

## Lessons from the Suffrage Movement in Iran

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**ABSTRACT.** The suffrage movement in Iran achieved its goal of formally enfranchising women in 1963, through a referendum in which women voted. This Essay explores the movement for Iranian women's suffrage in three phases. First, it examines 'the mid-nineteenth-century pre-suffrage political climate that created the conditions for some to call for women's enfranchisement and the founding of a women's movement during a period of modernization in the mid-twentieth century alongside debates about Iranian women's roles. Second, this Essay considers the success of the women's suffrage movement as part of a broader package of reforms that transferred power from the aristocracy and clerical leaders to the monarchy, despite political resistance. Third, it explores the challenges to Iranian women's rights after the 1979 revolution, which maintained women's right to vote, but initially suspended other hard-fought rights in the domain of family law, as part of an effort by the new Islamic republic to redefine women's roles as a technique of branding the new state.

The lessons from the Iranian women's suffrage movement show that voting alone is not a cure for women's equal enfranchisement in all sectors of society. Women's entry into the political sphere, however, raises and maintains demands for women's rights in society as a key legitimating factor for the state. The Iranian women's movement was a multi-dimensional effort with different factions sometimes sparring over the goals of the mission. Debates about women's rights in Iran and elsewhere reveal that women's societal roles still serve as important cultural tropes whose meaning powerful actors fight to define and control.

### INTRODUCTION

A scene in the popular Iranian series *Amorously* (*Asheghaneh*) portrays a dialogue between a recently divorced secretary, Gissou, and her boss, Soheil, a partner in a failing start-up, who had just announced the end of his eight-year marriage.<sup>1</sup> His wealthy wife threw him out of her house, having lost respect for him,

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1. *Amorously* (Home Show Network 2017) is a seventeen-part series written by Alireza Kazemipour and Saeed Jalali and directed by Manouchehr Hadi. Initially, the Iranian authorities did

due in large part to his failure to earn a good living. The wife had filed a motion to claim her dower (*mahrieh*) and Soheil lamented his inability to submit the payment, which could result in his imprisonment.<sup>2</sup>

**Soheil (boss):** I don't understand why you women are like this. I don't know any woman who did not obtain her *mahrieh*.

**Gissou (secretary):** You are mistaken. Not all women are alike. There are women, who, for a lifetime endure beatings, hear insults, and bear infidelity – but they stay. They stand by their families because they are in love.

**S:** Yes, I accept that. I accept it. You did not obtain your *mahrieh*?

**G:** I did because it was my right.

**S:** It was what?

**G:** It was my right.

**S:** Your right. Yes, I don't know why, everywhere there's talk of equality between the rights of women and men, but when it's the men's turn, it becomes [talk of] "right" and "*mahrieh*" and such. Excuse me for asking.

**G:** Don't you know that when a woman and man separate, the one who is harassed more is the woman because everyone looks at her differently. She can't find a job, can't find a place to live. It's intensely difficult for her. Do you know why? Because they do not have equal rights.

**S:** You're right. I get it, since right now, I am in a similar situation. I need to find a place to live.<sup>3</sup>

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not approve the series for release, but viewers were able to watch the first eight episodes unofficially through DVD and streaming services. After viewers protested, authorities approved the series for release and the Home Show Network, a semi-private channel, distributed it as a weekly featured series.

2. The *mahrieh* (or *mahr*) is a sum contractually agreed upon by the parties prior to marriage and can be requested by the wife at any time afterward. In many cases, women who seek to leave a marriage without cause may convince their husbands to agree to a divorce by making a demand for the *mahrieh* and then forgoing it in exchange for their husband's consent to divorce. In a divorce brought for cause, however, a woman may demand her *mahrieh* and have every expectation that it be paid. Since the early 1990s, men who fail to pay the *mahrieh* have had their earnings garnished (if they are government employees) or gone to prison. As a gesture of love during courtship and when the marriage contract is being negotiated, couples frequently list the amount of the *mahrieh* in a specific number of gold coins, often coinciding with the bride's year of birth. As the rate of gold fluctuates, so, too, will the amount due to a wife. In such cases, men who owe *mahrieh* find themselves in debt for an amount well beyond what they thought they had agreed to and, often, their means. See *Mahr*, ENCYCLOPAEDIA OF ISLAM (2d ed. 2012), [http://dx.doi.org/10.1163/1573-3912\\_islam\\_SIM\\_4806](http://dx.doi.org/10.1163/1573-3912_islam_SIM_4806) [<https://perma.cc/Q2ZU-XJA3>].
3. *Amorously: Episode 8* (Home Show Network 2017).

Iranian women's struggles to achieve equal rights and end gender-based discrimination did not begin with the 1979 revolution that established an Islamic republic. As with women in the United States and other countries around the world, Iranian women's struggles for equal rights long preceded their participation in the political process. While Iranian women gained the right to vote in 1963, their public activism for enfranchisement and equality can be traced back to the mid-nineteenth century. Activism on behalf of Iranian women has had to adjust to changing concerns about the role of women in society and the politicization of women's rights over a period of at least 150 years.

The women's movement in Iran, moreover, cannot be defined through a singular narrative, nor can class be neglected as a significant factor in activists' mobilization.<sup>4</sup> While activist groups may have agreed about the importance of women's status to the overall betterment of the nation, women's exact roles in society and their activities toward that end have long been the subject of debate.

The 1979 revolution and its aftermath changed the conditions through which the women's movement for equality was fought. After the revolution, the question of women's rights was not just a political, legal, and moral question; it became a question bearing on the new state's very legitimacy. It is this latter question that has amplified women's social and political power to challenge discriminatory laws across broad platforms, including politics, law, and, as the above example shows, society and culture as well.

In this Essay, I highlight the social and political context through which an Iranian movement for women's rights and enfranchisement took place. Part I briefly traces the impetus of the movement in the mid-nineteenth century and women's involvement in Iran's Constitutional Revolution (1905-1911). Then I examine the period in the mid-twentieth century in which a suffrage movement took shape, highlighting an evident tension between two groups of women's-rights proponents. One group argued that women's rights should be granted in the service of women's roles within the family as caregivers; another group argued that women's enfranchisement should provide them access to full political participation. Part II examines the political upheaval caused by the 1979 Iranian Revolution and its impact on women's rights, even if their enfranchisement remained intact. Finally, I explore the retrenchment of women's rights and the unwitting consequence of the state's formation as an Islamic Republic on women's agency and their ability to use the post-revolutionary state's social promises about women's progress and hybrid legal institutions to win back rights in the name of Islamic social justice and equity.

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4. Mana Kia, *Negotiating Women's Rights: Activism, Class, and Modernization in Pahlavi Iran*, 25 *COMP. STUD. SOUTH ASIA, AFR. & MIDDLE E.* 227, 227 (2005).

## I. DEVELOPMENT OF IRAN'S SUFFRAGE MOVEMENT

### A. Pre-Suffrage Political Changes

As early as the mid-nineteenth century, Iranian women's calls for equal rights and emancipation presaged a movement for political participation and enfranchisement.<sup>5</sup> Additionally, as Iranian intellectuals traveled to European capitals, they brought home ideas about liberty and individual autonomy. These ideas, however, were tempered by images of the "moral laxity" of such societies.<sup>6</sup> Having witnessed ongoing debates on women's suffrage abroad, Iranian intellectuals raised similar points of advocacy and concern about the roles of Iranian women. They addressed these points through diverse political ideologies and engaged in thoughtful, and at times contentious, public debates.<sup>7</sup> With respect to women's rights and roles, the singular achievement of this period was that intellectuals linked social progress with women's emancipation.<sup>8</sup>

In response to this Western influence, some intellectuals sought to revive Iran's pre-Islamic past, which they saw as an imagined utopia where women and men held equal social and political status. Others sought to bring Western liberal values to bear on indigenous ones, both Islamic and secular, and drew on the language of modernity with its analog of progress. Iranians critical of Western influence suggested that the liberal autonomy so prized in Western societies was in fact a regressive turn that disdained the vaunted foundation of society, as they saw it: the family. Some conservative leaders even saw women's emancipation as a challenge to male honor.<sup>9</sup> While these nineteenth-century debates were concentrated in urban, educated, and intellectual circles, the question of women's roles and rights entered Iranian society and became a question with which the state needed to grapple.<sup>10</sup>

The Constitutional Revolution in Iran (then known as Persia) from 1905 to 1911 led to the establishment of a parliament whose members wrote the country's

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5. One important woman in this incipient movement was Tahirih Qurratul'Ayn (1817-1852), an orator, thinker, writer, and poet, who was executed for her conversion to the Bábí faith. See FARZANEH MILANI, *WORDS NOT SWORDS: IRANIAN WOMEN WRITERS AND THE FREEDOM OF MOVEMENT* 105-27 (2011).
  6. CAMRON MICHAEL AMIN, *THE MAKING OF THE MODERN IRANIAN WOMAN* 48 (2002).
  7. PARVIN PAIDAR, *WOMEN AND THE POLITICAL PROCESS IN TWENTIETH-CENTURY IRAN* 44 (1995).
  8. AMIN, *supra* note 6, at 16-47; see also PAIDAR, *supra* note 7, at 48.
  9. PAIDAR, *supra* note 7, at 67.
  10. The expansion of the periodical press in the mid-nineteenth century moved this question from an elite intellectual inquiry into a concern for the broader public. AMIN, *supra* note 6, at 49.

first constitution. The intensity of women's participation in the revolution led American businessman Morgan Shuster, appointed by Iran's parliament to be the treasurer-general in the latter half of 1911, to dub Iranian women "the most progressive, not to say radical, in the world."<sup>11</sup> Despite women's participation in the Constitutional Revolution, women's status and their demands for enfranchisement were not a direct concern of the political and intellectual reformists during the constitutional period.<sup>12</sup> Their primary aim was to establish a national constitution that would reduce the monarchy's power. However, the broader calls for social and political reform included debates on women's roles in society, which formed the beginnings of a women's movement through the creation of women's councils and organizations.<sup>13</sup> These appeals were further amplified by a thriving "women's press, which had emerged by the early nineteen twenties."<sup>14</sup>

### B. *The Iranian Women's Movement*

By the mid-twentieth century, a full-fledged Iranian women's movement for suffrage and equal rights was underway. This movement emerged not only in the form of intellectual debates, but also with the establishment of women's organizations. These women's organizations initially focused on health and education, but by 1942 grew into a political party, the Iranian Women's Party. By 1944, the Iranian Women's Party developed a platform that demanded women's enfranchisement, and its activists went on to lobby members of Iran's parliament.<sup>15</sup>

Critics (and even some supporters) of women's political participation attempted to stem the tide of this growing movement by suggesting that as women gained rights, they should not forget their duties.<sup>16</sup> Hossein Taqizadeh, the editor of a reformist newspaper published from exile in West Germany, likened the Iranian nation to a complex piece of machinery, with every part serving a specific and essential purpose. He stated that women's essential duties were to focus on the family and to raise children.<sup>17</sup> Taqizadeh, like many of his contemporaries,

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11. WILLIAM MORGAN SHUSTER, *THE STRANGLING OF PERSIA* 191 (1912).

12. HAMIDEH SEDGHI, *WOMEN AND POLITICS IN IRAN* 46-47 (2007).

13. JANET AFARY, *THE IRANIAN CONSTITUTIONAL REVOLUTION, 1906-1911: GRASSROOTS DEMOCRACY, SOCIAL DEMOCRACY, AND THE ORIGINS OF FEMINISM* 177 (1996).

14. FARZIN VEJDANI, *MAKING HISTORY IN IRAN: EDUCATION, NATIONALISM, AND PRINT CULTURE* 100 (2014).

15. By the mid-1940s, the Iranian Women's Party transformed into the National Council for Women with the goal of establishing equality for women. PAIDAR, *supra* note 7, at 126-27.

16. *Id.* at 98-99.

17. *Id.*

including other men such as historian Ahmad Kasravi, supported women's rights insofar as their greater education could strengthen the nation by allowing them to better fulfill their roles in raising future generations.<sup>18</sup>

Emphatically rejecting the view that women's primary duties were to support the family, the Women's Party secretary, Fatemeh Sayyah, famously announced, "Where there are no rights there are no duties."<sup>19</sup> Sayyah also noted that even if women's primary roles were as mothers, without equality in marriage and divorce, they could not tend to their children, especially if husbands could divorce their wives at will, take the children with them, and leave the upbringing of children to someone else.<sup>20</sup>

While women's groups appealed to moderate forces, opposition groups, including the clergy, used women's rights as a wedge issue to gain supporters for their side. This was particularly true of the pro-American Prime Minister, Ali Amini, whose opposition to women's rights served as a sign of appeasement to his many nationalist and Islamic opponents as he sought to push through a controversial land-reform policy that would disrupt the historical power of land-owning families, many of which included members of the *'ulama* (Islamic scholarly community).<sup>21</sup>

The Shah of Iran, Mohammad Reza Pahlavi, moved slowly in favor of women's suffrage, particularly as his government faced strong opposition from nationalists and religious groups. He reluctantly liberalized elections when the Kennedy Administration mandated it in exchange for increased aid. The Shah, like his father, Reza Pahlavi, likened the nation to a family of which he was the patriarch.<sup>22</sup> His view of granting women the right to vote came from his understanding of his role as a beneficent father rewarding deserving children with certain privileges. His view softened after he gave his twin sister, Ashraf Pahlavi, the leadership of Iranian women's groups under the banner of the High Council of Women's Organizations of Iran.<sup>23</sup> This replaced a previous coordinating body of some fourteen women's organizations, the Federation of Women's

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18. See FIROOZEH KASHANI-SABET, *CONCEIVING CITIZENS: WOMEN AND THE POLITICS OF MOTHERHOOD IN IRAN 168-169* (2011); see also PAIDAR, *supra* note 7, at 98-99 (noting Taqizadeh's support for the education of both sexes and his belief that women could "exert enormous influence in the education of a new generation").

19. PAIDAR, *supra* note 7, at 127.

20. *Id.*

21. *Id.* at 139, 141.

22. *Id.* at 142 ("The two Pahlavi Shahs saw themselves in the same light: as father of the nation who had to have total control over the women of the nation."); see also Afsaneh Najmabadi, *Hazards of Modernity and Morality: Women, State and Ideology in Contemporary Iran*, in *WOMEN, ISLAM AND THE STATE* 48 (Deniz Kandiyoti ed., 1991).

23. PAIDAR, *supra* note 7, at 142.

Organizations. Iranian women's groups were no less active with the Shah's sister in charge; they persisted in their lobbying, demonstrations, and boycotts.<sup>24</sup> With the Shah's sister as the leader, women's suffrage and attendant issues were brought under the monarchy's control, allowing the Shah to support them as a protective patriarch.

## II. IRANIAN WOMEN'S SUFFRAGE AND THE FAMILY PROTECTION LAW

On January 9, 1963, the Shah introduced a six-point reform program, known as the White Revolution.<sup>25</sup> It was primarily aimed at land reform, but also included a provision for extending suffrage to women. Critics of the economic reform plan, later expanded to eighteen points, saw it as a power move that extracted resources from the Iranian nobility and *'ulama* and moved them to the monarchy.<sup>26</sup> Ayatollah Khomeini, a respected cleric, wrote that the referendum was unconstitutional, irrelevant, and failed to be an alternative to the *shari'a* (Islamic principles).<sup>27</sup> Previously, in October 1962, he had voiced his strong opposition to women's suffrage as being in violation of the *shari'a*.<sup>28</sup>

Instead of sending the program to parliament for debate, the Shah called a referendum on the six-point program on January 26, 1963 and allowed women to vote on it. Iranian women voting for their own suffrage strengthened the legitimacy of the referendum; it also helped to send a message to the clerical opposition, both about women's desires and their agency. The referendum passed by a large majority, despite strong objections from the *'ulama* and landowners. On March 3, 1963, the government made women's suffrage official by decree and nullified provisions of the constitution that barred women from voting. On

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24. *Id.*

25. SEDGHI, *supra* note 12, at 155.

26. Critiques of the White Revolution are vast and mostly center around the land-reform program, which dispossessed the land of wealthy farm families, including the clergy, while preserving the land of the monarchy and delegating to it new ministries in the name of controlling natural resources. While the stated goal of providing land to peasants was praiseworthy, the manner in which it was carried out seemed to advantage the already-prosperous farmers and left many laborers without means, forcing them to urban centers to seek employment.

27. Azar Tabari, *The Role of the Clergy in Modern Iranian Politics*, in RELIGION AND POLITICS IN IRAN: SHI'ISM FROM QUIETISM TO REVOLUTION 47, 69 (Nikki R. Keddie ed., 1983).

28. Willem M. Floor, *The Revolutionary Character of the Ulama: Wishful Thinking or Reality?*, in RELIGION AND POLITICS IN IRAN, *supra* note 27, at 73, 85.

September 17, 1963, Iranian women voted for the first time in parliamentary elections.<sup>29</sup>

The monarchy's attention to women's enfranchisement did not stop with the right to vote. Next came the passage of the 1967 Family Protection Law (FPL), later revised in 1975. The FPL sought to correct women's inequality before the law, particularly in the context of divorce and child custody.<sup>30</sup>

### III. REVOLUTION AND RETRENCHMENT OF WOMEN'S RIGHTS

While the mid-twentieth-century debates around women's rights focused on political participation after nineteenth-century encounters with Western suffrage movements, Iran's revolutionary forces in the late 1970s and the transitional government of the early 1980s employed tropes of Western women's commoditization and sexual objectification as foils to Iranian women's purity and chastity.<sup>31</sup> Theorists of the new state, which was an innovative blend of a republic with the principles of Shi'ite Islam, drew on these critiques to challenge the very idea of freedom in liberal societies and to advance the notion that women in the post-revolutionary Islamic Republic of Iran would see greater freedom if they were disabused of liberalism's suffocating objectification of women.

At the time, this appraisal, which borrowed from class-based materialist critiques of capitalism, secular and Muslim alike, garnered the attention and support of some of Iran's secular leftist feminists as well.<sup>32</sup> As they would later come to find, however, Iran's new clerical leadership only supported a version of Iranian women's newfound freedom that hewed closely to the leaders' views on gender, which involved specific social roles for women and men, modeled after their image of the ideal society – that of the Prophet Mohammad during the seventh century AD.

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29. While these elections marked the first time women voted, they were otherwise determined not to be free and fair, as the government banned opposition parties from voting and arrested activists from the National Front and the Freedom Movement parties.

30. The FPL provided women with the right to seek a judicial divorce for cause, while also circumscribing men's unilateral right to divorce without cause. A couple could make their own arrangements regarding child custody, but a court could also intervene in these decisions, thus dissolving the automatic custody granted to fathers. The law also limited men's right to seek a second wife, giving the first wife cause for seeking judicial divorce should her husband take a second wife. For a comparison between pre- and post-revolutionary family laws, see Arzoo Osanloo, *Framing Rights: Women and Family Law in Pre- and Post-Revolutionary Iran*, 5 *NEW MIDDLE E. STUD.* 1 (2015).

31. ARZOO OSANLOO, *THE POLITICS OF WOMEN'S RIGHTS IN IRAN* 82-83 (2009).

32. See Nahid Yeganeh, *Women's Struggles in the Islamic Republic of Iran*, in *IN THE SHADOW OF ISLAM: THE WOMEN'S MOVEMENT IN IRAN* 26, 59 (Azar Tabari & Nahid Yeganeh eds., 1982).



Although it is tempting to frame these debates along neat secular and religious lines, this was hardly the case in Iran, where reformist Muslims valued autonomy and argued for women's emancipation alongside Western-educated secular liberals. A similar cross-cutting collaboration was visible in the opposition to women's rights. While secular nationalists held the question of women in abeyance and conservative Islamists denied women a role in politics, together they resisted an indigenous women's movement that called for enfranchisement and equality.

Following the revolution and the fall of the monarchy, the provisional government had to maintain a delicate balance between supporting women's issues and appeasing the revolution's spiritual and political leader, Ayatollah Khomeini. For many secular nationalists, leftists, and moderate Muslims, looking back on their experiences of the 1953 U.S.-U.K.-sponsored coup, the greater national interests that concerned them were the likelihood of a pro-Shah military coup or an intervention by Western forces. Thus, as moderate groups sought to appease Khomeini, they became subservient to his demands. As a result, women's rights were again subordinated to pragmatic politics as competing groups fought to form a national unity government.

While moderate forces were willing to concede on women's rights, Khomeini and other Islamists appealed to women to fight the monarchy and promised them enticing rewards in the name of freedom – not just political, but also material, social, and spiritual. Khomeini's speeches, while in exile and upon his return to Iran immediately after the Shah's fall, spoke of an elevated status of women in society, which would be achieved through the establishment of an Islamic society.<sup>33</sup> He praised women's strength, courage, and independence.<sup>34</sup> Khomeini's words resonated with the post-colonial-inspired works of Jalal Al-e

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33. For instance, in a speech to a group of women in Qum on March 6, 1979, Khomeini stated:

Islam has particular regard for women. Islam appeared in the Arabian Peninsula at a time when women had lost their dignity, and it raised them up and gave them back their pride. Islam made women equal with men; in fact, it shows a concern for women that it does not show for men. In our revolutionary movement, women have likewise earned more credit than men, for it was the women who not only displayed courage themselves, but also reared men of courage. Like the Noble Qur'an itself, women have the function of rearing and training true human beings. If nations were deprived of courageous women to rear true human beings, they would decline and collapse. It is the women who strengthen the nations, who make them brave.

RUHOLLAH KHOMEINI, 5 *Sahifa-yi Nur* 153, reprinted in *THE POSITION OF WOMEN FROM THE VIEWPOINT OF IMAM KHOMEINI* 57 (Juliana Shaw & Behrooz Arezoo trans., 2013). The passage quoted from this text retains the original English translation as published by its authors.

34. *Id.*

Ahmad<sup>35</sup> and Ali Shari'ati<sup>36</sup> as he spoke of the grievous effects of capitalist Western societies that objectified women physically and sexually.<sup>37</sup> Drawing on the writings of Shari'ati, Khomeini referenced Fatima Zahra, daughter of the Prophet and wife of the Shi'i Imam 'Ali, as the inspiration for Iranian women.

From Khomeini's speeches at the time, few could have predicted that—in less than two years—the government would retreat from a number of liberties women had achieved only a decade earlier. Iranian women soon became subject to laws requiring compulsory head-covering, dismissing them from certain sectors of employment, and divesting them of the rights in marriage and divorce that they had gained with the FPL.<sup>38</sup> But Khomeini's stance on women would prove to be more complicated. His insistence on mandatory covering ironically shed light on the significance of the trope of the pious Muslim woman for the revolution and the establishment of the new state. Women's bodies, covered from head to toe in black, would serve a political purpose, too, as outward symbols that Iran had changed.<sup>39</sup>

Although at first the government's attention to women grew out of political pragmatism, it unintentionally afforded women political agency as well. For

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35. Jalal Al-e Ahmad (1923-1969) was an Iranian writer and sociologist who used the term *gharb-zadegi* (westoxification) in his 1966 book of the same name, which critiqued the influence of western technology and civilization. Al-e Ahmad argued that the increased dependence on western industries and ideas stifled indigenous Iranian industries, thought, and innovation. Drawing from themes in the works of Frantz Fanon and Karl Marx, Al-e Ahmad offered a potent post-colonial critique of the excess of Western influence as a form of cultural and economic imperialism. JALAL AL-E AHMAD, *GHARBZADEGHI (WESTOXIFICATION): A PLAGUE FROM THE WEST* (John Green trans., Madza Publishers 1982) (1962).
36. Ali Shari'ati (1933-1977), a sociologist partly educated in France, was an inspiration to both religious and secular revolutionaries. Shari'ati worried that Western cultural imperialism threatened local values. His writings, which used the discourse of oppression, were significant in bringing leftist nationalist and religious groups together. One of the key themes in this discourse was the role of women. In his important book, which grew out of a series of lectures, *Fatima Fatima Ast* (Fatima is Fatima), Shari'ati employed the image of Fatima to emphasize the transcendent qualities of Muslim women, citing her as a model for Iranian women. ALI SHARI'ATI, *FATIMA IS FATIMA* (Laleh Bakhtiar trans., Shari'ati Foundation 1981) (1971).
37. One symbol of this westoxification came to be represented by the “modern” Iranian woman who embodied all of the social ills related to excessive Western influence: a woman who “wore ‘too much’ make-up, ‘too short’ a skirt, ‘too tight’ a pair of pants, ‘too low-cut’ a shirt, who was ‘too loose’ in her relations with men, who laughed ‘too loudly,’ who smoked in public.” Najmabadi, *supra* note 22, at 65.
38. Family Protection Law of 1967, amended 1975; *see also* ELIZ SANASARIAN, *THE WOMEN'S RIGHTS MOVEMENT IN IRAN: MUTINY, APPEASEMENT, AND REPRESSION FROM 1900 TO KHOMEINI 94-97* (1982).
39. Ayatollah Taleghani, *On Hejab*, in *IN THE SHADOW OF ISLAM*, *supra* note 32, at 103-07; *see also* Mahmoud Taleghani, *Dar mored-e Hejab, Ejbar Dar Kar Neest* (*On the Subject of Hejab, It is Not Compulsory at Work*), *ETTELAA'AT (INFORMATION)* (Mar. 11, 1979).

starters, the post-revolutionary state retained universal suffrage. In a referendum held in March 1979 to determine the nature of the new state, the transitional government allowed voting by all Iranians starting at age sixteen, thus revising the *'ulama's* century-old resistance to women's public participation *and* temporarily lowering the voting age. After the vote in favor of the Islamic republic, Ayatollah Khomeini continued to encourage women's direct political participation and promised to elevate their position in society.

The Islamic republic's first constitution, passed by referendum in December 1979, signaled the importance of women in forming an Islamic nation. First, an introductory section entitled "Women in the Constitution" framed the post-revolutionary constitution as an attempt to rehabilitate "women's rights": "that women, who up until this point have endured a greater degree of oppression under the despotic regime, should be granted more rights." In the same section and later, under Article 10, the constitution frames women's significance to the state as a function of their role in the family, which is the fundamental component of an ethical and stable Islamic nation.

The family is the primal unit of society and the essential center for the growth and grandeur of men. Compatibility in respect to beliefs and ideals is the fundamental principle in establishing a family that is the essential ground for the course of humanity's growth and development. It is among the responsibilities of the Islamic Republic to provide the conditions for attaining this goal.<sup>40</sup>

This section further elaborates how the Islamic Republic defines women's emancipation in terms of independence from commodification and sexual objectification. It emphasizes women's duties as mothers, while also promoting their public engagement. The ultimate goal of this emphasis is the rehabilitation of women's status in Islamic society:

In accordance with this view of the family unit, women are emancipated from the state of being an "object" or a "tool" in the service of disseminating consumerism and exploitation, while reclaiming the crucial and revered responsibility of motherhood and raising ideological vanguards. Women shall walk alongside men in the active arenas of existence. As a result, women will be the recipients of a more critical responsibility and enjoy a more exalted and prized estimation in view of Islam.<sup>41</sup>

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40. Firoozeh Papan-Matin, *The Constitution of the Islamic Republic of Iran (1989 Edition)*, 47 IRANIAN STUD. 159, 164 (2014).

41. *Id.*

While the constitution is a hyperbolic aspiration, it nonetheless signifies the important position women would occupy in the Islamic Republic, at the very least ideologically. The result of elevating women's status through such prose and other official speeches that continue through today is to tether the state's very legitimacy to this more "exalted" status of Iranian women.<sup>42</sup>

The hybrid state form, an Islamic Republic, the result of the referendum of March 1979, was drawn from Twelver Shi'i principles that demand individual thinking, critique, and reasoning.<sup>43</sup> Its institutions, designed to serve the people and provide checks on government, also gave women political agency. Their agency became further entrenched and refracted through the discourse of rights, with the establishment of legal codes and procedures, once rebuked by Khomeini as "Western" and unnecessary.<sup>44</sup> These codes and procedures required women to file complaints and argue in court, producing the conditions in which women came to see themselves as autonomous individuals endowed with rights.

Together, these four elements – political pragmatism, dual emphasis on the family as the fundamental unit of society and rehabilitating women's social status, Shi'i rationalism, and the hybrid state form – are all critical to the formation of the new Islamic Republic. Each gave women a heightened position within society. These elements shaped that position by framing women as individuals endowed with rights and as mothers and nurturers. If the social identity of women as mothers was the state's ultimate form of exaltation, it nonetheless administered rights to women as individuals and tied women's concerns to legitimate state interests.

In the forty years that Iran has been an Islamic Republic, the women's movement has continued. Despite compulsory headscarf laws, which half of Iranians now openly oppose, the women's movement exists in manifold layers of politics and society.<sup>45</sup> At the same time, however, the discourse of rights has become deeply politicized in the past decade as government factions compete for control and power. References to "women's rights" and "human rights" are criticized by some as suggesting support for "Western values" – even as reformist lawmakers and politicians make use of such terms.

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42. Arzoo Osanloo, *Khomeini's Legacy on Women's Rights and Roles in the Islamic Republic of Iran*, in *A CRITICAL INTRODUCTION TO KHOMEINI* 239–55 (Arshin Adib-Moghaddam ed., 2014).

43. OSANLOO, *supra* note 31.

44. *Id.* at 120.

45. In 2018, the Iranian Center for Strategic Studies, within the Office of the President, released a study published four years earlier on the public's viewpoints on compulsory headscarves. The seventeen-page report found that forty-nine percent of respondents believed that the headscarf should be a private matter. *Hejab: The Pathology of Past Politics, A Look to the Future*, CTR. FOR STRATEGIC STUD. (July 2014), <http://www.css.ir/Media/PDF/1396/11/14/636532375414083535.pdf> [<https://perma.cc/U5LG-6PPZ>].

Additionally, the desire and search for improvements in women's status in Iran has had the curious effect of producing legally savvy women with rights-bearing subjectivities. The reason for this, I have argued, is because the family laws, as they were reintroduced after the revolution, gave men a unilateral right to divorce without cause but required women, if they wished to divorce, to produce an actionable claim before a judge.<sup>46</sup> The effect of this legal distinction, said to be based in Islamic jurisprudence (*fiqh*), was to make women not only experts in the laws, but also knowledgeable practitioners of legal process.<sup>47</sup>

Since the revolution, activists' struggles against discriminatory laws have yielded rollbacks of Iran's post-revolutionary family laws and revisions to severe criminal laws.<sup>48</sup> Over the years, women have regained rights in divorce and child custody.<sup>49</sup> They have also organized, fought against, and ultimately defeated proposed modifications that would have undermined those gains, particularly in divorce. Iran's economic woes and the realities of the need for a two-earner household have prompted greater public support for working women, even if legal reforms are slow to follow.<sup>50</sup>

Legislation has expanded women's legal redress by fining and jailing men who fail to fulfill their duties in marriage, most of which are financial. Courts have increasingly enforced the claims available to women, while restricting men's ability to seek unilateral divorce without cause. Women have also won the right to seek no-fault divorces and divorces for cause, the latter allowing them to claim their *mahr* from ex-husbands. Men are susceptible to wage garnishing and even prison for failing to pay the bride price.<sup>51</sup>

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46. OSANLOO, *supra* note 31, at 120.

47. *Id.*

48. Osanloo, *supra* note 30; see also Arzoo Osanloo, *Women and Criminal Law in Post-Khomeini Iran*, in *SOCIAL CHANGE IN POST-KHOMEINI IRAN* 91 (M. Monshipouri ed., 2016).

49. Osanloo, *supra* note 30.

50. Valentine M. Moghadam, *Iranian Women, Work, and the Gender Regime*, *CAIRO REV. GLOBAL AFF.* (Spring 2018), <https://www.thecaireview.com/essays/iranian-women-work-and-the-gender-regime> [<https://perma.cc/XMN7-2V8N>].

51. The family laws now require that men appear before a judge and that the parties meet with arbiters beforehand. While women increasingly obtain their *mahr*, the state has placed a limit on the required sum that a husband must pay, regardless of the stated amount in the marriage contract. The state has also administered a tax on the *mahr* when it is paid. In October 2018, Iranian legislators began working to annul the law imprisoning men for failure to pay the dowry. Instead, they would impose wage-garnishing, property division, and payment installment plans. Editorial, *Iran to Annul Imprisonment Penalty over Failure to Pay Mahr*, *IRAN FRONT PAGE* (Oct. 14, 2018, 1:20 PM), <https://ifpnews.com/iran-to-annul-imprisonment-penalty-over-failure-to-pay-mahr> [<https://perma.cc/5KRN-QUYB>].

#### IV. CONCLUSION: LESSONS FROM THE WOMEN'S RIGHTS MOVEMENT IN IRAN AFTER FORTY YEARS OF ISLAMIC REPUBLIC

This brief exploration of the women's movement for emancipation in Iran underscores several core challenges that women's rights activists must navigate: a persistent tension between legal measures said to be aimed at protecting them and antidiscrimination laws that seek equality, state institutions that unwittingly position women as autonomous actors endowed with rights, and non-legal avenues that endeavor to shift societal perceptions about women's status.

##### *A. Navigating the Tension Between Protective Measures and Antidiscrimination*

As the *Amorously* dialogue that began this Essay suggests, the debates around women's rights in Iran today focus on precisely the question of whether to call for strengthening paternalistic laws that support women's roles inside the home or for ending gender-based discrimination to make the government recognize women's autonomy. For some, the former is a corrective until the latter is in place.

As in the previous century, the Iranian women's movement still calls for increased political participation.<sup>52</sup> More broadly, however, today's struggles center on calls for autonomy and equality in every sector of society. Women challenge the very foundation of a gendered political economy that calls on them to stay in the home, even while seeking legal support for their roles as mothers and wives. The latter efforts include subsidized maternity leave, access to the pensions of male guardians, and shorter work weeks. In these areas, the state's focus on women's roles as mothers and wives has unwittingly elevated their social, political, and economic concerns to actionable claims.

##### *B. Women as Legal Actors and Rights-Based Discourse*

Another important lesson from the women's movement in Iran is that women have proven to be astute actors in every public domain, be it legal,

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52. Currently, there are seventeen women in Iran's 290-member parliament. Although representing only six percent of seats, the total nonetheless reflects the most women ever in Iran's post-revolutionary parliament and suggests an overall trend. Of course, the presence of women in parliament does not unqualifiedly yield more rights and services to women. However, in the most recent parliamentary elections, in 2016, most of the women elected came from the progressive parties. Susanna Capelouto, *Experts: More Women in Iran's Parliament Signals Shift in Society*, CNN (May 2, 2016, 7:01 PM), <https://www.cnn.com/2016/05/02/middleeast/iran-women-parliament/index.html> [<https://perma.cc/9SGU-BSLX>].

economic, social, or political. At various historical moments, discrimination against women and barriers to equality and justice have forced Iranian women and their supporters to cultivate their knowledge in three areas of law – substantive law, jurisprudence, and legal procedure. This has led women to make their own claims for rights.

### *C. Legal Versus Cultural Transformation*

Current critique of rights-talk is a backlash to women's legal know-how, not just the "Western-inspired" rule of law. Such backlash signals the need for attendant transformations in cultural attitudes toward gender equality. That is, movements for social justice cannot rely solely on law and legal reform. To achieve social change, Iranian women are also active in intellectual, scientific, political, and cultural spheres of life. At the same time, actors in the women's movement cultivate a sensibility of partnership, dialogue, and collaboration with diverse groups around issues of common cause.

The Iranian women's movement, while not linear or singular in any way, offers some interesting lessons that may have relevance for women's movements elsewhere in the world. Once we look beyond reductionist cultural explanations, we find a common thread in patriarchal politics. In Iran's pre- and post-revolutionary periods, patriarchal leaders (secular or religious) tended to sideline or even trade on women's issues for those they deemed more important to the political cause or movement. Going forward, such patriarchal politics should be resisted and women's concerns must be elevated to core issues in any movement for social progress, without disregarding the intersectional concerns of race and class.

Upon final reflection, the fight for Iranian women's full enfranchisement reveals that such movements are never quite finished. Women's, minorities', and others' full political participation remains vulnerable to political, social, and even religious attacks that could undermine or reverse tenuous gains. Such efforts highlight the need for the continued exercise and vigilance of those rights.

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