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### **Framing Rights: Women and Family Law in Pre- and Post- Revolutionary Iran**

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# Framing Rights: Women and Family Law in Pre- and Post-Revolutionary Iran

ARZOO OSANLOO\*

**Abstract** *This article explores changes to Iran's family law codes before and after the 1979 revolution. Since the revolution, the state's attention to women's legal status has served to reinforce specific and often competing views on women's roles in the post-revolutionary Islamic Republic of Iran. By exploring how those views changed during different periods over the past thirty-five years, this article highlights contemporary debates about women's roles and offers a deeper understanding of the sometimes conflicting aims of legal reforms. An investigation into changing family laws and the state's emphasis on women's roles also permits deeper understanding of the persistent debates about Islam, the republic, and how, for the conservative religious leadership, women serve the wider project of delivering a utopian Islamic society.*

## Introduction

On 10 July 2012, Iran's then-president, Mahmoud Ahmadinejad, delivered the inaugural speech at the opening ceremony of a two-day conference entitled, "Women and the Islamic Awakening." The conference was the third in a series on the "Islamic Awakening," the term the government used to refer to the revolutions in Tunisia, Egypt, and Yemen.<sup>1</sup> The meeting, organized at Tehran's elegant Milad Tower, included senior Iranian officials and hosted over 700 intellectuals and scholars from around the world.<sup>2</sup>

Speaking to a packed convention hall of mostly female nationals of Muslim-majority countries and his fellow national leaders, Ahmadinejad explored women's centrality to Islamic societies and the significance of an "awakening."<sup>3</sup> He described women's unique capacities for "loving kindness," "affection," "nurturing," and "helping," along with their "worthiness of respect." Drawing upon these distinct qualities, Ahmadinejad stated that

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<sup>1</sup> The first International Conference on Islamic Awakening was held in Tehran in September 2011, where the participants established the World Assembly of Islamic Awakening. In recognition of the importance of youth in these movements, in January 2012, the government hosted a second conference, the Islamic Awakening and Youth, with some 1,200 youth and 1,500 scholars and experts from seventy-three countries.

<sup>2</sup> Iranian officials included the commander of Iran's Basij Forces, Brigadier General Mohammad-Reza Naqdi and the chairman of the Islamic Supreme Council of Iraq, Seyyed Ammar al-Hakim. According to Ali Akbar Velayati, Secretary-General of the World Assembly of Islamic Awakening and an advisor to the Supreme Leader, Ayatollah Khamenei'i, some 70 percent of the attendees were Sunni Muslims and 30 percent were Shias. Arab and non-Arab Muslims from Southeast Asia, Africa and beyond were also in attendance. "Iran to Host Conference on Women and the Islamic Awakening," *Press TV*, 9 July 2012. <http://www.presstv.com/detail/2012/07/09/250116/iran-to-host-islamic-awakening-confab/>, accessed 1 December 2014.

<sup>3</sup> Iran's state-run television carried the opening ceremony live on Channel Two. I watched the televised program from an apartment in Tehran where I was conducting fieldwork during the summer of 2012. All quotations are translated by the author.

women comprised “the source of love and kindness in humans.” He commented on women’s significant social and familial roles, noting that they stood “shoulder-to-shoulder with men,” but also reflected on women’s larger responsibilities in reforming the world. Ahmadinejad then addressed the women directly: “Your assignment is a very heavy one. Just because it is a big job, do not think that you cannot achieve it.”

Ahmadinejad, and a series of speakers that followed, expressed the importance of both Islam and women to the uprisings of the region. When Iran’s Supreme Leader Ayatollah Ali Khamenei’i spoke, he connected women’s roles to the broader challenges to Islam throughout the world: “The West has tried to deprive Muslim women of their identity through an all-out effort [and] considers women to be a commodity and an object for the pleasure of men... Islam believes that a woman is honorable, dignified and progressive and that she has an independent character and identity.”<sup>4</sup>

Adding a commentary that communicated more about women’s participation in progressive social movements than their roles in Islam, Khamenei’i stated that wherever women actively participate in a social movement, “the progress of that movement is guaranteed.” Khamenei’i ended his speech on an anti-imperialist theme that positioned the Islamic Awakening in a broader political context of resistance to the “arrogant powers” (the United States and Israel) and sanctions against Iran, as well as support for Palestinians.

By referencing this broader awakening, Iranian leaders aimed to link the revolutions in Tunisia, Egypt, and Yemen to Iran’s 1979 populist revolution, while glossing over the internal politics and violence that ultimately led to the creation of the distinctive Islamic Republic of Iran. The conference emphasized the roles that Muslim women played and were to play in continuing the movement, but its message was also a very political one. Although subtle, these experienced revolutionaries were telling their audience that because popular revolutions had overthrown Western-supported monarchs, as they had in Iran, the Islamists needed to awaken and, as they had in Iran, seek the leadership of their new governments. This conference spoke to the important roles that Muslim women, as agents of change, were to play in the social rehabilitation of their respective countries.

As I have argued elsewhere, since the revolution, the steadfast attention of state officials to women’s legal status has served to reinforce specific and often competing views on women’s roles in the post-revolutionary Islamic Republic.<sup>5</sup> In this article, I explore how those views have changed over the past thirty-five years in order to gain a better understanding of changes to the laws. An investigation into family law reforms will, in turn, allow for reflections on persistent debates within the religious leadership on how women are to serve the wider project of producing a utopian Islamic society, despite the leaders’ discordant and changing views on just what comprises this ideal society. In debates about women and their legal status in a post-revolutionary society, moreover, state officials concerned themselves with addressing women’s contemporary problems, while at the same time attempting to emulate an idealized vision of the community of believers during the time of the Prophet. One key debate was based on the rights extended to women with the passage of the 1967 Family Protection Law (FPL).

Upon his return to Iran in February 1979, Khomeini suspended the pre-revolutionary FPL. In his statements about women, he claimed to elevate their status to one that was in greater conformity with their important roles as mothers and wives, according to Islamic principles and traditions. For this discursive shift, Khomeini invoked the image of the

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<sup>4</sup> “Khamenei’i addressed the Women and Islamic Awakening conference.” *Iran Daily*, 12 July 2012. <http://www.irandailybrief.com/2012/07/12/khamenei-addressed-the-women-and-islamic-awakening-conference/>, accessed 30 November 2014.

<sup>5</sup> Arzoo Osanloo, “What a Focus on ‘Family’ Means in the Islamic Republic of Iran” in *Family Law in Islam: Divorce, Marriage and Women in the Muslim World*, ed. Maaike Voorhoeve (London: I.B. Tauris, 2012), 51-76.

Prophet's cherished daughter and Imam Ali's wife, Fatimeh. An important symbol for the revolutionary struggle for justice, the figure of Fatimeh came to serve as a model for women's roles in the new Islamic Republic.

Although many were troubled by the changes to the laws affecting women and families, some secular nationalists and leftists who rallied alongside of the '*ulamā*' (religious scholars) to topple the monarchy were not immediately concerned by the new restrictions on women's legal status. While some saw themselves struggling for the greater good of overthrowing a monarch, others saw themselves challenging the bourgeois commoditization wrought by capitalism and participating in the global anti-colonial and nationalist movements of the 1960s and 1970s. By turning to Islamic principles to reframe social life, including gender roles, religious leaders sought to project an image of a forthright (re)turn to indigenous values. To this end, they set out to use law as a vehicle to reshape and retool conditions on the ground.

### **Women and Pre-Revolutionary Family Law Reform**

Changes to laws guiding family relations, especially marriage, divorce, and child custody, emerged as critical issues for Iranian activists on behalf of women in the early twentieth century, alongside movements for education, suffrage, and employment.<sup>6</sup> In this section, I will discuss the specific changes to the family laws introduced by the original 1967 FPL and the 1975 revisions. I will also discuss how the process alienated some members of society as well as some '*ulamā*', including Khomeini.

Not long before the 1979 protests, a suspension of the FPL would have seemed unthinkable. The law had been co-drafted by the notable Women's Organization of Iran, an entity founded by the Shah's sister, Princess Ashraf. When its twenty-four articles were approved by Iran's parliament in 1967, it brought significant protections for women in marriage. The FPL provided women with actionable causes for *talāq* (divorce), limited a husband's ability to marry a second wife, and created family courts to deal specifically with issues related to marriage and divorce. In addition, the FPL allowed divorcing couples to make their own child custody agreements. If they proved unable to do so, the court would determine custody arrangements based on the best interests of the child(ren). The FPL's general approval was further evidenced in 1975 when parliament passed a revised version of it. The 1975 revisions extended protections for women in cases of polygamy by adding the requirement that a husband seeking to marry a second wife must first secure the permission of the first wife. The previous version of the law only required the husband to obtain the permission of a court, and the court based its judgment solely upon whether the husband had sufficient financial resources to provide for two households.<sup>7</sup> While polygamous marriage was never common, the FPL brought significant moral and legal authority in limiting this practice. The 1975 revision also raised the age of marriage to eighteen for women and twenty for men, although the court could hear petitions for girls over fifteen by exception.

The efforts toward reform, combined with social and political activism, gave women the right, and arguably a moral mandate, to take legal actions necessary to deal with difficult marriages. Women, however, had to show cause, basing a complaint for divorce on at least one of the listed grounds enumerated in the revised 1975 Civil Code on Marriage and Family. Article 11 of the FPL enumerated these grounds, which included the husband's abandonment, addiction, or imprisonment. This provision supplemented the already existing grounds for

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<sup>6</sup> See, for instance, Parvin Paidar, *Women and the Political Process in Twentieth-Century Iran* (Cambridge: Cambridge University Press, 1995).

<sup>7</sup> Paidar, *Women and the Political Process*, 154-5.

revocation of the marriage contract by either party due to insanity, disease or a deformity that rendered sexual intercourse impossible. For women, this included a man's impotence.<sup>8</sup> Article 1119 of the Civil Code also allowed parties to the marriage contract to stipulate conditions that would make marital life intolerable. This meant that the grounds enumerated in the new law circumscribed a man's unilateral right to divorce under Article 1133 of the Civil Code, but did not abolish it completely.<sup>9</sup> Article 1133 was still the law. Under the new system, a woman had to present her case before a family court judge. If the judge found her complaint valid, he would delegate the husband's unilateral right of *talāq* to the wife who, in essence, would be divorcing herself. The FPL required men to appear in court as well. Although men still did not have to show cause, a husband seeking divorce had to submit to mediation and receive a certificate from the court confirming that the couple was unable to reconcile before the court would approve a petition for *talāq* initiated by the husband.<sup>10</sup>

Under Mohammad Reza Shah, the Iranian government had a consultative body of '*ulamā*' with which it had presumably conferred and had acknowledged that the provisions of the FPL were in conformity with Islamic principles. According to one scholar, "though Iranian legislators delicately bent the *Ithnā 'Asharī* doctrine of divorce and temporary marriage, they were very cautious not to break away from it completely."<sup>11</sup> The response of other Shi'i '*ulamā*', however, evinced deep disagreements among them. From exile in Iraq, Khomeini strongly objected to the provisions of the FPL and called on his supporters to reject it. In a frequently referenced speech, Khomeini called the provisions of the FPL invalid and stated that a woman who divorced under this law would become an adulteress subject to criminal sanctions.<sup>12</sup>

In the immediate aftermath of the revolution, the transitional government suspended the civil laws and dissolved the family law courts. The latter were replaced by new *shariat* courts, which possessed a much broader jurisdictional mandate, but addressed disputes solely through Islamic jurisprudence. Parties to disputes often did not know the appropriate venues for having their family disputes adjudicated. Even judicial authorities who had the best of intentions were confused about the application of laws and the appropriate jurisprudence to be applied.<sup>13</sup> A lack of procedural standardization, accompanied by the inconsistency of interpretive authority created a judicial and jurisdictional nightmare.

While conducting fieldwork, I often encountered women who had been involved in marital disputes in the years just after the revolution.<sup>14</sup> They confirmed the difficulties in accessing the appropriate courts and finding judges who were fair-minded and applied the laws correctly. When I met thirty-six-year-old Shiva in 1999, she was living on her own, having ended her marriage over fifteen years, and had an eighteen-year-old daughter and a sixteen-year-old son. Although her family lived in an affluent neighborhood in the center of Tehran, they were not wealthy. Several years before the revolution, when she was thirteen

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<sup>8</sup> Revocation (*faskh*) and divorce (*talāq*) are distinct legal actions with different effects. The former resembles an annulment and leaves the status of the woman as if she had not been married.

<sup>9</sup> Gholam-Reza Vatandoust, "The Status of Iranian Women during the Pahlavi Regime," in *Women and the Family in Iran*, ed. Asghar Fathi (Leiden: E.J. Brill, 1985), 107–30, 115.

<sup>10</sup> Paidar, *Women and the Political Process*, 153; Vatandoust, "The Status of Iranian Women," 115.

<sup>11</sup> Vatandoust, "The Status of Iranian Women," 118–19. See also Patricia Higgins, "Women in the Islamic Republic of Iran: Legal, Social, and Ideological Changes," *Signs* 10: 31 (1985), 477–94.

<sup>12</sup> Ruhollah Khomeini, *Islam and Revolution I: Writings and Declarations of Imam Khomeini (1941-1980)*, trans. Hamid Algar (Berkeley, CA: Mizan Press, 1981), 441.

<sup>13</sup> Paidar, *Women and the Political Process*, 274–5.

<sup>14</sup> Arzoo Osanloo, *The Politics of Women's Rights in Iran*, (Princeton, N.J.: Princeton University Press, 2009). I first conducted research for the book in February 1999 – March 2000 and have returned annually since for periods of between one to four months. I conducted over 200 interviews, carried out participant observation, collected life histories, and conducted research using print media and archival materials.

years old, her parents, two brothers and three sisters moved to Tehran. Her parents had sold land in their hometown of Kermanshah and used the proceeds to purchase a two-bedroom apartment in Tehran. She went to school, did her homework, saw friends, and helped around the house. As the years passed, she watched her older sisters marry and leave the family home. When she was fifteen, in 1978, she witnessed the beginnings of the revolution. Although her older siblings told her to stay inside, she wanted to join them in what seemed like a joyous occasion. She spoke of skipping in the streets and raising her hands in protest like everyone else. She had no idea quite why, except that they were going to be rid of the Shah. “We used to say, he ‘takes the people’s oil wealth.’”

About a year later, Shiva met a boy. Her family’s concern for her (and their) reputation led them to suggest that if the boy’s intentions were serious, he should come to see them and offer to marry her. Shiva did not give much thought to marriage. She knew it was something she was supposed to do, as her sisters had done. “Besides,” she told me, “I liked him. I really liked him. Ahmad was sweet. We would meet after school and he would take me for ice cream. It was exciting.” Perhaps it was a little dangerous, too, as social rules were rapidly changing at the time and the couple could have been harassed for their seemingly innocent meetings. “So one day Ahmad and I are getting married. I was seventeen and had known him for about one year.” Ahmad was a bit older, “maybe twenty-five. He had his [high school] diploma and worked at a property rental agency. I was going to finish my studies and become a midwife. We were very happy.”

After four years of marriage and the birth of two children, Shiva had not yet finished her education, and she and Ahmad were constantly bickering. As she explained to me, she was “a child taking care of two children.” In the meantime, her father had died and her mother was ill. Life following the revolution and the start of the Iran-Iraq war had become very difficult for the young couple. Shiva never went into great detail about the breakdown of her marriage, but explained the shock of going to court to dissolve it by mutual consent only to find that the judge would not allow it. “He told us we had to stay together; Islam does not recognize divorce.” She was stunned, she said, because only a few years earlier, a friend of her sister’s had ended her marriage in family court. But now everything was changing, and in the midst of the changes, it appeared to Shiva that “no one knew what to do.” Unable to afford legal counsel, the couple persisted and finally a judge granted the divorce but ignored Shiva’s request for financial support. He awarded full custody to Ahmad, even though they had already agreed that Shiva would take the children with her when she went to live with her mother. Over the years, Shiva told me, she maintained a decent relationship with Ahmad and they shared custody. She did not have too many problems, but, she added, she could not ask him for anything.

Shiva’s experience underscores the uncertainty of the post-revolutionary period and the discrepancy between what many couples experienced and what they expected. Even more distressing was the law. What laws were the judges to apply after Ayatollah Khomeini had suspended the entirety of the family laws? In a 2005 interview, one attorney who had been practicing law since the mid-1970s told me, “In that early period, we could not always do our job and it was unfair to our clients. We followed the civil codes, but Khomeini had issued a vague statement that Islamic principles (*shari‘a*) should be applied in family law cases. In court, judges frequently did not know what to do.”<sup>15</sup>

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<sup>15</sup> Personal interview, 12 September 2005, Tehran, Iran.

## Islamicizing the Iranian Revolution Through the “Woman Question”

As the revolution gained ground and found a transitional leadership in the guise of a pluralist provisional government, religious leaders stepped in to capture the popular spirit that had largely been generated by the leftists and nationalists. On 26 February 1979, only three weeks after his return to Iran, Khomeini suspended the FPL and later called for a review of all legislation passed during the Pahlavi era in order to examine its conformity with Islamic principles.<sup>16</sup> The re-examination of family laws proved to be central to the broader revolutionary goal of social rehabilitation for newly empowered *‘ulamā’* who believed that only Islamic jurists understood how marriage and family were to advance the broader cosmological goal of bringing divine justice to earthly societies. In the absence of legal guidance, judges were instructed to follow Khomeini’s directives in his writings, especially the *Resaleh Towzih al-Masael (A Clarification of Questions)*, in which he provided legal opinions on problems of religious ritual. His writings were supplemented by speeches and proclamations, often sufficiently abstract to leave room for debate about their precise meaning. One issue that was not open to interpretation, however, was the revolutionary figure, who, for Khomeini was toiling in the service of Islamizing the state.

As a foil to the *gharbzadeh* (Western-struck) woman, the key image deployed by revolutionary leaders during this period was that of Fatimeh, the Prophet Mohammed’s daughter and wife of Ali. Fatimeh was (and remains) the ideal woman for the revolutionary state. Her qualities had been recorded by Ali Shariati, who was an inspiration to both religious and secular revolutionaries. A sociologist partly educated in France, Shariati worried that Western cultural imperialism threatened local values. His writings, which made use of the discourse of oppression, were significant in bringing leftist and religious groups together. One of the key themes in this discourse was the role of women. In his important text, *Fatimeh Fatimeh Ast* (Fatimeh is Fatimeh), Shariati employed the image of Fatimeh to emphasize the transcendent qualities of Muslim women.<sup>17</sup> In his view, Fatimeh replaced the Western woman as the ideal modern woman for Iranians and served as an indigenous model of femininity.<sup>18</sup>

Khomeini also made use of Fatimeh as the ideal model of a Muslim woman. Her birthday replaced International Women’s Day (March 8) as Iran’s official women’s day. In numerous addresses, Khomeini sanctified Fatimeh as the perfect Muslim woman, whose qualities as justice-seeker, educator, and pious believer he extolled, and encouraged others to emulate. According to Khomeini:

[I]f you women here, indeed all our women all over the country, have accepted today as Women’s Day, that is, have accepted the day which marks the birthday of Hazrat Fatimeh Zahra, with all the perfection it represents [...], then you have a great task to perform, one which includes struggle, just as she struggled, to the best of her ability, during the short span of her life, addressing the government of the time and passing judgment on it. To truly accept her birthday as Women’s Day, you must imitate her. To truly accept it you must follow her example in her renunciation of the things of this world, in her devotion and piety and in all the virtues she possessed.<sup>19</sup>

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<sup>16</sup> Mohammad H. Nayyeri, “Gender Inequality and Discrimination: The Case of Iranian Women,” Iran Human Rights Documentation Center Legal Commentary, 8 March 2013, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html#.UaFdUJwWCHs>, accessed 25 February 2015.

<sup>17</sup> Ali Shariati, *Fatima is Fatima*, trans. Laleh Bakhtiar (Tehran: Shariati Foundation, 1981).

<sup>18</sup> Minoo Moallem, *Between Warrior Brother and Veiled Sister: Islamic Fundamentalism and the Politics of Patriarchy in Iran* (Berkeley, CA: University of California Press, 2005).

<sup>19</sup> Khomeini made these remarks before a group of women on Women’s Day, 2 March 1986, *Sahifa-yi Nur*, vol. 19, page 279, cited in Ruhollah Khomeini, *The Position of Women from the Viewpoint of Imam Khomeini*, trans.

In his annual speeches on women's day, Khomeini sought to demonstrate how the image of Fatimeh spoke to the concerns of the Iranian state by serving as a bridge between modernity and tradition. This was especially true during the Iran-Iraq war when women sent their sons to the front and continued to perform their household duties while also entering the workforce to sustain the economy. Khomeini repeatedly acknowledged Fatimeh's crucial participatory role in society and exhorted others to advocate for social change as well:

[A]ll women and men must involve themselves in social and political affairs. They must be supervisors, supervising the work of the Majlis and the government; they must express their opinions. The entire nation must today watch over affairs, they must express their opinions, comment on political and social problems and all that government does. And if they see something wrong, they must take proper action.<sup>20</sup>

As a national trope, Fatimeh displaced the concerns with gender equality. By invoking Fatimeh's image, state leaders moved away from a national discussion about ending gender-based discrimination and instead focused on promoting women's roles through the exemplary Shi'i figure of devotion to family, nation, and ultimately, to God.

Soon after the revolution statements and speeches by the new leadership hailed a change in Iran that was marked by a shift in attention to women and their roles in the family. The significance of the family was written into the new Iranian Constitution (October, 1979), in which the family was recognized as "the fundamental unit of society."<sup>21</sup> The success of the family, and thus the nation, hung on women's moral virtue. Women's roles in nurturing the family, raising upright children, and contributing to post-revolutionary social rehabilitation made female virtue a matter of public concern that justified state surveillance and intervention in private matters.<sup>22</sup> By emphasizing the importance of women in rehabilitating the citizenry, the leaders acknowledged, perhaps unwittingly, a new politics of women as well.

The steady focus on women's issues by the leadership of the Islamic Republic empowered activists and led to lively public debates. Attention to improving women's lives as a revolutionary aim gave activists a platform from which to address women's concerns. In short, the revolutionary aim of improving society through attention to women's issues gave women an unanticipated measure of social and political power. This renewed attention to women's issues connected improvements in the conditions of women's lives to the success and even the legitimacy of the Islamic Republic.<sup>23</sup> After the revolution, increased attention to women's status led to improvements in women's health, literacy, and education, and to an increase in their participation in the labor force.<sup>24</sup> Women's groups used the government's

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by Juliana Shaw and Behrooz Arezoo (Tehran: Institute for the Compilation and Publication of Imam Khomeini's Works, 2001), 14-15. All passages quoted from this text retain the original English translations as published by its authors.

<sup>20</sup> 10 September 1980, *Sahifa-yi Nur*, vol. 13, page 68, cited in Khomeini 2001: 42.

<sup>21</sup> Article 10, Constitution of the Islamic Republic of Iran, 1979, rev. 1989.

<sup>22</sup> Alongside of the attention to women and families, the Iranian government instituted pro-natalist population policies that discouraged family planning and aimed at increasing Iran's overall population. The policies were halted after the end of the Iran-Iraq war (1989) and Iran became leader in family planning and birth control policies. Later, the Ahmadinejad government tried to reinstitute some pro-natalist policies. See Homa Hoodfar and Samad Assadpour, "The Politics of Population Policy in the Islamic Republic of Iran," *Studies in Family Planning* 31:1 (2000), 19-34.

<sup>23</sup> Arzoo Osanloo, "Islamico-Civil 'Rights Talk': Women, Subjectivity, and Law in Iranian Family Court," *American Ethnologist* 33(2) (2006): 191-209, 203.

<sup>24</sup> Women's high rate of entry into universities remains despite the 2012 announcement by the Ministry of Education pressuring universities to close some subjects to females. As this was a public statement, not a legal decree, numerous faculty and universities around the country simply ignored it and publically renounced the rejection of half of the population as bad educational and social policy.

focus on their roles and conduct to demand accountability and legal redress, especially in the context of family law and gender discrimination.

### **Rule of Law and Women's Agency**

Even after Khomeini's return and the swift suspension of the FPL, the nature of the state was hardly assured. A series of key events further drove Iran's transition to an Islamic republic even while the country was still ostensibly managed by a pluralist, transitional government. As Haideh Moghissi notes, the establishment of Khomeini's Islamic government was not inevitable, but rather the result of specific processes that took place in the years just after the revolution, including the take-over of the US embassy, which allowed Islamic parties to consolidate their power over the secular and leftist nationalists.<sup>25</sup> Another important event was Saddam Hussein's invasion of Iran's southwestern border on 22 September 1980, which allowed the Islamic Republican party, which supported Khomeini, to push its notion of governance through parliament and expedite its agenda by defending the state from an outside threat. Suppression of the left and other dissenters, including ethnic and religious minorities, followed crackdowns on the press. These events allowed temporary changes to endure even as the state used the war-time emergency to introduce even more drastic changes to the laws. During these destabilizing events, state institutions employed the trope of the virtuous Muslim woman and defined her role as mother and sister, and, furthermore, as a sacred being in an idealized Islamic society.

In the early years of the post-revolutionary period, these events created the cultural context in which the leaders of the new Islamic Republic would employ shifting discourses on women and family. Legal reforms in these years almost directly reflected broader societal concerns, such as the war. Throughout the 1980s, women were exhorted to participate as mothers and sisters of the brave soldiers, keeping the home and caring for the wounded.<sup>26</sup> Thus the suspension of the FPL served an important purpose in the transition away from Western liberal positivism, and its emphasis on individual rights, toward a focus on Islamic principles that privilege family harmony and gendered social roles. The FPL had given women rights in matters relating to divorce, which some activists across the political spectrum regarded as a vulgarity. As such, its suspension did not rankle revolutionary purists, religious or secular, many of whom considered the concerns of divorced women to be insignificant in the context of the revolution.

The suspension of law had another significant purpose. In a just or "true" Islamic society, as Khomeini argued, there is no need for laws made by humans; all that was needed was God's law. Khomeini's theory of the *Velayat-e Faqih* (Guardianship of the Jurist) would allow for the most learned person in Islamic jurisprudence, as God's trustee on earth, to lead the country toward justice until the Day of Judgment. Thus, not only did Khomeini change the laws concerning women, but he placed the liberal theory underlying the rule of law under scrutiny. The attack on the FPL was indicative of a wider assault on legal positivism precisely because of the *kind* of agency it engendered: autonomous individuals endowed with rights, including the right to make claims on the state. Moreover, taking the FPL as a starting point was crucial because of the connection between Islamic jurisprudence and personal and familial status. Khomeini saw the FPL as an affront to the *'ulamā'*'s authority to guide believers in their personal and familial relationships.

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<sup>25</sup> Haideh Moghissi, "Women and the 1979 Revolution: Refusing Religion-Defined Womanhood," *Comparative Studies of South Asia, Africa and the Middle East* 29:2 (2009), 63-71, 64.

<sup>26</sup> Moallem, *Between Warrior Brother and Veiled Sister*, 111.

Khomeini's thesis on Islamic governance grew out of a critique of the Shah's 1967 White Revolution, a series of programs of land reform and changes to personal status laws deemed to be in the service of nationwide modernization. The White Revolution ultimately shifted land and authority away from the 'ulamā' to the central government. Khomeini responded to the White Revolution in his writings and, in particular, in his thesis on Islamic governance, *Hookoomat-e Islami* (Islamic Government), in which he argued that the legislative body was to be replaced with a planning body which would merely carry out the principled directives of the leadership entrusted with implementing God's law.<sup>27</sup> But in post-revolutionary Iran, the confusion and outcry over how to apply God's law with fairness and equity led to the recodification of the family laws over time. By the mid-1980s, the 'ulamā' had established that the recodified laws were in conformity with Islamic principles. It is significant that despite an anti-Western revolution that dissolved the legislative branch of government, the civil codes, and the civil courts, all in the name of creating a pure Islamic society, the Islamic Republic re-established parliament, civil courts, and civil codes.<sup>28</sup> These institutions affirm and deliver a rights-based legal system that has material consequences for how people speak to the state.

Codification has implications for agency and how people see themselves, especially in relation to the state, and even more so, to its institutions. The act of codifying the law also signifies a momentous disruption of the historical power of Muslim jurists to use their jurisprudential discretion in matters brought before them. The 'ulamā''s acceptance of codified laws created the conditions on the basis of which both state actors and activists on behalf of women would deal with personal family matters.

The combining of Islamic principles with civil codes upset a historical balance between the *shari'a* and state-administered law. By virtue of codification, *shari'a* was given unambiguous legal force for the first time.<sup>29</sup> The blending of *shari'a* with civil codes produced a new legal model, one that was neither a traditional expression of Islamic justice nor a reproduction of the European civil law system. This blended system, in which Islamic principles are expressed through a republican state framework, was sanctioned by the religious leadership. It also generated, indeed revalidated, agency through the liberal subjectivity of rights-endowed and individuated citizens. Because state institutions comprise the concrete operations of daily life, they give shape to different forms of daily practice, even if the content of those practices are premised on Islamic principles. Republican institutions, moreover, inflect liberal subjectivities, especially when individuals are interacting with specific institutions.

On the one hand, the post-revolutionary government made women the grounds on which political disputes over governance were fought, while, on the other, those disputes took shape through liberal discourses and gave way to liberal institutions. These civil processes became productive vehicles for rights now legitimized by Islamic principles. It is for this reason that many of the women with whom I spoke, while conducting fieldwork,<sup>30</sup> articulated their demands in terms of their codified individual rights, not through the Islamic cosmological vision of rights in the family that corresponds with gender-specific duties accorded to them as mothers. The latter was the vision of Islamicized rights enunciated by numerous state leaders and members of the 'ulamā' who attempted to express this different

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<sup>27</sup> Khomeini, *Islam and Revolution*, 55-6.

<sup>28</sup> This hybrid legal system grew out of struggles to determine how to operate a system consisting of Islamic principles and republican institutions. Not all of the Shi'i 'ulamā' agreed with Ayatollah Khomeini's thesis on Islamic governance. See Said Amir Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran* (New York: Oxford University Press, 1988).

<sup>29</sup> Ziba Mir-Hosseini, *Marriage on Trial: A Study of Islamic Family Law* (London: I.B. Tauris, 1993).

<sup>30</sup> See note 14, *infra*.

vision through mediated representations of the ideal Muslim-Iranian woman – seemingly unaware that women’s lives also took shape through the liberal state apparatus with which they interacted regularly.

### **Debating Post-Revolutionary Family Law Reforms**

Khomeini’s attack on family laws as both anti-Islamic and Western helped to frame the Iranian revolution as Islamic. During the chaotic 1980s, national mobilization against Iraqi aggression, dubbed, “The Imposed War,” took precedence over the civil rights of women and others. By the early 1990s, however, the war was over and concerns with social issues again drew the energy and attention of activists. At first, effective legal challenges were mounted by pre-revolutionary lawyers whose training in legal procedure overcame scholarly retorts made by *‘ulamā’* trained in Islamic jurisprudence. This was confirmed for me in numerous interviews with lawyers, as well as with a newly appointed judge in the northern province of Mazandaran who adjudicated family law cases alongside several *‘ulamā’*. “They [the *‘ulamā’*] know theory,” this judge told me, “but not the law.”<sup>31</sup> Well-known lawyers, such as Mehrangiz Kar and Nobel Laureate Shirin Ebadi, as well as lesser-known individuals and groups (including members of parliament, the Women’s Parliamentary Commission, and the Center for Women’s Participation), challenged patriarchal interpretations of Islamic jurisprudence, sometimes with law, other times with appeals to equity and justice, and on occasion, offering their own interpretations of Islamic jurisprudence. Women’s magazines, such as the influential *Zanān* (Women), also raised awareness of patriarchal interpretations of Islamic principles and offered heart-wrenching stories of the effects of discriminatory customs and laws on women.

Much of this activism had been sustained through the post-revolutionary 1980s by pre-revolutionary leaders. But now, these advocates for women had to appeal to the state through a new discursive framework. This framework not only included the voices of the victors of the post-revolutionary struggle for an Islamic state, but also the voices of rural and traditional women who flowed into the cities. By the early-1990s, a generation of women raised in the post-revolutionary Islamic Republic, were coming to terms with gender inequality. The local forms of feminism they began to champion emerged from the specific kinds of discrimination they faced. Moreover, internal debates within the government gave rise to factions among the women in leadership circles. Now referred to as reformists, such women called for changes to the laws based on the dynamism they saw in the religious texts. They opposed the so-called “principlists,” who advocated recreating the social conditions and gender relations of the time of the Prophet.

In the 1990s, activists won significant changes to the family laws, despite the suspension of the FPL, which ostensibly would remain on hold until its provisions had been studied and new laws ratified in accordance with the religious leadership’s interpretations of Islamic jurisprudence. Over the next two decades, legislators reintroduced many of the provisions of the suspended FPL, only now they were authorized by the judiciary and thus deemed to be in conformity with Islamic principles.

In 1992, Iran’s parliament passed a series of revisions to the suspended laws on marriage and family, which were referred to as the “Amendments to Divorce Regulations.” These laws brought back the FPL constraints on Article 1133, the husband’s unilateral right to dissolve marriage. The 1992 Amendments acknowledged that the importance of marriage in Islamic society outweighed the unencumbered right of a husband to dissolve his marriage.

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<sup>31</sup> Personal interview, 23 July 2010.

According to these amendments, a woman's right to dissolve a marriage in court was reinstated. The 1992 Amendments also added the requirement that couples had to engage in mediation before being granted a divorce and husbands had to appear in court to have their *talāq* approved, despite their unilateral right to dissolve marriage. Unlike women, however, men did not have to state a reason for divorce. The practical result was that a husband was required to appear before the court to address his wife's complaints.

In the same 1992 Amendments, parliament gave women some material relief in matters relating to divorce, provided they had cause to initiate the divorce action. In such cases, women could petition for post-divorce maintenance, *ojrat-ol-mesl*, and for the equitable division of marital property. Although this law was largely advocated by pre-revolutionary women's groups, the law passed only after the strong currents of advocacy for women's rights coalesced in the post-revolutionary period. In December 1996, parliament passed another law that fixed the *mahrieh* or *mahr* (the bride's portion or dower) to the rate of inflation, thereby making it more expensive for men to end their marriages without cause.<sup>32</sup> Under these laws, a woman could petition the court that her husband's behavior reflected poorly on her reputation and she could seek damages by asking for her *mahr*. If the judge did not agree with a wife's claim regarding her husband's failure to fulfill some duty specified in the marriage contract, the wife could use her *mahr* in exchange for the husband's consent to divorce. The *mahr*, a sum of money written into the marriage contract and owed to a woman after marriage (i.e. consummation), had become actionable. Previously considered a gift, the *mahr* had rarely been paid or used to negotiate divorce.<sup>33</sup>

Next, additional changes to the civil code broadened women's child custody rights. While the FPL's 1975 revisions allowed couples to make their own custody determinations, with its suspension in 1979, the law reverted to the 1934 Civil Code. This code granted husbands custody of children (girls above the age of seven and boys over the age of two). In the late 1990s, a series of newspaper and television stories reported the abuse of girls by incompetent, sometimes drug-addicted fathers. In response to public outrage, in 2002, parliament revised the custody laws to grant mothers custody for a longer period of time (up to the age of seven for both girls and boys) and created custody courts.<sup>34</sup> In these courts, a woman could contest her ex-husband's custody by invoking a standard that expressly considers the best interests of the child.<sup>35</sup>

Of course law and action are separate matters. Just because a law exists to protect women does not mean it will be enforced. One young man I observed in a Tehran family court in the summer of 2005 unabashedly asked the court's volunteer advisor how soon before initiating a petition for *talāq* he needed to place the house in which he and his soon-to-be-ex-wife lived in his mother's name. Interviews I conducted that same summer with several lawyers confirmed that the practice of moving property before *talāq* in order to circumvent the laws that require divorcing couples to divide property equitably was widespread. Women, too, sometimes use the laws to their advantage, and, as one lawyer told me, have employed

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<sup>32</sup> Haleh Afshar, *Islam and Feminisms: An Iranian Case Study* (New York: St. Martin's Press, 1998), 186.

<sup>33</sup> The idea of the *mahr* as gift is well-documented and based on Qur'anic verse 4:4. See also, Mutahhari, Murtaza, *The Rights of Women in Islam*. (Tehran: World Organization for Islamic Services, 1981), 200-213.

<sup>34</sup> The increase in age of custody granted to mothers is significant because girls are generally considered to have reached majority at nine and boys at fifteen. At the age of majority, children may decide with which parent they want to live.

<sup>35</sup> S.N. Ebrahimi, "Child Custody '(Hizanat)' under Iranian Law: An Analytical Discussion," *Family Law Quarterly* 39(2) (2005): 459-476, 468. When a woman remarries, she loses custody on the presumption that it is not in the best interests of the children to live with their mother and her new husband. Debates exist as to whether a mother who does not remarry should lose custody, with many citing Shi'i jurisprudence to argue that children should be with their mothers. See Afshar, *Islam and Feminisms*, 193-4.

the possibility of *talāq* to obtain a high *mahr* in marriage.<sup>36</sup> Thus, while the laws have reinstated many of the FPL's provisions giving women more rights, numerous practices still stand in the way of their implementation.

### **Expanding and Retracting Women's Social Roles**

In the late 1990s, reformist President Mohammad Khatami emphasized women's participation in the political sphere. In his speeches, he stated that he envisioned broader roles for women, both as mothers and wives and as civil society participants. Khatami's presidency was notable for his attempts at passing legislation to enhance the powers of the executive while also providing citizens (and especially women) greater access to law, particularly in addressing family-related problem. In many cases, his support of the rule of law was truncated by his political foes. When Khatami succeeded in having the Iranian parliament ratify the Convention on the Elimination of Discrimination Against Women (CEDAW), the Council of Guardians –an oversight body– rejected it. These efforts informed the citizenry of the kinds of accountability it could ask of its government. It also revealed the limits of Islamic Republican governance.

Many individuals did not view the legalistic approach to family problems as ideal. Indeed, most people whom I interviewed, including lawyers, saw legal action for marital difficulties as a last resort because they did not always see the state or the courts as the appropriate venue to resolve marital or other familial disputes. However, that option became increasingly viable with the entrenchment of a rule of law discourse during Khatami's eight-year presidency.

I saw this on numerous occasions between 1999 and 2010 when I met women preparing themselves or their daughters for marriage. By this point, the stipulation of the women's right to initiate *talāq* was standard in the government-issued marriage contract.<sup>37</sup> Additionally, judges in family courts were better acquainted with the laws and started to follow them more judiciously than they had in the period just after the revolution. Part of the reason for this was that the judges were better trained and educated, but it was also clear that women plaintiffs were coming forward with stronger cases and concrete evidence of the difficulties they had experienced. Young women increasingly entered marriage with their eyes open. They knew their rights and often demanded high dowers.<sup>38</sup> There was also less pressure for women to marry. As more people delayed marriage or divorced and remained unwed, the taboo of being unmarried was slowly eroding.

By the end of Khatami's presidency, there was a backlash against what some saw as rampant individualism encouraged by the president's reforms and by outside influences. Conservative state officials pointed to the negative consequences of the reforms. They claimed that women's individualism and the high rates of divorce were causing the breakdown of the family, once again wreaking havoc on the social order, and damaging

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<sup>36</sup> Personal Interview, 6 September 2005.

<sup>37</sup> The marriage contract containing these stipulations was standardized in 1982. Ziba Mir-Hosseini, "A Woman's Rights to Terminate the Marriage Contract: The Case of Iran," in *The Islamic Marriage Contract: Case Studies in Islamic Family Law*, ed. Asifa Quraishi and Frank E. Vogel (Cambridge, MA: Harvard University Press, 2008), 215-30, 222.

<sup>38</sup> I have met several young women from wealthy families who request no dower. On the other hand, some well-to-do take into consideration the country's high rate of inflation and fix the *mahr* to a number of gold coins. In the 2000s, it became fashionable to connect that number to the year of the bride's birth, often resulting in an exorbitant sum of money, were the *mahr* to be effectuated. As a result, the government proposed to tax the dower. The new family law bill offers a solution by limiting the total amount of the *mahr* to 110 gold coins. Nayyeri, "Gender Inequality and Discrimination," 32.

Iranian society from the inside. This was not only a backlash against the successes of women's rights activists, but also against the rule of law strategy that Khatami promoted as a vehicle for allowing civil society challenges to the state's monopoly on law. By the end of Khatami's presidency, hardliners revitalized appeals for purity and moral reform over legal advocacy of rights and women's participation in civil society. Once again women were inseparable from the family. The terms "women" and "family" were unceasingly coupled during the Ahmadinejad period. An interlocutor who worked at the state's radio and television broadcasting agency, *Seda va Seema* (Voice and Vision) told me during an interview in 2008 that senior staff would not approve any programming about women unless it carried the phrase "women and children" or "women and family."<sup>39</sup>

In the eight years of the Ahmadinejad government (2005-13), officials introduced laws affecting women's roles in society and in marriage. Advocates for women debated these laws in numerous arenas, from the floor of parliament to the Internet. The Ahmadinejad period was in part characterized by attempts to rein in women's individualism and their increased use of legal resources, and to return them to their status as nurturers *par excellence*.

One point that both Khatami and Ahmadinejad had in common, however different their actions on behalf of women, was their attempt to shore up the power of the executive branch of government in order to wrest power from the Supreme Leader. Each worked differently and appealed to a different group of supporters. For Khatami, it was the reformists, the progressive believers, but also those who did not believe in the religious basis of the state, and saw in him a possibility of opening up, if not secular, at least non-religious positions in public and private life.

Ahmadinejad's base was different. He appealed to a different socio-economic class. While portraying himself as a populist who sought to address managerial corruption, Ahmadinejad aligned himself with the "principlist" interpreters of Islamic jurisprudence, who claim to abide by a strict reading of the Islamic sources of knowledge, quite unlike the dynamic jurisprudence and rule of law platforms that Khatami operationalized during his presidency.<sup>40</sup> Despite these differences, both presidents invoked women's roles to underscore their significance in society. The key was the language they used. Whereas Khatami used the language of *rights* in relation to the improvements sought for women, Ahmadinejad emphasized a regard for women by calling for improvements in their *status* in society. This language signified the very different approaches to women's roles taken by the two administrations.

Just weeks after Ahmadinejad's inauguration in August 2005, The Center for Women's Participation announced that it would revert from an executive branch cabinet position to a weaker presidential department. The center's name, moreover, would also change to *The Center for Women and Family*, reflecting what the new administration deemed to be women's most important role.

More importantly, however, President Ahmadinejad's government introduced changes to family laws. In August 2007, the executive branch introduced a bill designed to reinstate the suspended pre-revolutionary FPL. The provisions in the new Family Protection Bill would make major changes to marriage and family laws by redefining the meaning of family and women's roles within it. Two of the most contentious provisions in the bill were Articles 22 and 23. Article 22 proposed to end the requirement of registering a temporary marriage (*sigheh*). The removal of this requirement would eliminate most financial and legal protections for women in temporary marriages and the children born into them. Critics argued that Article 22 would effectively institutionalize prostitution.

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<sup>39</sup> Personal interview, 23 September 2008.

<sup>40</sup> Said Amir Arjomand, *After Khomeini: Iran under His Successors* (New York: Oxford University Press, 2009), 160.

Article 23 suggested a change to the law that required a husband to obtain his wife's permission to marry a second wife, as stipulated in the standard marriage contract. This article gave a husband the right to marry a second wife based on evidence presented to a judge that he possessed the financial means to support two wives equally. The article did not define the parameters of adequate financial resources for supporting multiple wives or the meaning of equal treatment. Thus, Article 23 seemed to eliminate the existing requirement that a husband obtain the first wife's consent prior to entering into a second marriage. Parliament sent the bill to its Legal and Judicial Commission for study, and one year later, the commission approved the bill. In July 2008, it was sent to the full parliament for a vote.

When the details of the new bill became public, scores of domestic and international activists mounted a campaign to defeat the provisions that they found to be at odds with women's rights. Feminist activists as well as members of the Iranian Shi'i '*ulamā*' criticized key articles in the bill, stating that they were against women's interests, Islamic principles, and families. This coalition effectively prevented the bill from moving to a final parliamentary vote. In response to the large-scale dissent, parliament sent the bill back to its Legal and Judicial Commission, which created a committee to review the controversial provisions of the bill.

Activist groups meeting in the summer of 2008 discussed the bill's problematic provisions and fashioned responses. The influential "One Million Signatures Campaign"<sup>41</sup> sought to expose the injustices in the bill by revealing the discriminatory nature of the proposed provisions and demonstrating how women's rights in marriage and divorce would be diminished. Members of the '*ulamā*' also reacted against the provisions of the bill, declaring that they were not in keeping with Islamic principles, especially with regard to polygamous marriage. Ayatollah Saneii wrote that Islamic principles on polygamous marriage require a husband to obtain his first wife's permission in order to marry a second wife.<sup>42</sup> Taking a less ideological approach of supporting "family protection," some activists argued that the bill, which appeared to facilitate polygamous and temporary marriages, would actually harm families.<sup>43</sup> For example, Zahra Rahnavard, an activist and wife of former presidential candidate Mir-Hossein Mousavi, said that the bill should be thrown out for the sake of family stability.<sup>44</sup> The activists were not only reacting through the prism of individual rights, but also were taking on the very terms of the conservatives' arguments, to wit, that the bill sought to protect the family. In so doing, they also were engaging in a jurisprudential debate.

Reducing *talāq* and encouraging marriage were the goals of the conservatives who argued that an increase in unmarried women put society at a risk of immoral behavior. While the main claim of conservatives who supported the bill seemed to be its compatibility with the *shari'a* and their faith, some tried to explain the deeper meanings behind its logic. One such commentator, a member of parliament from Tehran, Fatemeh Aliyeh, regarded the rise

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<sup>41</sup> The Million Signature Campaign was initiated by Iranian women activists in the summer of 2006 to protest against laws that discriminated against women in Iran. The campaign included publicizing the questionable provisions of the Family Protection bill and organizing protests against it. One of the campaign's central aims was to circulate a petition signaling disapproval of Iran's discriminatory laws, with the goal of receiving one million signatures.

<sup>42</sup> "Iranian Parliament Omits Controversial Family Law Bill." *Payvand News*, 28 July 2011. <http://www.payvand.com/news/11/jul/1279.html>, accessed 9 December 2014.

<sup>43</sup> Nobel-laureate, Shirin Ebadi, was among those making this plea. "Iranian Nobel Laureate Protests against Polygamy Bill." *Agence France Presse/The Daily Star*, 5 August 2008. <http://www.dailystar.com.lb/ArticlePrint.aspx?id=76055&mode=print>, accessed 29 November 2014.

<sup>44</sup> Zahra Rahnavard, "For the Survival of the Family, Eliminate the Family Protection Bill, (*Bara-ye Davam-e Khanevadeh, Layehhe-ye Hedayat az Khanevadeh ra Dastoor-e Kharej Koneed*)." *Kalame*, 21 August 2010. <http://www.kalame.com/1389/05/30/klm-29765/>, accessed 21 November 2014.

in the age of marriage as a worrisome trend that would affect social mores and argued that parliament should lower the age of marriage.<sup>45</sup> Conservative supporters of the bill, like Aliyeh, claimed that it sought to reduce *talāq* by making it more difficult to obtain<sup>46</sup> and by allowing women who possess less desirable qualities, such as being older, poor, or infertile, a chance to marry. They further argued that without the new bill, if a marriage ended due to a wife's illness or inability to produce a child, she would no longer have any financial support.<sup>47</sup> With this provision, its supporters argued, the wife would now be able to enjoy the financial and social security that marriage provided.<sup>48</sup> A woman who was not able to marry because she lacked physical or other social attributes, moreover, would perhaps be satisfied with becoming a man's second wife. She, too, they argued, would have some financial and social security.<sup>49</sup> In such cases, Aliyeh suggested that the aim of "family protection" would be met by preserving the family.<sup>50</sup>

The logic of the supporters of the bill, like Aliyeh and those with whom I spoke, came from the idea that it would give vulnerable women, such as widows and divorcées, a chance for financial maintenance, an opportunity to be a part of a family, and access to a network of social support as a second wife. Their reasoning envisioned a reality that would be socially engineered to protect women by keeping them in a position in which they are financially secure – but dependent on a male relative. Some conservatives argued that this would allow women more freedom for intellectual pursuits,<sup>51</sup> while their opponents responded that conservatives privileged financial protection over mental and emotional support. It should come as no surprise that the issues on which conservatives and reformists sometimes come together are in the arenas of childcare for working mothers and flexible work hours. One way in which the new bill was in tune with this logic was in the provisions that were not contested, such as arbitration for divorce and distribution of pensions to wives and unmarried daughters, including widows.<sup>52</sup>

As a result of continued public outcry, the bill was tabled for a time and then reconsidered by parliament in revised form. In August 2011, parliament revised Article 22, ending the registration of temporary marriage to include several categories in which registration is required, such as pregnancy and by mutual agreement of the parties.<sup>53</sup> The

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<sup>45</sup> Fatemeh Aliyeh, "The Legal Position of Woman in Article 23 is Implicit, (*Jayegah-e Huquqi-e Zan dar Maddeh 23 Mosttar Ast*)." *Zanān*, 149 (2007), 99.

<sup>46</sup> The bill also instituted full marital arbitration with the aim of reconciliation of spouses, regardless of which spouse initiated the proceedings.

<sup>47</sup> Personal interview 28 August 2008. This was conveyed to me by an interlocutor who had been divorced just after the revolution, in 1983, and had very little economic means for survival. She felt that women without economic resources would benefit from such a position.

<sup>48</sup> While carrying out fieldwork in the summers of 2008-10, I conducted participant-observation with and interviewed women who expressed their views to me on the possible effects of this bill. On 29 August 2008, I met with a group of eight women at the home of an employee of the state's radio and television broadcasting agency, *Seda va Seema*, who discussed their opinions on the bill. At work, their producer, also a woman, had convened an afternoon seminar to present the ostensibly positive impacts that the bill would have, including on so-called "less-desirable" women. Through my meeting with the women and two follow-up interviews (4 September 2008 and 13 September 2008), several of the agency's employees conveyed the conservative position to me.

<sup>49</sup> Personal Interview, 29 August 2008.

<sup>50</sup> See note 45, *infra*.

<sup>51</sup> Tuba Kermani, "Status and Rights of Women in Islam and Iranian Family," n.d. <http://en.zn.farhangolm.ir/Article/Religion---Philosophy/1659>, accessed 9 December 2014.

<sup>52</sup> Chapter 6, Article 5, Iranian Family Protection Law, Amended 21 August 2011. Iran Human Rights Documentations Center. <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3199-family-protection-act.html>, accessed 1 December 2014.

<sup>53</sup> In the most recent version of the bill, dated 2 April 2012, this provision became Article 21. Nayyeri, "Gender Inequality and Discrimination," 46-7.

provision also contains the qualification that the government supports permanent marriage in order to promote families.<sup>54</sup> Article 23, which required a husband to obtain a judge's (and not his first wife's) approval before marrying a second wife, was removed from the amended version of the bill.

While some provisions of the bill continue to be debated, these results seem to support the arguments of reformists, who stated that the offending provisions were contrary to the notion of protecting the family. However, the struggle over the Family Protection Bill reveals the complex and varied understandings of gender and family issues in Iran today. The different sides of the debate highlight the ambiguities and contestations that surround issues of women's rights and their roles in family and society. Despite the setback of the initial suspension of the FPL, its advocates have remained vigilant and have not been silenced during the post-revolution years.

The debates around women's rights and roles continue with Iran's current president, Hassan Rouhani, who was inaugurated in August of 2013. While space does not permit a deep analysis of the current administration's engagement with women's rights and status, the Rouhani government has publicly called for gender equality and women's participation in civic life.<sup>55</sup> Rouhani's selection to head the Center for Women and Family Affairs is Khatami's former legal advisor on women's affairs, Shahindokht Mowlaverdi. Mowlaverdi has been an active voice of the government since coming into office. After the October 2014 acid attacks on women in Esfahan,<sup>56</sup> Mowlaverdi proposed a new bill that would increase penalties for such crimes and proposed a center for protecting women against violence.<sup>57</sup> Executive speeches, however, carry little weight in the face of such severe violence against women and parliamentary actions both restricting women's activities and enhancing men's powers over women.<sup>58</sup> Indeed the current administration seems to operate through both the Khatami and Ahmadinejad modes of discourse: celebrating women's roles in the family while also speaking of increasing women's civic participation and ending gender discrimination. As of February 2015, there have been no evident changes to discriminatory laws and practices and Rouhani appears ineffective in the face of a hardline-dominated parliament and judiciary. Some commentators have even decried a rise in violence against women under Rouhani.<sup>59</sup> Since June of 2014, Iran's parliament has been considering a bill introduced by the judiciary, the *Plan to Promote Virtue and Prevent Vice*, which empowers the government and private citizens to issue verbal or written statements on social matters,

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<sup>54</sup> Nayyeri, "Gender Inequality and Discrimination," 46.

<sup>55</sup> "Rouhani Calls for Gender Equality," *Mehr News*, 20 April 2014. <http://en.mehrnews.com/detail/News/102665>, accessed 30 November 2014.

<sup>56</sup> Thomas Erdbrink, "Thousands in Iran Protest Acid Attacks," *New York Times*, 22 October 2014. [http://www.nytimes.com/2014/10/23/world/middleeast/thousands-in-iran-protest-acid-attacks-on-women.html?\\_r=0](http://www.nytimes.com/2014/10/23/world/middleeast/thousands-in-iran-protest-acid-attacks-on-women.html?_r=0), accessed 30 November 2014.

<sup>57</sup> "Plan to Protect Women Against Violence," *Iran Daily*, 26 November 2014. <http://www.iran-daily.com/News/56229.html>, accessed 30 November 2014.

<sup>58</sup> Such actions include a law that prohibits women musicians from performing publicly and another that permits men to marry adopted daughters. Shima Shahrabi, "The Forlorn Dreams of Iranian Women, (*Roya-ye bar baad rafte zanan-e Irani*)." *Iranwire*, 2 September 2014. <http://iranwire.com/features/6485/>, accessed 1 December 2014; "Anger, Confusion Cloud Iran's Adoption-Marriage Bill." *Al-Monitor-Iran Pulse*, 7 October 2014. <http://www.al-monitor.com/pulse/originals/2013/10/irnp-iran-marriage-adoption.html#>, accessed 30 November 2014.

<sup>59</sup> Mehrdad Darvishpour, "The Spread of Violence Against Women in Iran, (*Gostaresh-e Kooshoonat Aleye Zanan dar Iran*)." *Gooya News*, 26 November 2014. <http://news.gooya.com/politics/archives/2014/11/189365.php/>, accessed 28 February 2015.

including improper veiling.<sup>60</sup> Many associate the acid attacks and the more recent stabbings of at least eight women in the village of Jahrom, in Fars province, with this parliamentary decree.<sup>61</sup> Despite the overtures of its administration, including a condemnation of the proposed bill, the Rouhani administration seems, thus far, too constrained by domestic infighting and the nuclear negotiations to prioritize issues of violence against women and family law.

### **Conclusion: Continuity and Difference**

In this article, I have explored how the portrayal and treatment of women in Iran both before and after the 1979 revolution have been shaped through competing and sometimes contradictory beliefs about what improved conditions for women actually means. The policies on women's social positions that these differing views have generated have been controversial, and yet, have produced an entitled class of women seeking legal reforms that legitimize their state-decreed importance in Iranian society, as mothers and wives, but also as citizens. Thus, while there seems to have been legal discontinuities in women's legal status over the past three and a half decades (suspension of the FPL and other provisions introduced in the 1980s and by the Ahmadinejad government), these debates show that the ideas about women's rights represented in the original FPL have never died, largely because of the efforts of activists and the public debate between these two competing discourses about the place of women in society. This debate, then, represents a broader continuity in Iranian society.

During one of the live telecasts of the 2012 Women and Islamic Awakening Conference, Iran's state-run television aired an interesting discussion on Channel Two, sometimes referred to as 'the women's channel.' A group of women, all dressed in black chadors that signaled their piety and presumably their political stance, were seated in a semi-circle discussing contemporary issues.<sup>62</sup> Their main concerns revolved around women's struggles with careers and families, with a special focus on the challenge of childcare. As each woman lamented her difficulties, a range of viewpoints emerged, including a candid discussion of socio-economic problems. Finally, a younger woman raised her voice in semi-protest to state that she did not want children and perhaps did not want to marry. She pointed out the assumptions upon which the conversation had rested up to that point (that women should marry and have children), and announced that society should allow women to pursue different lifestyles without mandating how they should live. The comment did not trigger debate, and while the other women listened, they quickly brought the conversation back to the issues of married working women with children. The issue raised by the young woman was significant, however, because it offered a fresh voice in discussions of women's lives and the issues that concern them. It also suggested an alternative cosmology to the woman-and-family paradigm, which, for some time, had been the only way for women to live.

Indeed, there is evidence that the opinions of the young woman in this discussion are becoming more widely shared. Another significant, if less discussed, change to the 2011

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<sup>60</sup> Parliament approved a draft of the bill on 10 October 2014. Golnaz Esfandiari, "Iran Lawmakers Look to Protect Vigilantes of Islamic Justice." *Radio Free Europe*, 31 October 2014. <http://www.rferl.org/content/iran-lawmakers-look-to-protect-vigilantes-of-islamic-justice/26668192.html>, accessed 25 February 2015.

<sup>61</sup> "Basij Commander's Son Linked to Attacks on Women." *Iranwire*, 9 December 2014. <http://en.iranwire.com/features/6179/>, accessed 12 December 2014. See also, "Vigilante Violence: The Acid Attacks against Women in Iran and the State's Assault on Women's Rights." *International Campaign for Human Rights in Iran*, 5 March 2015. <http://www.iranhumanrights.org/2015/03/vigilante-violence-report/>, accessed 15 March 2015.

<sup>62</sup> Since the Ahmadinejad government came into power in 2005, television stations favor women dressed more conservatively, in the black chador.

Family Protection Law is that it permits a single woman, no matter her age, to petition the government for a portion of her father's retirement pension, even after his death.<sup>63</sup> As a result, a widow, a divorcée or even a woman who has never married is entitled to some financial support. This law fits within the broader worldview that men should financially support women. Although it does not offer women financial independence, it does make some provision for women who are living on their own and who do not have the economic support of a male family member. This provision is significant because despite being introduced by the conservative Ahmadinejad government, it implicitly acknowledges that women do not always have recourse to male kin for financial support. More significantly, the law recognizes that there are women who live independently and that the current system of social security is inadequate to meet their needs. This is a shift from an administration that initially attempted to convey an image of women as inseparable from the family and dependence on male kin. It addresses a problem that the reformist Khatami government and women's rights advocates of the era sought to address by attempting (but failing) to create a legal category for women as heads of households. The current laws, by definition, allow only males as heads of households, but if women could be designated as such, it would permit greater latitude for them in numerous contexts related to women's overall well-being, spanning from individual mobility to child custody.

Hopes were high that the 2013 election of a seemingly more moderate administration led by Hassan Rouhani would allow advocates of Khatami's positions to have a greater say in government. As with his predecessors, the way in which President Rouhani addresses women's issues will reveal much about his worldview and politics. In campaign statements, he decried discrimination based on gender and spoke favorably of equality, but what his administration can achieve on these matters remains to be seen. A recent announcement by Tehran's Municipality stating that women should no longer serve as office managers or secretaries further highlights the executive branch's limitations in effecting broad social reforms, its statements in support of gender equality notwithstanding.<sup>64</sup> For now, Rouhani's government appears to be hamstrung by the demands of the nuclear negotiations, the hardline judiciary, and other powerful state actors.

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<sup>63</sup> See note 52, *infra*.

<sup>64</sup> "Tehran's Municipality Dismisses Women from Office Jobs, (*Shahrdari-e Tehran zanan ra az moshagel-e daftari ekhraj mee konad*)." *Alef*, 13 July 2014. <http://alef.ir/vdcij5arpt1apr2.cbct.html?234273>, accessed 9 December, 2014.