

RIGHTS OF WOMEN IN ISLAMIC REPUBLIC OF IRAN

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Abstract:

In Iran there is a combination of Islamic laws as well as people's decisions in place regarding the rights of women. 'Islamic feminism', offers a critique of feminist theories, which construct it as an authentic and indigenous emancipation alternative to secular feminisms. Focusing on Iran after the victory of 1979 Islamic Revolution we are exploring women's right in an Islamic society. Some of women's rights are quite common everywhere in the world as these are inherent whereas others are acquisitive and thus different from one society and region to another. This paper argues that some women rights in Iran, though not recognized by the government laws, were common and widely applicable before the 1979 revolution and later approved in the Constitutional Law of 1979 while some new ones were recognized and are part of the Constitution. Accordingly, the paper argues that women's rights in political, social, cultural and economic arenas are improving in Iran.

Keywords:

Iran, Islamic Revolution, Women's rights, Developments.

Introduction:

On 27 August 2006, a women's rights campaign known as 'One Million Signatures Campaign' was launched in Iran.¹ This campaign claimed that the Iranian government "seems intent on defining policies that relegate women to the private sphere and reinforce their status as second class citizens" and thus has tried to make the discourse on women's rights a national priority. Accordingly the activists have tried hard to reach out to citizens and engage them in direct dialogue on women's rights and raise their awareness about the negative effects of such discriminatory laws on living of women and the society.

Though different in their attitudes and deeds, all other women's groups, like religious reformists, conservative as well as secular ones, are

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¹ Some prominent speakers of the Iranian women's movement in the late 20th century and at the turn of the new millennium may be named as Simin Behbahani, Shirin Ebadi, Tahmineh Milani, Mehrangiz Kar, Elaheh Koulaei, and Farah Karimi, Shahla Sherkat, Jila Bani Yaghoob, Mahboubeh Abbas-Gholizadeh, Azam Taleghani and Shahla Lahiji.

acting inside and outside Iran, and have taken up these issues.² While according to religious women's groups great achievements have occurred in Iran since the Islamic Revolution of 1979, the secular ones claim that these are only small victories as no real legal changes have been achieved in support of women's rights. Though the women have equal rights in marriage and inheritance, or get equal compensation for injury or death (blood money), or pass on their nationality to their children, or for that matter there is an end to stoning for adultery and end to polygamy, yet such examples are not felt satisfactory by secular activists who claim that there are many gender-biased laws in Iran that need to be changed.³

While there was heavy participation of Iranian women in the Islamic Revolution of 1979 that toppled the Shah, the secular groups believe that within months of the founding of the Islamic Republic of Iran all rights that women were accustomed to enjoy under the Shah have severely been curtailed.⁴ For example, the revoking of the 1967 Family Protection Law is one such act and accordingly there is enforcement to observe Islamic dress code for female government workers; ban on women to become judges; reduction of the legal age of marriage for girls to 13; and the ban on married women from attending public schools. Unisex places like beaches, sports centers, schools, public buses are also regarded as the strict sex-segregation policy for which the Islamic Revolution is ideologically committed.⁵

Pre Revolutionary Women's Rights:

Women's rights in the Islamic Republic of Iran are quite different from those under the Shah. Even at the Shah's regime we may divide them prior to 1963 White Revolution and after up to the 1979. Prior to White Revolution women had no right to participate in the political suffrage that wealthy men had achieved after the 1907 Constitutional Revolution. During all this period up until the enforcement of the 1967 Family

² Bahram Navazeni and Abbas Hashemi, "Iranian Women Political Tendencies", Manjit Singh, D. P. Singh., (Eds), *Woman and Empowerment: Experiences from Some South Asian Countries*, Unistar Books, Chandigarh, 2005.

³ Sussan Tahmasebi, "Progress towards women's rights in Iran",

⁴ Elham Gheytnchi, "Chronology of Events Regarding Women in Iran since the Revolution of 1979", *Social Research via Find Articles.com*, Summer 2000, accessed 21 September 2008; Nikki R. Keddie, *Social Research via Find Articles.com*, Summer 2000, accessed 21 September 2008; Nayereh Tohidi, "Iran's Women's Rights Activists Are Being Smeared", *Women's eNews*, 17 September 2008; accessed September 21, 2008.

⁵ Elham Gheytnchi, *Social Research via Find Articles.com*, Summer 2000, accessed 21 September 2008.

Protection Law, the Islamic *Shari'at* Law was the basis of family, marriage and women's rights in Iran. As examples, the law permitted men to have four permanent and as many temporary wives as they wanted. Custody of children was in the hands of the father and after his death, in the hands of the male relatives on the father's side. Whether the couple had divorced, or else after the death of the father, the mother would not get custody of her children. The woman had to have written permission from her husband to travel. Since inside the country, one does not need to show an ID to travel, this permission was required for traveling outside the country. Citizenship was only through paternity.

Due to the rise of women's rights movements around the world, including Iran, certain changes appeared gradually such as the right to vote, which was established in Iran in 1963. The 1967 Family Protection Law and its amendments of 1974 also required married men to get permission from their permanent wife, or wives, to acquire another permanent wife though this did not apply to temporary wives.

Post Revolutionary Women's Rights:

After the establishment of the Islamic government in Iran, a move was made to implement the *Shari'at* law widely. The outcome of the "fundamentalist" interpretation of *Shari'at* in Iran, though not as harsh as in Saudi Arabia or that of the Afghanistan's Taliban, is like those as exist in almost all countries with majority Muslim population. It did include the exclusion of women from judgeship, the imposition of Islamic code of dress on women, and inclusion of strict *Shari'at* rules in the judiciary. These meant that some punishments for crimes were to comply with the Islamic tradition. As an example the ban was imposed on "Bad hijabi" and women were not to expose any part of the body other than hands and face in public and those doing contrary to it were subjected to punishment up to 500,000 rials (\$500) fine or 2 months imprisonment (Islamic Punishment Law, Article 638). On the other hand there were also punishments up to 74 lashes and from 2 to 6 months imprisonment for anyone (read men) who in public places commit aggression or affray children or women or insult them with words and behaviours opposite to their dignity and prestige (Islamic Punishment Law, Article 619).

The Constitution and Women:

Constitutional Law in the Islamic Republic of Iran was adopted and ratified on 24 Oct 1979 by the popular referendum and later amended on 28 July 1989. The Preamble of the Constitution values "the blood of hundreds of young men and women," who, "infused with faith" nurtured the Islamic Revolution of Iran and "raised their cries of *Allahu Akbar* at

daybreak in execution yards, or was gunned down by the enemy in streets and market places.” The people mentioned here are of “all segments of society and of all political and religious factions”, nevertheless, the Constitution puts more emphasis on “especially the women” who “were actively and massively present in a most conspicuous manner at all stages of this great struggle ... mothers with infants in their arms rushing towards the scene of battle” and thus recognize their “essential and decisive role played by this major segment of society in the struggle.”

To respect the women’s right and their emancipation, the Preamble insists on the base of all “cultural, social, political, and economic institutions of Iranian society” on the “Islamic principles and norms” and that the Iranian “nation, with all its beings, seeks its fulfillment.” The main mission of the Constitution is therefore “to create conditions conducive to the development of man in accordance with the noble and universal values of Islam” and thus the women’s rights in the Constitution and other ordinary laws were legislated according to these Islamic values.

By assigning a section in its preamble as “Woman in the Constitution,” the preamble of the Constitution is elaborating its ideological conception of exploited and oppressed women under the old regime. It also expresses its hope that women “regain their true identity and human rights” in the Iranian pro revolutionary society and “benefit from a particularly large augmentation of their rights, because of the greater oppression that they suffered. The constitution recognizes “the family” as “the fundamental unit of society and the main center for the growth and edification of human being.” To deliver women “from being regarded as an object or instrument in the service of promoting consumerism and exploitation” the Preamble binds “the Islamic government” to recover the women’s role of “motherhood” as “momentous and precious function” and help them assuming “a pioneering social role and become the fellow struggler of man in all vital areas of life.”

In some Articles of the Constitution both men and women are observed equal and the government has the duty to keep this equality. Article 3 obliges the government of “directing all its resources” to specific goals including:

“free education and physical training for everyone at all levels, and the facilitation and expansion of higher education” (3(3)),

“the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and the intellectual spheres” (3(9)) and

“securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law.” (3(14))

The equality of all before the law is once more repeated in Article 20 as reads “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.” Article 22 of the Constitutional guarantees inviolate of every individual’s (no matter men’s or women’s) “dignity, life, property, rights, residence, and occupation” and Article 23 forbids “the investigation of individuals’ beliefs” and clearly states “no one may be molested or taken to task simply for holding a certain belief.” Freedom of expression in “publications and the press” (Article 24), forbidden of “examination of and non delivery of letters, recording and divulging of telephone conversations, ... censorship, ... tapping and bugging (Article 25), freedom of establishing “political parties, societies and association” and joining any of them (Article 26), freedom of “unarmed assemblies and marches” (Article 27), freedom “to choose the employment he/she wishes” (Article 28) and “the enjoyment of social security” to cover “retirement, unemployment, old age, being laid off, being without a guardian, casual misfortune, accidents, and occurrences giving rise to the need for health services and medical care and treatment, through insurance etc. (Article 29).

According to Article 32 no person may be arrested or detained “except according to and in the manner laid down in the law” and based on Article 33 “no person may be ousted from his residence or forbidden to reside in the locality of his/her choice or compelled to reside in a particular locality”. Every individual according to Article 34 has the right “to ask for justice” and to refer “to the competent courts”. Article 35 entitles “both parties” in all courts to “select a lawyer for themselves” and according to Article 36 “a sentence to punishment and its execution must only be by the decision of a competent court and by virtue of law.”

The Rights of Women:

However, “because of the greater oppression that they suffered under the old regime” as the Preamble states, the Constitution draws more attention to the “Women’s Rights” as in Article 21 and counts 5 various rights the government must ensure “in all respects in conformity with Islamic criteria and accomplish” as follows:

- 1) create a favorable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual;

- 2) the protection of mothers, particularly during pregnancy and child-rearing, 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, in order to protect the interests of the children, in the absence of a legal guardian.

Women's Rights in the Statutes:

In addition to these constitutional rights, Iranian women enjoy many other rights from the legislature and other statutes. Furthermore, the constitutional rights are implemented through legislation that passes special regulations in the form of Acts and Bills. Women have the right to choose their future husbands and no one can be enforced to marry an undesired man (Civil Code Article 1070). In the Civil Code of 1925 (Articles 1078-1101), Family Protection Law of 1967 (amended in 1974 and after the Islamic Revolution to conform better to the interests of women in the family) a women's has the right to *Mahr* (nuptial gift), and asking of *Sadoqah* or *Sedaaq* (the Quranic term), which is a gift from the groom to the bride for her positive answer to marriage. *Mahr* can be money, any worthy property or even action such as teaching Quran, and is subject to the agreement between the two. Normally today it is between 14 to 1000 gold coins (equivalent to \$3,000 to \$400,000) depending upon the wealth of the groom. However, *Mahr* is a preferential debt upon the husband and as soon as the wife request for its payment it is to be paid. This debt is of such importance that the wife may refer to the court and use her right of detaining the husband to force him the payment.

As the marriage is considered a marital contract, there are sometimes added some more conditions within the contract and become compulsory to observe by the parties. The bride, as a party to this contract, may pick up a joint place for their residence (Civil Code Article 1114). According to the marital contract revised after the Islamic Revolution husband has to transfer to his wife half of the wealth acquired after the marriage, has no excuses to divorce her and the wife has the right to ask the court to get divorced if the husband got addicted or was jailed for 5 months or has left her for six uninterrupted months.

Furthermore married women are not legally obliged to work outside the family and earn money for the family and even if they work inside they can ask for money according to a law passed in 1992 by the Expediency Council and spend it as they wish, even for outside the

family purposes (Civil Code Article 1118). The husband has also to pay *Nafaqeh* (maintenance or alimony) for accommodation, clothing, food and furniture suitable to the women's family standard. It can even include payment to servant if a woman is from a wealthy family and in its amendment in 2002 the need for curing the disease has also been added.

Custody of children to mother is another right recognized by the Civil Code (Article of 1169 amended in 2003) according to which mother has the precedence of keeping the child (with no difference of boy or girl) up to 7 years of age and then the precedence goes to the father if there is no discord, otherwise the court will decide. Before the amendment, mother's precedence in the custody was for boys under 2 and for girls under 7 years. The cost of living of the children under mother's custody is on the shoulders of father (Civil Code Article 1199). According to Article 1 of the Family Protection Law of 1974, the judicial proceedings of all family complaints and grievances are vested to the county courts. This has benefitted women as they were historically and socially suffering from the dictates of their husbands. A law passed in 1997 has designated some existing courts in every county as the Family Courts. Accordingly, "if continuation of the marriage causes rigidity and austerity for the wife, she may refer to the court and ask for divorce" (Civil Code Article 1130).

There is freedom of employment (Article 28 of the Constitution) for all citizens that includes all political and judicial positions. The only exception found in it is the position of the president of the country which has been reserved for men (Article 115 and its interpretation by the Constitutional Guardian Council in 1997). In 1995 an amendment to the Law of Appointing the Judiciary (Judges) maintained that the head of the Judiciary may appoint women of competence for judiciary to different court positions.

The Labour Law of 1989 has assigned special rights to women and Article 75 has barred women from "risky, hard, and dangerous works" and even "carrying cargos in exceed of limits without the mechanical devices". Article 76 provides 90 days pregnancy off period with pay in both government and private sectors after which their previous job get restored to them. Later in 1995 the law of Promoting Nutrition with the Mother Milk extended this period to 120 days up to 3 children. This law maintains that women have the right of 1 hour a day for milking their children up to 20 months of their age and according to the Labour Law (Article 78) the employer has to set up necessary nursery to keep their children during the office work. The Social Security Law of 2004 has also provided some facilities and protections for derelict women and

mothers during pregnancy and custody of their children and special insurance for the widows, aged women and self-warden.

Another right for women is their exemption from the military service. According to the Military Service Law, women are exempted from the 2 year military service men do. Nevertheless, they have the right to choose the military job as their career and there is no legal restriction in gradation though it had not been in action until 1997 when some new applicants for policewoman officers were approved.

Women's Rights in Practice:

After the Revolution in 1979, Iran has emphasized the requirement of participation of women in civil and political life. Accordingly the voting right for women is maintained and they are encouraged to participate fully in all forms of public life. Ban on "Bad hijabi" is therefore a necessary tool to maintain a safe and sound environment for women entering into the public sphere un-chaperoned. The early 1990s brought a marked increase in the number of women employed in Iran. They also pursue higher education in large numbers as a result of free education and the literacy campaigns that have been carried. Today they are entrepreneurs, academicians, policy makers, physicians. Today, there is an effort to make certain professions exclusive for them like pediatricians and gynecologists while as men are encouraged to become civil engineers. Again, over 65% of university students are women and this is a big achievement as compared to the past when in 1936 there were just 12 of them in Tehran University. In 2001, Allameh Tabatabaai University, Tarbiat Modares University, and Azzahra University initiated women's studies programmes at the Master of Arts level, and shortly thereafter Tehran University organized a similar programme.

For the first time in the past three decades three women were nominated by the president to hold ministerial positions, out of which one got the vote of confidence in summer 2009 for the ministry of Health and Medical Education. There are many more women in parliament and other city councils than ever were during the previous governments. During the last seven parliament elections the number of women participants has increased gradually from 90 to 827 and those of the elected ones from 4 to 13.⁶ Participation of women in public life has also made them publishers and they have opened all-women publishing houses, to print books and pamphlets on women's issues, including from secular and leftist point of view.

⁶ <http://www.majlis.ir/mhtml/modules.php?name=News&file=print&sid=2085>

In the sports, despite some restrictions, there are quite many female athletes who have won medals in international competitions. Iranian women are allowed to compete in sports that require removal of the *hijab*, but only in areas that are meant for females. They are banned from public events if spectators include unrelated men. Men are not allowed to train or coach women in the fields where women have to expose any part of their bodies such as in swimming and thus because of the lack of female coaches certain sports teams have been prevented from international competition. Accordingly, of the 53 Iranian athletes in the Beijing Olympics, there were only three women: Sara Khoshjamal Fekri (taekwondo), Najmeh Abtin (shooting) and Homa Hosseini (rowing) whereas comparing it to that of the 2004 Athens Olympics there was just one female athlete, in shooting and thus a great success.

There is a well developed birth control programme in place which received an award from the UN about five years ago. According to UN WHO statistics, infant mortality and teen-age pregnancy rates in Iran are much lower than those in most third-world countries. In 2005, the Iranian parliament approved abortions carried out before four months gestation if a woman's life was at risk or if the fetus was malformed. With technical support from the United Nations Population Fund, the government undertook literacy and family planning initiatives. The Fund's specific contributions to the Literacy Movement Organization of Iran included training more than 7,000 teachers, developing a nine-episode television series on women's health issues (including family planning), and procuring computers and other equipment.

Conclusion:

After the Islamic Revolution in Iran, the government has implemented the *Shari'at* law, though it is not as harsh as in Saudi Arabia, and it did include imposition of Islamic code of dress for women, and strict *Shari'at* rules in the judiciary. Although women's inclusion in civil and political life was maintained and were encouraged to participate fully in all forms of public life while some punishments for crimes were to comply with the Islamic tradition such as execution for rape and adultery.

Regardless the enforcement of a complete hijab (dressing code) and punishment on charges of "improper hijab", many developments have occurred in the areas of birth control and abortion, child custody, education, divorce and marriage law, and employment including the right to become judges. It is true that Iranian society is committed to unisex policies in public places and some legal and customary restrictions are on women in their choice of career, travel outside the country, but it is also a

fact that Iranian women have never been historically so active in the social and political life of the country as holding high academic, managerial, and even political positions.

There is a positive trend to rereading and reinterpreting some religious texts and literature that have been misappropriated. Iranian Constitutional law explicitly confirms, in its various articles, gender equality as an Islamic principle and a necessity for the welfare of human being and together with the improvement of women's education and their social responsibility there is hope to have a more participation of women in every fields of the society.

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