not Iranian citizens.³⁹

Therefore, the formation of an Islamic Republic with a Shari'a-based Constitution, which stipulates that all laws and regulations should be compatible with Islamic principles, had a detrimental effect on the legal status of Iranian women. This group lost most of its existing legal and civil rights in the aftermath of the Revolution of 1979. The rise to power of an exclusively male Shi'ite clergy prompted the start of a new phase for the women's movement that had emerged after the Constitutional Revolution of 1906. Prior to the crucial transformation of 1979, senior religious figures had at times successfully lobbied political authorities to prevent them from granting equal rights to women. The Shi'ite clergy, their associates and disciples took absolute control over the executive, legislative and judiciary branches of the State after the Revolution. As a result, the rise of Shari'a as the main source for all aspects of State legislation has become the most significant attack on the rights of Iranian women for the past three decades. At the heart of this offensive is the claim of the Shi'ite clergy that men and women do not have equal rights under Islam.⁴⁰ As An-Nai'm, one of the most prominent scholars on the relationship between Islam and human rights, argues: "Shari'a family law is fundamentally premised on the notion of male guardianship over women and is consequently characterised by many features of inequality between men and women in marriage, divorce, and related matters."⁴¹

Iranian women have been frequently accused of disobeying Shari'a law and even of threatening national security when they question the iniquities of Islamic law

³⁸ Iran's Criminal Code, Article 638

³⁹ *Dāstān-e Ezdevāj-e Zan-e Irāni bā Mard-e Afqān* (Story of Marriage of Iranian Woman with Afqān Man) [2011]

⁴⁰ The late Ayatollah Khomeini, the founder of the Islamic Republic of Iran, expressed his view about Iranian women on various occasions; these can be seen on the official website of the Centre for Women and Family Affairs

⁴¹ An-Na'im, A. [1994]: p. 181

as applied in Iran.⁴² Despite the government's inclination to prosecute these "offending" women as criminals, the women's movement became stronger after the 1979 Revolution. One possible reason is that, paradoxically, the Revolution played an important role in encouraging women to participate in the public and social spheres. According to the United Nations, "Literacy and primary school enrolment rates for women and girls [in Iran] are estimated at more than 99% and 100% respectively, and gender disparity in secondary and tertiary education is reportedly almost non-existent."⁴³

The struggle to augment women's rights went through several phases and was subject to continuous and strong change after the 1979 Revolution. Due to the exceptional circumstances of the early revolutionary era and the exigencies of the Iran–Iraq War, women rights were not given priority by the state. This phase of the early revolutionary Iran can be termed the silent era, when women's rights were widely ignored. The second decade of the revolution, however, can be termed the recognition period, when women's rights activists gradually brought the issue of gender equality further to the attention of the public and government. The reformist government in 1997 accelerated such demands and led to the growth of civil society, and women's rights activities.

The most visible and significant example of the political mobilization of women is the *One Million Signatures Campaign*, which was launched in 2006. The Campaign aimed to put an end to discriminatory laws, attracting the participation of women from all walks of life. At the same time, the ultimate failure of the Campaign highlights the unwillingness of the current regime to eradicate or amend discriminatory laws against women. Internationally, this failure is most apparent in Iran's refusal to sign the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) on the basis that it contravenes Shari'a.

Conclusion

⁴² According to the report of the Special Rapporteur for Human Rights in Iran "women's rights activists continue to be harassed for making statements that criticise policies or government actions; organisational meetings continue to be disbanded; the denial of permits required to peacefully assemble persists; and women believed to be associated with entities such as the Mourning Mothers and the One Million Signatures Campaign continue to face harassment, arrest and detention. Women's rights advocates are frequently charged with national security crimes and 'propaganda against the system'." Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran [2013]: para 49

⁴³ Ibid, para 37

In the face of great difficulties Iranian women have continued to pursue their campaign for equality and legal rights. As shown throughout this article, women's legal status improved during the Pahlavi era. However, Iranian women entered into an enduring paradox after the Revolution of 1979. On the one hand, the gradual Islamization of the State led to the enactment of legislation which consolidated gender discrimination. Over the past three decades, women lost legal equality with men, and lagged far behind their male counterparts in top-level State management and in institutions that in principle allow female incumbency, such as the Parliament and the government. On the other hand, the participation of women in general public life has markedly increased since the pre-revolutionary period. As shown above, the proportion of university population, industrial jobs and economic roles held by women has increased sharply during the last forty years.

Despite such dramatic socio-political changes, nevertheless, obstacles remained for women in achieving their goals. The article therefore suggests that such strong opposition shown by the religious/conservative establishment to change or amend the law, decreases the likelihood of any substantial legal reform favouring women in the foreseeable future. Such arguments, however, do not suggest that hope for gradual reform is lost.

The Islamic Republic of Iran has attempted to introduce a new definition of gender equality based on its own interpretation of Islam. Despite the great lengths to which successive Iranian governments since 1979 have gone to present a stereotypical image of a model Muslim woman observing the Islamic dress code, *chā-dor*, who is satisfied with her condition under Islamic law as applied in Iran, this official vision has failed to gain significant traction in the international arena. Rather, the persistent image in circulation outside Iran has been that of an Iranian woman who is suffering legal discrimination despite possessing high social status and potential, a scenario which has ultimately embarrassed the Iranian government.

Women's rights cannot be easily or quickly changed within the legal and political system of the Islamic Republic. This was observed during Iran's Reformist era of 1997 to 2001, when women's rights activists and Reformist politicians tried unsuccessfully to bring about Iran's accession to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the primary international human rights treaty safeguarding the rights and equality of women. There is also a lack of political will, born out of political contention, that hinders women's rights reforms in Iran's legal system. Adopting a Shari'a-based strategy supported by well-known clerics to combat discriminatory laws justified by the government's interpretation of Shari'a, nonetheless, has proven to be an effective

way to gain the support of the public. Naturally, this is not a matter that can be resolved overnight, but rather requires a steady and systematic approach.⁴⁴

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⁴⁴ Alikarami, L. [2015]

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