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# **Human Rights of Women in the Islamic Republic of Iran and International Law: A Conceptual Comparison**

Salar Abbasi



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## Human Rights of Women in the Islamic Republic of Iran and International Law: A Conceptual Comparison

*Salar Abbasi\**

### Abstract

This article seeks to analyze the conceptual frameworks of the human rights of women outlined in international law with those delineated in the legal structure of the Islamic Republic of Iran. The article delves into the conceptual congruence or incongruence between these two diverse spectrums of jurisprudential agendas regarding the human rights of women. The comparison is composed of an analysis into the conservative protectionist and reformist dichotomy in shaping the principles based upon which the human rights of women in the I.R. of Iran is formulated, through a theoretical juxtaposition with the grounding theories that have shaped the human rights of women in international law. The Woman-Life-Freedom protests in Iran highlighted the urgent need to address ideological and systemic violations of women's human rights, and advocate for gender equality in the I. R. of Iran and worldwide. The article is a contribution to such a pressing inquiry.

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\* Visiting Professor of Law at Universidade Católica Portuguesa, Faculty of Law (Lisbon and Porto). The article has been accepted for publication in the Global Journal of Comparative Law (Brill), Volume 14 (2), 2025. I am deeply grateful for the comments and insights of Professor Andreas von Arnould and Professor Anja Pistor-Hatam of the Christian-Albrechts University of Kiel on earlier versions of this article. All errors remain my own.

## 1. Introduction

The recent ‘women-life-freedom’ protests in Iran against the ideological patriarchy and systemic gender inequality proved that there exists a pressing need to examine the status of women's rights within Iran with a conceptual comparison with international laws.<sup>1</sup> These protests, led predominantly by women, highlighted the resilience and determination of Iranian women in their quest for dignity, freedom, and basic human rights.<sup>2</sup> The aim of this article is to re-visit the jurisprudential structure through which the rights of women in Iran are defined and delineated. This conceptual scrutiny will be carried out through a comparative analysis with the human rights standards advanced in international legal scholarship concerning the rights of women.

The conceptual review of the discourse on human rights of women in Iranian laws will be pillared on the protectionist and reformist dichotomy. An integral part of the conceptual scrutiny of this article is predicated on the modern ‘reformist’ stream of thought in regard to Islamic Laws and commands in general and on human rights of women in the Islamic Republic of Iran in particular. This article seeks to investigate the efforts of scholars such as Mohsen Kadivar and a select of feminists who either endeavor to reconcile Islamic jurisprudence with universal human rights principles with a ‘reformist’ lens or make effort to pragmatically put pressure on Islamic governments to recognize human rights of women without any attempt to question the validity of Islamic laws.

The primary objective of this article is to critically explore whether there exists a conceptual possibility for reconciling the principles governing the human rights of women as articulated within Islamic legal frameworks and those promulgated under international human rights law. In addressing the present inquiry, the article is structured as follows: Part I serves as a prelude and contains two sub-sections: the first outlines the methodological framework employed throughout the study, and the second provides a list of abbreviations used in the article. Part II examines the human rights of women in international law. Sub-section 1

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<sup>1</sup> See Janet Afary and Kevin B Anderson, ‘Woman, Life, Freedom: The Origins of the Uprising in Iran’ (2023) 70 Dissent 82.

<sup>2</sup> See Nayereh Tohidi, ‘Iran in a Transformative Process by Woman, Life, Freedom’ [2023] Freedom of Thought Journal 29.

begins with a discussion of egalitarianism as a foundational concept in the development of women's human rights in international legal instruments. Sub-section 2 explores the emergence and relevance of critical feminist approaches to international law and their contribution to this discourse. Sub-section 3 then analyzes the normative content of international treaties and instruments that define and protect the rights of women. Part III focuses on the human rights of women in the Islamic Republic of Iran. Sub-section 1 provides a historical overview of the legal and socio-political evolution of women's rights in contemporary Iran. Sub-section 2 presents concrete examples from the field of family law as applied under Islamic jurisprudence in the I.R. of Iran. Sub-section 3 offers a focused analysis on the legal and political debates surrounding mandatory hijab, highlighting its jurisprudential dimensions. Sub-section 4 investigates the Islamic normative texts that underpin state-enforced restrictions on women, especially as shaped by the ideological framework of the Islamic Republic. Part IV explores contemporary Islamic legal theory, particularly the protectionist and reformist approaches to Islamic jurisprudence in relation to human rights. Sub-section 1 discusses protectionist perspectives, while sub-section 2 elaborates on reformist interpretations, evaluating their respective hermeneutical strategies and rhetorical methods in interpreting Islamic law in light of universal human rights principles. Finally, Part V presents the concluding reflections of the article and suggests avenues for further research in the field.

### **1.1. Methodological framework**

This article adopts a conceptual comparative methodology to critically examine the human rights of women as articulated under the legal framework of the Islamic Republic of Iran in comparison with international human rights law. The comparison analytical with a theoretical focus on the normative foundations of both heritages of jurisprudence. It seeks to explore the underlying legal and ideological groundings that structure the regulations on human rights of women in Islamic law – particularly as interpreted and institutionalized in the Islamic Republic of Iran – and those codified in international instruments and treaties. This comparative analysis is grounded in critical legal theory and is designed to go beyond surface-level similarities or differences; and instead offer a deeper scrutiny of the jurisprudential justifications. This article also employs critical analysis of the discursive and interpretive trends within contemporary Islamic scholarship – the protectionist and reformist approaches. Rather than

advocating for harmonization based on political or ideological expediency, this article engages in a truth-seeking, conceptually rigorous inquiry aimed at uncovering the structural and doctrines that shape human rights situation of women in these two jurisprudential traditions.

## **2. An Overview on Human Rights of Women in International Law**

### **2.1. The concept of egalitarianism in the discourse on human rights of women**

The fundamental worth of human-beings is the grounding concept in calls for egalitarianism in social constructs that makes it an ethically and morally appealing ideal.<sup>3</sup> The idea of egalitarianism in a social structure stems from the recognition of the intrinsic dignity of individuals irrespective of race, social class, and gender. Any social pursuit of egalitarianism starts with a practical will to tear apart hierarchical classification of people in a knit society. This requires formulating a mandate based upon which public policies, laws and political agendas would serve promotion and implementation of social equality of citizens. One of the widely referred concepts in this regard is Rawl's three-pronged account of egalitarian law: an institutional design for the establishment and advancement of equal and fair values of political liberty, institutional design for the fair equality of opportunity for all the peoples, from every social class, to be equally considered for potential jobs and certain competitive achievements, and in dealing with the substantial economic and social inequalities, these institutions must serve the maximum benefit to those ranked at the bottom of these inequalities.<sup>4</sup> Rawls, in his 'A Theory of Justice', suggested that the relevant distributive units are 'social primary goods': rights and liberties, powers and opportunities, income and wealth, and the social bases of self-respect. These are things any rational person is presumed to want, irrespective of her particular plan of life.<sup>5</sup>

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<sup>3</sup> See Bruce M Landesman, 'Egalitarianism' (1983) 13 Canadian Journal of philosophy 27.

<sup>4</sup> See John Rawls, 'The Law of Peoples', in *On Human Rights*, ed. Stephen Shute and Susan Hurley (Basic Books 1993).

<sup>5</sup> See John Rawls, 'A Theory of Justice' [1971] Cambridge (Mass.). Cited in Nils Holtug and Kasper Lippert-Rasmussen, 'An Introduction to Contemporary Egalitarianism' [2007] *Egalitarianism: New essays on the nature and value of equality* 1. 2.

Relevance and applicability of various forms of egalitarianism in domestic legal structures have been a matter of discussion and controversy. Given domestic legal and political structures' verticality where the relations among people, courts, Constitution, police, legal codes, legality and legitimacy processes are well-defined through the hierarchy of norms and laws,<sup>6</sup> there has been skepticism on relevance and functionality of economic equality of citizens, and instead, the focus has been on equality of welfare and subjective well-being of every individual with respect to particular physical or mental traits and status of every single citizen. To put in Holtung and Lippert-Rasmussen's terms 'consider a case in which two people have the same income. One has a disability that requires her to spend most of her money on buying expensive medicine. This means that she has less money to spend on food, housing, and other necessities. Suppose also that, therefore, she has a lower welfare than does the other person. Is that tolerable from an egalitarian perspective? Should we not compensate the disabled person for her extra expenses?'<sup>7</sup> With the same understanding and rhetoric, the implementation of policies aimed at achieving gender equality, driven by principles of egalitarianism, encompasses particular initiatives in education and employment sectors. Additionally, the incorporation of gender equality principles into Constitutions and legal codes, including the criminalization of violence against women within households, serves to level the social playing field between genders. These measures provide women with the necessary legal protections to safeguard their subjective well-being in both societal and individual spheres of life. Reverberation of the necessity of protection of gender equality and women's rights in international treaties and declarations is an indication that protection of women's right has truly become a universal principle.

From the late 20th century to the present, there has been a growing recognition of the intersectionality of women's experiences, considering factors like race, class, sexuality, and disability. In detail, '[W]ith the exception of some voices from the global South, the international women's human rights community's focus on "women" to the exclusion of other identity categories, such as ethnicity, race, class, religion, and sexual orientation, has resulted in a limited understanding of women's human rights'.<sup>8</sup> Likewise, international law

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<sup>6</sup> See Hans Kelsen, *Pure Theory of Law* (Univ of California Press 1967).

<sup>7</sup> *ibid.* 3.

<sup>8</sup> Johanna E Bond, 'International Intersectionality: A Theoretical and Pragmatic Exploration of Women's International Human Rights Violations' (2003) 52 *Emory LJ* 71, 72-73.

scholarship on women's human rights has evolved from a focus on foundational rights like the right to vote and political participation to a more comprehensive understanding of gender equality, encompassing political, social, economic, and cultural dimensions.<sup>9</sup> Ongoing efforts continue to refine legal frameworks and address serious challenges to women's rights from multi-faceted perspectives. Intersectionality calls for greater representation and participation of women from marginalized communities in decision-making processes at the international level. By recognizing and addressing the intersecting forms of discrimination and marginalization that women face, international law can better fulfill its mandate of protecting and promoting human rights of women living in various conditions and belong to a wide variety classes. Recognizing the significance of this approach in safeguarding the human rights of women across diverse societal backgrounds, the 2015 Sustainable Development Goals (SDGs) articulated objectives, to be accomplished by 2030,<sup>10</sup> that explicitly and

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<sup>9</sup> See *ibid.*

<sup>10</sup> United Nations General Assembly. Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 (2015). The SDGs concerning women's rights are as follows:

Goal 5: Achieve gender equality and empower all women and girls:

Target 5.1: End all forms of discrimination against all women and girls everywhere.

Target 5.2: Eliminate all forms of violence against all women and girls in public and private spheres, including trafficking and sexual and other types of exploitation.

Target 5.3: Eliminate all harmful practices, such as child, early, and forced marriage and female genital mutilation.

Goal 3: Ensure healthy lives and promote well-being for all at all ages:

Target 3.1: By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births.

Target 3.7: By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programs.

Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all:

Target 4.5: Eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples, and children in vulnerable situations.

Goal 8: Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all:



implicitly tackle women's rights while embracing the concept of 'intersectionality'.

The intersectional inquiries and interventions in the situation of human rights of women in a given knit society addresses women and their experiences directly and foremost. For amelioration of human rights standards in a given society is conceptually intertwined with reformations in the very perception and thought processes of the agencies and individuals living and functioning in that society; ranging from authorities and policy makers to civil society and victims of human rights violations themselves.<sup>11</sup> This looms particularly important in the study of human rights of women under Islamic constitutions where Islamic laws and norms are at the core of educational agenda. Such conceptual awareness would catalyze production of well-measured multistakeholder strategies to promote legal literacy, project educational reforms, and bring about effective activism in affected societies.<sup>12</sup> This is why, the pursuit of Sustainable Development Goal 4, which aims to 'ensure inclusive and equitable quality education and promote lifelong learning opportunities for all', is a pivotal step in the sustainable progress of human rights of women in Islamic societies.<sup>13</sup> The global governance of 'Education' in multilateral and multistakeholder levels needs a revisited focus under the conceptual ends of intersectionalism in international law. 'While global governance has been well developed in other fields, its discussion in the field of education is still limited'.<sup>14</sup>

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Target 8.5: By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.

Goal 10: Reduce inequality within and among countries:

Target 10.2: By 2030, empower and promote the social, economic, and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion, or economic or other status.

<sup>11</sup> See Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornell University Press 2013).

<sup>12</sup> See William C Smith, Melanie CM Ehren and Sotiria Grek, 'Global Governance of Education: The Sustainable Development Goals as a Product and Mechanism?' (2024) 70 *International Review of Education* 531.

<sup>13</sup> United Nations General Assembly, 'Transforming our world: the 2030 Agenda for Sustainable Development' (21 October 2015) UN Doc A/RES/70/1, Goal 4.

<sup>14</sup> Smith, Ehren and Grek (n 12), 531.



## 2.2. Critical feminist approaches to international human rights standards concerning women

One of the critical scholarships with postmodern ethos to tackle human rights standards within the structure and conceptual ambit of international law is the feminist approach. The Feminist legal scholarship has long critiqued the normative structures and institutional practices of international human rights law for their embedded gender biases and limited engagement with women's lived realities. Early feminist interventions highlighted the androcentrism of international law, arguing that the purported universality of rights often masked a male-centered standard that rendered many forms of harm against women through portraying their experiences and concerns invisible or marginal.<sup>15</sup> This invisibility was especially pronounced in areas such as domestic violence, reproductive rights, and socio-economic marginalization, which for decades were not considered central to the human rights of women discourses.

A key tenet of critical feminist approaches is the insistence that international human rights law has traditionally privileged public sphere harms—such as torture, arbitrary detention, and censorship—over violations that typically occur in the private sphere, including domestic abuse, marital rape, and discriminatory family laws. The latter sphere is where the discriminatory practices against women take place clandestinely, though consistently. Feminist scholars argued that this dichotomy between public and private has perpetuated a structural bias that excludes the most pervasive forms of violence and inequality experienced by women.<sup>16</sup> Efforts to challenge this divide led to normative expansions such as General Recommendation No. 19 (1992) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),<sup>17</sup> which recognized gender-based violence as a form of discrimination, and later it led to the development of the Declaration on the Elimination of Violence Against Women (1993).<sup>18</sup>

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<sup>15</sup> See Hilary Charlesworth, Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law' (1991) 85 *American Journal of International Law* 613.

<sup>16</sup> See Sally Engle Merry, *Human Rights & Gender Violence: Translating International Law into Local Justice* (University of Chicago Press 2009).

<sup>17</sup> 'Convention on the Elimination of All Forms of Discrimination Against Women', adopted by the United Nations General Assembly in 1979.

<sup>18</sup> UN General Assembly, 'Declaration on the Elimination of Violence Against Women' (20 December 1993) UNGA Res 48/104

One of the critical issues critical feminist theory has tackled is the need to intervene effectively in the human rights and legal mechanisms within states. In detail, critical feminist scholars argue that reliance exclusive on the texts of treaties and instruments in international human rights law often fails to translate into material change for women. The ratification of treaties and adoption of gender-equality provisions, while symbolically important, are not sufficient if states do not undertake meaningful institutional and cultural reforms. This critique is especially relevant in societies with entrenched patriarchal norms and transcendentally legitimated ideological normative settings, where the existence of formal rights does not guarantee substantive equality.

Taken together, critical feminist approaches call for a profound transformation of international human rights standards – not solely in their legal substance, but also in their methodological frameworks, epistemological foundations, and institutional structures. These approaches emphasize the importance of centering women’s lived experiences and recognizing the multiplicity of their voices across lines of race, class, nationality, religion, and sexuality. They argue for a reconfiguration of the often patriarchal structures embedded within international legal regimes through advocating for a more inclusive and responsive understanding of justice. By foregrounding the systemic and intersectional dimensions of discrimination, critical feminist scholars challenge traditional notions of universality in international law, exposing how these concepts can obscure gendered power relations and structural inequality. This theoretical orientation provides a vital lens through which the effectiveness and inclusiveness of international legal norms can be more critically assessed, particularly in societies where religious legal pluralism and state-sanctioned ideological patriarchy shape the status of women’s rights. With respect to such an approach, the present article investigates the jurisprudential foundations of the human rights of women in the Islamic Republic of Iran as the basic step towards an intersectional addressing of the human rights of women in the I.R. of Iran.

### **2.3. Human rights of women in international treaties and instruments**

Article (1) of the 1948 Universal Declaration of Human Rights maintains’ [A]ll human beings are born free and equal in dignity and rights’<sup>19</sup>. This sets the tone

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<sup>19</sup> Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948.

for the entire declaration throughout, relying on the necessity of conforming to the principle of equality of any sort in its Articles. The principle of equality is stressed in subsequent articles of the UDHR, reinforcing the maxim that everyone is entitled to the same rights and freedoms without any sort of discrimination. The UDHR has served as a foundational document inspiring the development of various international treaties and conventions that explicitly address gender equality and nondiscrimination. The Convention on the Political Rights of Women (1952) was one of the first international treaties specifically addressing women's rights to vote and participate in shaping the political structure of the society.<sup>20</sup> A new wave of feminism, which emerged in the 1960s, brought renewed attention to gender inequality and discrimination. During this period, the Women's Rights Division was established within the United Nations, and issues like discrimination in employment, reproductive rights, and violence against women gained prominence. The International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966,<sup>21</sup> while not specific to women, includes provisions related to women's rights, such as the right to work, just and favorable conditions of work, and the right to education and health. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),<sup>22</sup> adopted by the United Nations General Assembly in 1979, provided international law with a robust international bill of rights for women. About fourteen years later, the prevention and elimination of violence in all forms against women were exclusively necessitated in the Declaration on the Elimination of Violence against Women: Proclaimed by the UN General Assembly in 1993.<sup>23</sup> Two years later in 1995, the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women in Beijing in 1995,<sup>24</sup> provided a comprehensive roadmap for advancing women's rights. It covers various areas such as women and poverty, education and training, women's health, violence against women, women in armed conflict, and institutional mechanisms for the advancement of women. The United Nations Security Council Resolution 1325 recognizes the disproportionate impact of

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<sup>20</sup> Convention on the Political Rights of Women, Dec. 20, 1952.

<sup>21</sup> 'International Covenant on Economic, Social, and Cultural Rights', adopted by the United Nations General Assembly in 1966.

<sup>22</sup> 'Convention on the Elimination of All Forms of Discrimination Against Women', adopted by the United Nations General Assembly in 1979.

<sup>23</sup> 'Declaration on the Elimination of Violence against Women', United Nations General Assembly Resolution 48/104 20 December 1993.

<sup>24</sup> Beijing Declaration and Platform for Action (1995). The Fourth World Conference on Women. 1995.

armed conflict on women and calls for the participation of women in peace and security efforts.<sup>25</sup> Given these, '[A]ttaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values'.<sup>26</sup>

One of the most comprehensive legal frameworks in the international plane is The 2011 Istanbul Convention, formally known as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.<sup>27</sup> The Convention's generic goals are promoting international cooperation among states (Article 65) en route to preventing crimes against women (Article 12), envisaging legal mechanisms to protect victims (Article 20), and holding perpetrators accountable for crimes (Article 42). The Article (3) of the Convention considers violence against women as an egregious instance of 'violation of human rights' and a form of discrimination against women. The *actus reus* or criminal act of the crime of the 'violence against women' encompasses physical, sexual, psychological, and economic violence, as well as stalking and harassment.

It is crucial to highlight that Article (12) of the Istanbul Convention emphasizes the significance of preventive measures to address the root causes of various forms of violence and violation of human rights against women. When examining the roots of crimes against women within a society, it's essential to consider the ideological spectrum of its legal and political structures. Understanding these ideological underpinnings is a crucial component of conducting a multifaceted analysis of human rights violations against women within a society, and consequently, taking a pivotal step in preventing such violations of human rights from happening. Such an emphasis in the 2011 Istanbul Convention is a canonized consequence of the surge of postmodern normative thinking in international human rights theory.<sup>28</sup> Postmodernism challenges the universality of human rights, advocating for a context-sensitive

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<sup>25</sup> Security Council resolution 1325 on women, peace and security, 2000.

<sup>26</sup> 'Women's Rights are Human Rights', UNITED NATIONS PUBLICATION SALES NO. E.14.XIV.5, ISBN 978-92-1-154206-6, E-ISBN 978-92-1-056789-3, 1.

<sup>27</sup> Council of Europe. (2011). Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011. Retrieved from <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>.

<sup>28</sup> See OTTO DI ANNE, 'Lost in Translation: Re-Scripting the Sexed Subjects of International Human Rights Law' [2006] Anne Orford (éd.), International Law and its others, Cambridge: CUP 318.

justice through a law-and-society approach that accommodates diverse cultural and individual perspectives—intersectionality in human rights. It argues that the human rights tradition is deeply rooted in Western liberalism and often imposes a Eurocentric moral order on non-Western societies.<sup>29</sup>

Methodologically, postmodernism encourages interdisciplinarity and values narratives and lived experiences as tools for understanding the impact of international law on individuals and experiences of the communities. This has created a fertile ground for the emergence of extremely plural and inherently subjective forms of activism on concerns that individuals independently discern as pressing or a matter to address in the oppressor-oppressed context.<sup>30</sup> In other words, by rejecting monolithic narratives and embracing the multiplicity of experiences and identities, postmodernism has encouraged activists to advocate for rights through localized and culturally resonant frameworks. The epistemological slogan behind such surge of activism is that it prioritizes the voices of those traditionally marginalized in reality as opposed to the narratives created and put forth by self-centered power-holders. En route to this, it is primordial to investigate the foundational texts and inherently legitimate normative settings of Islamic societies in order to tackle the human rights of women not only with respect to contextual realities, but also with ideological and jurisprudential awareness.

### **3. Women's Human Rights in the Islamic Republic of Iran**

#### **3.1. A historical scrutiny**

Iranian women's historical aspirations to have equal legal and political rights as men in private and public aspects of their lives dates back to the early 20th century, during the Constitutional Revolution of 1906. The 1906 Constitutional Revolution of Iran was the product of a political enlightenment stream, or 'Iranian awakening' period to put in Browne's terms,<sup>31</sup> aimed at the 'changing the structure of the [Qajar] monarchy from depotic to constitutional and to adopt representative governance by introducing the country to a parliamentary

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<sup>29</sup> See Makau Mutua, *Human Rights: A Political and Cultural Critique* (University of Pennsylvania Press 2002).

<sup>30</sup> See Bond (n 8).

<sup>31</sup> See Reynold Alleyne Nicholson, 'Edward G. Browne' (JSTOR, 1926).

system. It further resulted in a written constitution in which a separation between different branches of government was recognized.<sup>32</sup> As the Constitutional Revolution of 1906 unfolded, Iranian women's advocacy efforts gained momentum, fueled by a burgeoning consciousness of their rights and a desire for social change.<sup>33</sup> In other words, 'it was only with the Constitutional Revolution that a grassroots campaign for women's education began'.<sup>34</sup> Women actively participated in political movements, mobilizing alongside men to challenge the autocratic rule of the *Qajar* dynasty and advocate for constitutional reforms. Central to their demands was the recognition of women as citizens entitled to equal rights. Iranian women called for legal reforms to abolish discriminatory practices and laws that perpetuated gender-based inequalities, particularly in areas such as marriage, divorce, and inheritance.

These demands reflected Iranian women's aspirations for gender equality and social justice, as they sought to assert their contribution actively to gender equality and shaping Iran's parliamentary political structure. For instance, women held conferences to discuss how collectively they could pursue their rights and make their voices heard. In 1907, the first official meeting of elite women was held. One of the resolutions of this conference was to establish a girls school, named *Madreseye Doshizegan*, which coped with opposition from Muslim preachers at the time, such as *Sheykh fazl-o-Allah Nuri*, who clearly announced that the establishment of the girls' school is contrary to Islamic rules.<sup>35</sup> In later years, such conferences grew and the most notable of them became what was called 'The Patriotic Women's League' in 1922 with the purpose of promoting literacy and education for young girls and aged ladies of conservative and deprived families and localities. However, such an encouraging movement faced with so much bigotry and opposition by the clerics

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<sup>32</sup> Ali Gheissari, *Iran's Dialectic of Enlightenment: Constitutional Experience, Tranregional Connections, and Conflicting Narratives of Modernity*, 1, in Ali M Ansari, *Iran's Constitutional Revolution of 1906 and Narratives of the Enlightenment* (Ginkgo Library 2016).

<sup>33</sup> See Reza Afshari, 'The Iranian Constitutional Revolution, 1906-1911: Grassroots Democracy, Social Democracy, and the Origins of Feminism, Janet Afary, New York: Columbia University Press, 1996, Xxi+ 448 Pp., Bibliography, Index.' (1998) 31 *Iranian Studies* 97.

<sup>34</sup> Janet Afary, 'Portraits of Two Islamist Women: Escape from Freedom or from Tradition?' (2001) 10 *Critique: Journal for Critical Studies of the Middle East* 47, 182.

<sup>35</sup> See Badr al-Mulūk Bāmdād, *'From Darkness into Light: Women's Emancipation in Iran'* (Hicksville, NY: Exposition Press 1977).



at the time.<sup>36</sup> 'Although it [The Patriotic Women's League] emphasized continuing respect for the laws and rituals of Islam, the activities of the league were condemned by clerics'.<sup>37</sup>

During the Pahlavi Era (1925-1979), under the leadership of Reza Shah Pahlavi and later his son, Mohammad Reza Shah Pahlavi, Iran underwent a series of laws and public policies to modernize the country, reform its outdated laws, and improve women's rights as a bedrock of reformations.<sup>38</sup> In late 1925, when Reza Shah Pahlavi succeeded to the Pahlavi throne, he was adamant to promote women's human rights and modernize not only women's education but also dress code, which manifested itself in the mandatory unveiling rules in the society. Such mandatory, unmeasured, and hurried spread of mandatory dress code of unveiling caused a lot of tension – 'trauma' to put in Chehabi's terms – between those with religious backgrounds and those fascinated by the modernization surge all over the country.<sup>39</sup> Such a policy was en route to '[disempowering] the clerics whose social, cultural and political power over women and gender relations was formidable'.<sup>40</sup> At the same time, revolutionary changes were made in the educational structure of the country; education for women became institutionalized and legitimate, sexual segregation was eliminated in schools, secularism became the basis for instructional and educational basis, European and American teachers and professors were hired to train and teach in educational and academic institutions of the country, and etc.<sup>41</sup>

During the Reza Shah Pahlavi, the advancement of women's situation in Iran was growing in a tangible and remarkable speed throughout the country.<sup>42</sup> However, at the forefront of the opposition against Reza Shah were those women

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<sup>36</sup> See Louise Halper and Hamideh Sedghi, 'Women and Politics in Iran: Veiling, Unveiling, and Reveiling' (2008) 4 *Politics & Gender* 659.

<sup>37</sup> Somayyeh Mottaghi, 'The Historical Relationship between Women's Education and Women's Activism in Iran' (2015) 31 *Asian Women* 3, 13.

<sup>38</sup> See Bianca Devos and Christoph Werner, *Culture and Cultural Politics under Reza Shah: The Pahlavi State, New Bourgeoisie and the Creation of a Modern Society in Iran* (Routledge 2013).

<sup>39</sup> See Houchang E Chehabi, 'Staging the Emperor's New Clothes: Dress Codes and Nation-building under Reza Shah' (1993) 26 *Iranian Studies* 209.

<sup>40</sup> Hamideh Sedghi, *Women and Politics in Iran: Veiling, Unveiling, and Reveiling* (Cambridge University Press 2007) 66.

<sup>41</sup> See Bāmdād (n 35). See also, Mottaghi (supra note 37).

<sup>42</sup> See *ibid*.



with religious sentiments who, under the influence of the Muslim clerics and preachers, found Reza Shah's policies in contrast to Islamic laws and commands.<sup>43</sup> From 1941 that Mohammad Reza Shah Pahlavi took throne after his father, the scale in which feminism and women's human rights activism expanded under the support of the new Shah.<sup>44</sup> Women were able to take on ministerial and managerial positions. As an example, '[E]lite educated women were able to find their way to higher positions in society. In 1965 the first female Minister, Farrokhrou Parsa (1922-1980), was elected as Minister of Education. She was a vocal proponent of gender equality who had petitioned the shah for suffrage for Iranian women'.<sup>45</sup> One significant milestone was recognizing the right to vote and political participation of women in 1963. This marked a pivotal step towards gender equality in political participation and social presence, which continued to grow until the political upheaval which took place following the Islamic revolution in Iran in 1979.<sup>46</sup>

Since the Islamic Revolution of 1979, Iran's Constitution and legal codes have been heavily influenced by Islamic principles, with provisions derived from Quranic teachings and interpretations of Islamic jurisprudence. The educational structure, which had been formulated based upon secularism during the Pahlavi era, became Islamized through certain revolutionary upheavals. 'From 1979 to 1983, all the universities were closed in order to be purified of Western influences. Even after they were re-opened, many faculties excluded women and many subjects were banned for women and restricted to men'.<sup>47</sup>

The above-mentioned upheaval is primarily evident in various aspects of Iranian laws, including Constitutional law, family law, criminal law, and etc., reflecting a fusion of religious doctrine and legal framework in shaping the country's legal landscape. Conformity of Iranian legal codes with *Sharia* laws and commands is affirmed in the explicit wording of the Constitution of the I.R. of Iran. One notable provision is Article 4, which states that all laws and regulations must be based on Islamic criteria and be in accordance with the Islamic *Sharia*.<sup>48</sup> Article 2

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<sup>43</sup> See Mottaghi (supra note 37).

<sup>44</sup> See Haleh Esfandiari, 'The Women's Movement' [2010] *The Iran primer: power, politics, and US policy* 45.

<sup>45</sup> See Mottaghi (supra note 37).

<sup>46</sup> See Arzoo Osanloo, 'Lessons from the Suffrage Movement in Iran' (2019) 129 *Yale LJF* 496.

<sup>47</sup> See Mottaghi (supra note 26), 21.

<sup>48</sup> Constitution of the Islamic Republic of Iran, adopted in December 1979 and amended in July 1989. Article 4: 'All civic, penal, financial, economic, administrative, cultural, military, political,

of this Constitution declares Islam as the official religion of Iran and establishes the Twelver *Shia* faith of Islam as the country's official religion, while also recognizing Zoroastrian, Jewish, and Christian Iranians as religious minorities who are free to perform their religious rites within the limits of the law. Additionally, it stipulates that all laws and regulations must be based on Islamic criteria and serve the preservation of the Islamic Republic—in advance of people's wellbeing. This provision affirms the central role of Islam in Iran's legal and political framework, shaping both its governance structure and societal norms.<sup>49</sup> This constitutional stance establishes the foundational role of *Sharia* law in shaping Iran's legal system and governance structure. This is why, the current discourse on women's human rights inside Iran is confined exclusively within the conceptual boundaries of Islamic laws, and any movement to expand it to the non-Islamic world of concepts could be brought before the courts functioning under the strict rules of Sharia Law enshrined in various legal codes of the I.R. of Iran.

### 3.2. Human rights of women in Family Law matters in the I.R. of Iran

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and other laws and regulations must be based on Islamic criteria. This principle governs all the articles of the constitution, and other laws and regulations. The determination of such compatibility is left to the *Foqaha* of the Guardian Council'.

<sup>49</sup> Constitution of the Islamic Republic of Iran, adopted in December 1979 and amended in July 1989. Article 2: 'The Islamic Republic is a system based on the faith in:

1. one God ("There is no god but God"), the exclusive attribution of sovereignty and the legislation of law to Him, and the necessity of surrender to His commands;
2. divine inspiration and its foundational role in the articulation of the laws;
3. resurrection and its constructive role in explanation of laws;
4. the justice of God in creation and legislation;
5. belief in the Imams (imamat), continuous leadership, and its fundamental role in the continuity of the Islamic Revolution;
6. the wondrous and exalted status of human beings and their freedom, which must be endowed with responsibility, before God. These are achieved through:
  - a. the continuous striving to reason (*ejtehad*) of qualified jurists (*foqahā*) who possess the necessary qualifications based on the book (Qur'an) and the Traditions of the infallibles (*ma'sumin*), peace be upon them all;
  - b. the employment of sciences, technologies, and advanced human experience with the aim of their further development;
  - c. the negation of all kinds of oppression, authoritarianism, or the acceptance of domination, which secures justice, political and economic, social, and cultural independence and national unity'.

One of the initial directives of religious clerics who were welcome to hold political and legal power after the Islamic revolution of 1979 (*Mullas*) was the suspension of the Family Protection Law that had been enacted under the Pahlavi monarchy in June 1967 that once again put women at the mercy of men in the family. The suspension of such a progressive set of laws ‘meant that men once again could divorce their wives and just notify them by mail. Child custody was taken away from women. Men could marry more than one permanent wife and as many temporary wives as they wanted’.<sup>50</sup> These facts are things that Iranian women have been suffering from since the incipience of the Islamic regime in Iran, and these are indeed legitimated explicitly in the Family Law which came into force in 1982 three years after the Islamic revolution. This law introduced significant changes to family matters, including marriage, divorce, child custody, and inheritance, reflecting the principles and regulations of Islamic law. This Islamized Family Law is, from top to bottom, a direct translation of Islamic laws in regard to family laws enshrined in the explicit wording of Quran, which is the reason to its inherent indisputability from the Islamic law perspective. Verse 3 of *Suraa Nisaa* reads as follows:

If you fear you might fail to give orphan women their ‘due’ rights ‘if you were to marry them’, then marry other women of your choice—two, three, or four. But if you are afraid you will fail to maintain justice, then ‘content yourselves with’ one or those ‘bondwomen’ in your possession. This way you are less likely to commit injustice.<sup>51</sup>

This verse permits polygamy under specific conditions, if the husband is capable—monetarily and emotionally—to treat multiple wives with fairness and equity. This verse, with its permissive approach, has become the basis for legitimizing polygamy one-sidedly for husbands, which has rendered the right to practice polygamy to men within the confines of the law culture such an institution functions.<sup>52</sup> Those who live in a country with Islamic laws such as the

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<sup>50</sup> See Haleh Esfandiari, *Reconstructed Lives: Women and Iran’s Islamic Revolution*, Interview with Haleh Esfandiari (Woodrow Wilson Center Press 1997).

<sup>51</sup> Quran, *Suraa Nisaa*, Verse 3.

<sup>52</sup> See Muhammad Roy Purwanto and others, ‘Polygamy in Muslim Countries: A Comparative Study in Tunisia, Saudi Arabia, and Indonesia’, *2nd Southeast Asian Academic Forum on Sustainable Development (SEA-AFSID 2018)* (Atlantis Press 2021).

I.R. of Iran benefit from a rule of law in their practice of polygamy.<sup>53</sup> This practice can inflict severe psychological distress on women,<sup>54</sup> often leaving them unable to articulate their emotional suffering and pursue their basic human rights in legal proceedings of Islamic states. To address this issue, *Mullas* initially proposed a condition for polygamy, requiring the husband to obtain permission from his first wife for subsequent marriages. However, in revisions made in 2013, this requirement was eliminated, allowing husbands to marry up to four wives without seeking permission from their first wife.<sup>55</sup>

According to Verse 1 of *Suraa Talaq*:

O Prophet! 'Instruct the believers: ' [W]hen you 'intend to' divorce women, then divorce them with concern for their waiting period, and count it accurately. And fear Allah, your Lord. Do not force them out of their homes, nor should they leave – unless they commit a blatant misconduct. These are the limits set by Allah. And whoever transgresses Allah's limits has truly wronged his own soul. You never know, perhaps Allah will bring about a change 'of heart' later.<sup>56</sup>

The term 'blatant misconduct' is a vague term as it does not specify what kind of conduct would amount to the degree of 'blatant misconduct', and also, which authority under what kind of mandate is capable of discerning a conduct from misconduct, and a blatant misconduct from a trivial misconduct. However, according to unequivocal wording of the Quran itself in *Suraa Nisaa*, verse 34, women are envisaged to be "obedient" to their husbands and this connotes an interpretation based upon which husbands are those who exclusively could discern if their wives' acts amounts to the degree of 'blatant misconduct'. The resource by which husbands could evaluate the degree to which a wife's act could be labeled as 'blatant misconduct' is the Islamic laws and commands. Given this, husbands are tasked to monitor their wives' conformity with Islamic rules and commands and in case they find a given act of their wives as a 'blatant

<sup>53</sup> See Irene Schneider, 'Polygamy and Legislation in Contemporary Iran: An Analysis of the Public Legal Discourse' (2016) 49 *Iranian Studies* 657.

<sup>54</sup> See Parisa Rahmanian and others, 'Prevalence of Mental Health Problems in Women in Polygamous versus Monogamous Marriages: A Systematic Review and Meta-Analysis' (2021) 24 *Archives of women's mental health* 339.

<sup>55</sup> See Schneider (*supra* note 53).

<sup>56</sup> Quran, *Suraa Al-Talaq*, Verse 1.

misconduct', they can implement a series of punishing acts – according to Verse 34 of *Suraa Nisaa* – or divorce according the Verse 1 of *Suraa Talaq*.

A protectionist scholar may also contend that Verse 34 of *Suraa Nisaa* was revealed to address a contextual matter of the era, such as regulating paternal authority within households in the 7th-century Arabian Peninsula.<sup>57</sup> Such a response could theoretically be backed by the idea of the 'reason of revelation' of the verses in Quran or '*Asbab-e Nozul*' or '*Shaa'n-e Nozul*'; meaning each verse was revealed following an important incident or interpretation in the history of Islam.<sup>58</sup> This argument falls short of appearing as a jurisprudential justification for the debatable idea of supremacy of men over women in households. '*Asbabe Nozul*' is by nature a critical explanation – exegetical – rather than a historiographical genre, and as such usually associates the verses it explicates with general situations rather than specific events, without therefore, being limited to a given historical incident.<sup>59</sup> Based upon this, Quranic rules and commands are deemed, among Muslim elites (*fuqaha*) and believers, relevant and effective for all times and races, even if their '*Asbabe Nozul*' connotes a given historical incident. Thus the '*Asbabe Nozul*' argument has no jurisprudential weight, and it is simply indicative of the reason of the revelation of a particular verse with respect to an incident without however restricting its relevance merely to that incident. This is called the 'eternity, generality, and all-inclusiveness of Quranic laws and commands'.<sup>60</sup> In the case of the Verse 34 of *Suraa Nisaa*, the bid to use physical force by men against their wives is the explicit *Nass* (unquestionable wording) of Quran which could be subject to different interpretations by elites over time,<sup>61</sup> however, the explicit wording (*Nass*) is inherently valid for all time and races – eternity and generality of Quranic verses.

<sup>57</sup> See Fateme Tofighi and Sajedah Yusefi, 'Gender Differences in the Interpretations of Verse 34 of Surah Nisa: A Discourse Analysis' (2018) 9 Women Studies 29.

<sup>58</sup> See Ali Dashti, Mehdi Akbarnejad and Mohammadreza Hosseini, 'The Role of Religious Presuppositions and Precomprehensions in Selecting Narratives Related to the Cause of Revelation (Asbab Al-Nuzul)' (2019) 15 Journal Studi Al-Qur'an 155.

<sup>59</sup> See Andrew Rippin, 'The Exegetical Genre Asbāb Al-Nuzūl: A Bibliographical and Terminological Survey' (1985) 48 Bulletin of the School of Oriental and African Studies 1.

<sup>60</sup> See Hossein Safareh, Majid Maaref, and Mansur Pahlavan M, 'Interrogation of Quran' (2010) 43 Quranic Sciences and Tradition 139. See also, Seyyed Zia'aldin Olyanasab and Laila Amiri, 'The Reasons Why the Quran Is Eternally Fresh and New from the Point of View of Allamah Tabatabaie' (2015) 2 Biannual Journal of research in the interpretation of Quran 131.

<sup>61</sup> See Tofighi and Yusefi (supra note 46).

### 3.3. Islamic veiling or *Hijab* in the I.R. of Iran

The other issue that is worth scrutinizing from the Islamic jurisprudence perspective is the Islamic veiling or *Hijab* as a defined and mandatory dress code for women in Iran. The stringent dress code enforced in Iran has significantly constrained women's everyday lives, imposing strict regulations on their clothing choices and limiting their freedom of expression. The mandatory *hijab*, which requires women to cover their hair and body in public, has been a particularly contentious issue, with numerous women facing arrest, harassment, and violence for non-compliance. For instance, in 2018, Vida Movahed gained international attention when she removed her headscarf in public and waved it on a stick, sparking a wave of protests against compulsory veiling.<sup>62</sup> Despite her peaceful demonstration, she was arrested and detained for several weeks, highlighting the severe repercussions faced by women who challenge the dress code. The other recent example is Mahsa Amini's tragic killing by the morality police of the Islamic regime in Iran in September 2020 following her arrest for alleged improper veiling shed light on the grave consequences women face when challenging the dress code. Additionally, subsequent protests sparked by Amini's death saw further instances of violence against women, with reports of girls being killed on the streets for daring to speak out against the oppressive regime or simply refusing to wear *Hijab* in public.<sup>63</sup> Some have apologetically argued that 'dress code' laws against women in Iran are of political bases initiated by the dominant political without direct reference to Islamic laws and commands.<sup>64</sup> However, the theoretical backbone of such policies are unequivocally fleshed out by the explicit wording of Quran. To put in Mir-Hosseini's terms, '*Hijab* – covering of a Muslim woman's body – is the most visible Islamic mandate. For a century it has been a major site of ideological struggle between traditionalism and modernity, and a yardstick for measuring the emancipation or repression of Muslim women'.<sup>65</sup>

<sup>62</sup> See Helia Asgari and Katharine Sarikakis, 'Beyond the "Online": Iranian Women's Non-Movement of Resistance' (2019) 12 Journal of Arab & Muslim Media Research 235.

<sup>63</sup> See Putri Hergianasari and Tunjung Wijanarka, 'Reigniting the Flame of Change: The Resurgence of Iran's Radical Feminist Movement in the Aftermath of Mahsa Ahmini's Death' 10 Journal Of Middle East and Islamic Studies 7.

<sup>64</sup> See for instance, Shahla Haeri, 'Women, Religion and Political Agency in Iran' [2009] Contemporary Iran: economy, society, politics 125.

<sup>65</sup> Ziba Mir-Hosseini, 'The Politics and Hermeneutics of Hijab in Iran: From Confinement to Choice' (2007) 4 Muslim World Journal of Human Rights, 1.



Since the ‘Women–Life–Freedom’ uprising, the I.R. of Iran has intensified its efforts to institutionalize compulsory *hijab* through legal and administrative channels. In response to widespread protests, the state apparatus—particularly the security police (*police-e amniyat*) and the Islamic Consultative Assembly (*Majles*)—has moved to reassert control by codifying dress regulations for women in both public and semi-private spaces, including personal vehicles.<sup>66</sup> The culmination of these efforts is the ‘Chastity and Hijab Bill’, which received initial parliamentary approval in September 2023 and is currently in the process of being reviewed and finalized through Iran’s Guardian Council, the constitutional body responsible for supervising legislation in accordance with Islamic law and constitutional principles.<sup>67</sup> Under the provisions of this proposed legislation, non-compliance with hijab regulations is classified as a punishable offense. Sanctions range from monetary fines for initial acts of disobedience in public to more severe penalties, including imprisonment, particularly in cases where the defiance garners public attention or is seen as an organized act of protest. Importantly, these measures reflect the state's intent not only to regulate individual behavior but also to suppress symbolic acts of resistance that could undermine the ideological authority of the regime.

Despite these escalating legal and punitive responses, Iranian women have continued to challenge the state’s restrictive mandates through acts of civil disobedience. Their resistance manifests in both individual and collective forms—such as refusing to wear the compulsory dress code or *hijab*, confronting morality police in public, or sharing videos of their defiance on social media. These actions come with tangible risks, including arrest, surveillance, and prosecution, yet they persist as a sustained expression of opposition to theocratic governance and the gendered control of public space by the I.R. of Iran government. This persistent tension reflects a deeper ideological contest. The enforcement of *hijab* is not merely a matter of clothing regulation but functions as a symbolic and practical instrument of the Islamic Republic’s post-revolutionary identity.<sup>68</sup> Since 1979, compulsory veiling has been enshrined as a

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<sup>66</sup> The Human Rights Watch article titled "Iran: New Hijab Law Adds Restrictions and Punishments," published on October 14, 2024. Available at: [https://www.hrw.org/news/2024/10/14/iran-new-hijab-law-adds-restrictions-and-punishments?utm\\_source=chatgpt.com](https://www.hrw.org/news/2024/10/14/iran-new-hijab-law-adds-restrictions-and-punishments?utm_source=chatgpt.com)

<sup>67</sup> See *ibid.*

<sup>68</sup> See Pardis Mahdavi, *Passionate Uprisings: Iran’s Sexual Revolution* (Stanford University Press 2008).



marker of the state's Islamic authenticity and a visible sign of its claim to moral and political legitimacy. Therefore, women's resistance to *hijab* mandates poses a direct challenge to the foundational integrity of the Islamic Republic, one that threatens to unravel the ideological narrative upon which the state has built its authority since the Islamic Revolution of 1979 in Iran.

### 3.4. Jurisprudential groundings in Islamic normative texts

Such a gruesome situation has indeed been the product of a series of Quranic normative rules that projected hierarchical categorization of people based upon their religion—Islam's religion-oriented group identity politics. As a consequence of such hierarchical classification is that, based on Quranic texts, the "superior" group are capable of bidding the other citizens for what is good and forbidding them for what is bad. This religion-based division of people is reflected in various verses and occasions in Quran, such as verse 143 of the *Sura Baqara* which makes it clear to Muslims (*Ummat ol-Islamia*) that they are selected as the exemplary or standard nation (*Ummatan vasata*) instead of Judaism. The revelation reason or (*ashabe nozul*) of this verse followed a struggle among Jews and a Muslim (*Ma'az ibn-Jabal*) in which the Jews claimed their religion was the standard one, and *Ma'az ibn-Jabal* argued the opposite advocating Islam as the standard or exemplary religion. Following this incident, verse 143 of the *Sura Baqara* was revealed upon Prophet Mohammad which explicitly selects the Islamic community (*Ummah*) as the standard nation, and their holy pilgrimage, *Ka'bah*, as the center and paramount pilgrimage (*Qiblah*).<sup>69</sup> It maintains:

Thus We have made you a middle nation that you may be witnesses to the people, and that the Apostle may be a witness to you. We did not appoint the *qiblah* you were following, but that We may ascertain those who follow the Apostle from those who turn back on their heels. It was indeed a hard thing except for those whom Allah has guided. And Allah would not let your prayers go to waste. Indeed Allah is most kind and merciful to mankind.<sup>70</sup>

<sup>69</sup> For instance, Makarem Shirazi N, *'Tafsir Nemooneh'-Volume 1* (Islamic Books House 1995), 131.

<sup>70</sup> Ali Quli Qarai tr, *The Qur'an with a Phrase-by-Phrase English Translation*, ICAS Press 2005, Verse 143 of *Suraa Baqara*.

Based upon this, the ideologically “superior” people at the apex of the hierarchy—Muslims—are entitled to summon other citizens in case they find a particular demeanor or public appearance of them in contrast to Islamic state’s political and ideological agendas.<sup>71</sup> The hierarchical classification of nations based upon their religion has unequivocally been endorsed as an unquestionable maxim in Quran. Verse 110 of *Sura Al-i-Imran* maintains: ‘[Y]ou are the best nation [ever] brought forth for mankind: you bid what is right and forbid what is wrong, and have faith in Allah. And if the People of the Book had believed, it would have been better for them. Among them [some] are faithful, but most of them are transgressors’.<sup>72</sup> According to this verse—among many other alike verses in Quran—mere Muslimness is an intrinsic criterion and reason for individual and social ‘superiority’ in comparison to disciples of other religions and ideologies living inside and outside territories of Islamic states. The social aspect of such ‘superiority’ is a grounding to permit Muslims and Islamic state to hold a social responsibility to question deeds and appearance of citizens of other religions, and preach them or in some cases force them to act and appear in line with Islamic principles and formulas. Verse 104 of the *Sura Al-i-Imran* maintains: ‘There has to be a nation among you summoning to the good, bidding what is right, and forbidding what is wrong. It is they who are the felicitous’.<sup>73</sup> It would be quite tenable to argue that the current violent suppression of women, who do not intend to comply with the compulsory dress code of I.R. of Iran, by the ‘morality police’ of the Islamic regime aligns conceptually with Quranic commands.

These instances represent severe cases of manslaughter, widespread oppression of women, and systemic violence inflicted by the Islamic regime. They highlight the pervasive discrimination experienced by tens of millions of Iranian women, who have endured decades of horrendous and systemic violation of human rights and discrimination across various facets of their personal and public lives. It is crucial to note that such a clear violation of human rights of women in Iran is legitimated primarily by the inherently unquestionable wording of Quran, and structured by an ideological regime of political governance that its unequivocal end is to preserve and expand the religion of Islam in advance of the protection and promotion of basic human rights of its citizens. This forms Islamic Republic’s group identity politics based upon which promotion of the

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<sup>71</sup> See Salar Abbasi, ‘A Revisit to Islamic Inter-Polity Legal Theory’ (2023) 12 UCLJLJ 1.

<sup>72</sup> Quran, *Suraa Al-i-Imran*, Verse 110.

<sup>73</sup> Quran, *Suraa Al-i-Imran*, Verse 104.

“superior ideology” is the ultimate end of the country.<sup>74</sup> Countries with the Constitution based upon religion-oriented group identity politics have unequivocal provisions and principles engineering hierarchical classification of citizens based upon their religion.<sup>75</sup> In these cases, group identity politics tend to produce exceedingly accelerated short-term bigotry among the disciples of the “superior” religion, and at the same time, clandestine though deep-seated hostility among other “inferior” faiths or religions.<sup>76</sup> Likewise, apart from those Muslims who do not put up with such compulsory projection, non-Muslim religious minorities are also subject to such religion-based hierarchical classification.<sup>77</sup>

## 4. The Surge of Protectionists and Reformists in the Islamic Jurisprudence

### 4.1. Protectionists

Protectionists are those who advocate for adherence to classical jurisprudence and resist attempts to reinterpret Islamic teachings in light of contemporary societal norms. In essence, they advocate for reform in norms and needs of the society governed by Islamic rules by asserting that societal norms and laws should be restructured to align with Islamic principles. They criticize Western interpretations of universal human rights as being influenced by secularism and moral relativism, which undermine traditional values and societal cohesion.<sup>78</sup> They believe Islam’s historical juxtaposition with other ideologies and nations has detoured it from its sacred ideological zeal of ‘universalization’ of Islam which is enshrined in the idea of *Ummah*. In detail, these scholars resort to the idea of *Ummah* as the institution establishing Islam's all-inclusiveness or ‘Universalism’ that has been torn apart due to the rise of ‘nationalism’ since the

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<sup>74</sup> See Abbasi (supra note 71).

<sup>75</sup> See for instance Articles 1, 2, and 3 of the Constitution of the Islamic Republic of Iran – among many examples as such – in which the primary function of the country is defined as promotion of an ideology – the religion of Islam. Constitution of the Islamic Republic of Iran, adopted by referendum on 2 and 3 December 1979.

<sup>76</sup> See for instance, Joshua Mitchell, *American Awakening: Identity Politics and Other Afflictions of Our Time* (Encounter Books 2022).

<sup>77</sup> See Anja Pistor-Hatam, ‘Non-Understanding and Minority Formation in Iran’ (2017) 55 Iran 87.

<sup>78</sup> See for instance, Yusuf Al-Qaradawi, *The Lawful and the Prohibited in Islam: الحلال والحرام في الإسلام* (The Other Press 2013).

late nineteenth century, and also the absorption of foreign cultures such as the philosophies of the Greeks, Persian and the Hindus.<sup>79</sup> Such Emotive rhetoric in academic writings regarding Islamic law and history<sup>80</sup> 'has to a large extent been predicated on Islam's victimhood in inter-polity relations.'<sup>81</sup>

This can be analyzed within the political philosophy of Islam as well. In Islam, '*Ummah*' conveys the concept of 'nation'. The term 'nation' typically denotes individuals residing within defined geographical borders sharing a common national identity, thus forming a country. In Islam, the Quranic term '*Ummah*' or 'nation' is rooted in the ideological identity of Muslim believers – *Aqeedah* – without being tied to specific geographic boundaries. Consequently, '*Ummah*' refers to individuals who share the collective identity of being a Muslim regardless of their country of residence or ethnic identity. The objective of protectionists is to adhere to Islamic principles and propagate Islam globally through 'invitation' – *Da'wah*.<sup>82</sup> The ultimate ideological goal of protectionists is to preserve the rule and legitimacy of the Islamic government, therefore, individuals, society and political structure must be at the service of preservation and expansion of the religion of Islam in order to fulfil, as mentioned earlier in this piece, the holistic mandate of Islam enshrined in verse 33 of the *Suraa Tawbah* and verse 9 of the *Suraa Saf* of Quran, as it maintains: 'It is He [God] has sent His Apostle (Prophet Mohammad) with the guidance and religion of truth that he would make it prevail over all religions, though the polytheists [disciples of other religions] should be averse'.<sup>83</sup> Given these, from a theoretical perspective, 'the idea of *Ummah* is basically a notion legitimising the systemic exclusion of both non-Muslims in Islamic polities, and Muslims in non-Islamic ones. Therefore, *Ummah* appears as a conceptual backbone for a legitimate exclusiveness based upon ideology under Islam, which obviously, has, by any stretch of imagination, no correlation with any definition or interpretation of universalism'.<sup>84</sup> Gibb explains how the conceptual connotation of the idea of

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<sup>79</sup> See for instance, Farooq A Hassan, 'The Sources of Islamic Law' (1982) 76 Proceedings of the ASIL Annual Meeting 65. See also, Shabir Ahmed, *The Roots of Nationalism in the Muslim World* (Islamic Book Company 1996).

<sup>80</sup> See Shabir Ahmed, *The Roots of Nationalism in the Muslim World* (Islamic Book Company 1996).

<sup>81</sup> Abbasi (supra note 57) 18.

<sup>82</sup> See Khurram Murad, 'Da'wah among Non-Muslims in the West: Some Conceptual and Methodological Aspects' (The Islamic Foundation, 1986).

<sup>83</sup> Quran, verse 33 of *Suraa Tawbah*, and verse 9 of *Suraa Saf*.

<sup>84</sup> Abbasi (supra note 71) 18.

*Ummah* is theoretically embedded in the inherent legitimacy of Islamic rules and commands that require no innovation in legislation:

[T]he Head of the Umma [the Community of Muslims] is Allah, and Allah alone. His rule is immediate, and His commands, as revealed to Muhammad, embody the Law and Constitution of the umma. Since God is Himself the sole Legislator, there can be no room in Islamic political theory for legislation or legislative powers, whether enjoyed by a temporal ruler or by any kind of assembly. There can be no 'sovereign state', in the sense that the state has the right of enacting its own law, though it may have some freedom in determining its constitutional structure. The Law precedes the State, both logically and in terms of time; and the State exists for the sole purpose of maintaining and enforcing the Law.

In regard to women's rights and duties under Islamic laws, the protectionists are conspicuous about the necessity of conformity of demeanor and beliefs of women with Islamic laws and commands preserving traditional genders roles endorsed in Islam, with an emphasis on the legitimacy of gender-based hierarchical classification in Islamic sacred texts. For instance, *Ahmad Alamolhoda*, a recent Iranian Muslim elite writes and orates about the imperative for women to adhere to the strict laws of Islam in their actions and conduct.<sup>85</sup> He, as an influential ideologue in the political structure of the Islamic Republic of Iran,<sup>86</sup> gave a famous speech in 2010 in which he equaled women's resistance to veiling as an act of apostasy and grudge against Islam.<sup>87</sup>

#### 4.2. Reformists

Reformists on the other hand make effort to reconcile Islamic strict laws with societal needs and universal principles. They make effort to redefine a selective set of Islamic jurisprudential pillars and reform it in line with universal

<sup>85</sup> See Seyyed Ahmad Alamolhoda, *'Politics in Quran'* (Farhange Islami Publication, 2018).

<sup>86</sup> See Saeid Golkar and Kasra Arbabi, 'Raisi's Rising Elite: The Imam Sadeghis, Iran's Indoctrinated Technocrats' (Tony Blair Institute for Global Change, 2021).

<sup>87</sup> Isna News [2010], available at: <https://www.isna.ir/news/95012006973/%D8%A8%D8%AF%D8%AD%D8%AC%D8%A7%D8%A8%DB%8C-%DA%AF%D9%86%D8%A7%D9%87%DB%8C-%D8%A8%D8%AF%D8%AA%D8%B1-%D8%A7%D8%B2-%D8%A7%D8%AE%D8%AA%D9%84%D8%A7%D8%B3-%D8%A7%D8%B3%D8%AA>

principles promulgated mostly by the West. In general, advocates of this modern school of interpretation of Islamic laws follow a four-pronged rhetoric in their scholarly works: first, they endorse the relevance of the universal principles of democratic governance and human rights in today's world order based upon equality and respect for human rights of all; secondly, they confirm that certain strict Islamic laws and commands are not democratically tenable and therefore are not applicable in today's world order; third, the core of Islamic laws is not in contradiction with universal principles of democratic governance; and fourth, Islamic 'reformist' political philosophy is superior to any other secular governance model, and Islam is inherently superior compared to other religions.

At first glance, a certain degree of conceptual inconsistency appears to be inevitable in the writings of reformist scholars. Mohsen Kadivar, as one of the renowned scholars and theologians with such a rhetoric, in his Chapter 'The Politics of Islamism', explores whether Islam, in its reformed reading, is compatible with democratic governance model and universal principles of human rights. He maintains that revised Islamic jurisprudence endorses gender equality and refutes any sort of discrimination based on religion, race, gender etc.<sup>88</sup> He further argues that the Muslim elite or *Mujtahid* is capable of neglecting those verses of Quran that are not in conformity with universal principles of democratic governance. They 'mechanically' interpret the basics of Islam as a cognitively open set. Kadivar calls this 'independent reasoning' in which a Muslim elite can discern 'changeable and transitory commandments alongside constant, timeless and universal principles'.<sup>89</sup> The key critique here to raise is that he does not introduce the jurisprudential criterion of Islam that discerns changeable verses from constant and timeless principles in Quranic verses. In other words, he makes sense of the idea of 'independent reasoning' in his works without however delving into the definite criterion of 'independent reasoning' in Islamic jurisprudence.

According to the jurisprudence of Islam, 'changeable and timeless' verses are defined through the Quranic dichotomy of *Mohkamat* (conspicuously understandable absolutes) and *Motashabihat* (the ones requiring interpretation due its literal vagueness). *Mohkamat* verses in the Quran are characterized by their clear and unambiguous nature, easily understood by the average person

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<sup>88</sup> See Mohsen Kadivar, 'Islam and Democracy: Perspectives from Reformist and Traditional Islam' [2018] *The Politics of Islamism: Diverging Visions and Trajectories* 23.

<sup>89</sup> *ibid*, 28.



without the need for expert interpretation. On the other hand, *Motashabihat* verses are those with less clarity, requiring expertise to decipher their meaning for the ordinary reader.<sup>90</sup> It is well-established among Muslim elites that a dominant majority of Quranic verses, especially those including certain degree of normativity, are *Mohakamt*, and therefore, do not require further interpretation.<sup>91</sup> According to widely referred Muslim elites, at most around 200 verses of Quran out of 6236 are considered *Motashabihat* which are composed of a particular dialogue between God and his Apostle that needs to be deciphered by an intellectual elite, and has no normative weight addressed at ordinary people.<sup>92</sup> Given this, those normative verses in regard to Islamic political norms, various aspects of gender inequality, and legitimate classification of people based upon their religion are among timeless and constant ones that require no further interpretation, and therefore, inherently 'irreformable'. The reason behind such timelessness and irreformability of Quranic verses is humans' intellectual incapability to reform Quranic verses in line with circumstantial and societal reality. In other words, Quran itself is unequivocal in deeming human wisdom as intrinsically incapable of reforming *Mohkamats*. Kadivar himself happen to endorse and reiterate this<sup>93</sup> however not in the *Mohkam-Motashabih* dichotomy, instead in his argument in which he emphasizes that Islam in its reformed must enter a competition with other ideologies to demonstrate its inherent reasonableness and 'superiority' over other religions. To put in his terms:

Force and violence, particularly in religious affairs, is rejected. Proselytizing religion should be based on convincing others of the superiority of religious solutions over non-religious ones, and preparing the field for the free selection of religion and religious teachings. In other words, it is necessary to participate in free

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<sup>90</sup> See Leah Kinberg, 'Muhkamāt and Mutashabihat (Koran 3/7): Implication of a Koranic Pair of Terms in Medieval Exegesis' (1988) 35 *Arabica* 143.

<sup>91</sup> See Tanveer Azamat, 'Revisiting Muhkam and Mutashabih Ayat' (2020) 24 *Islamic Perspective* 53.

<sup>92</sup> See Mohammad Hosein Tabatabaei, '*Al-Mizan fi Tafsir el-Quran*' (Al-Mizan Interpretation of Quran), Vol. 3, 32-44 (*Mosasat ol-A'lami Lil-Matbu'at* Publication, Beirut 1973, in Arabic). See also, Abd ol-Rahman bin-abi Bakr Siuti, '*Al-Itqan fi Olum el-Quran*' (certainty or precision in Quranic Sciences) (Dar ol-Kitab ol-Arabi Publication Beirut 2000, in Arabic). Or see, Naser Makarem-Shirazi '*Tafsir-e Nemoune*' (exemplary interpretation), Vol. 2, 320 (Dar ol-Kotob ol-Islamiyah Publication, 2018 in Farsi).

<sup>93</sup> Kadivar (supra note 88) 27.



competition with other religions, denominations and schools of thought.<sup>94</sup>

It is often difficult to trace the intellectual trajectory of reformists; it is epistemologically unclear whether their inclination towards Islam is comprehensive or selective. However, it is perceivable that they seek to preserve and serve promulgation of Islam through a law-and-society approach toward Islamic laws, and at the same time, endorse modern democratic governance structure and universal principles of human rights from purely an Islamic perspective. If contours of such 'intellectual revisionism' in legal theory are familiar to the West, the Western reader would find itself drawn, quenched, and connected intellectually to such reformist rhetoric. However, it is theoretically crucial to note that, while their intellectual innovation may be deemed as a progressive move towards harmonious integration of ideologies, their alignment with the jurisprudential principles of Islam is highly questionable in terms of conceptual integrity. For instance, in another piece, Kadivar happens to mention that since normative body of Islam does not connote structural domain fragmentation in every aspect; management, economic model, administrative mode, etc., it is indicative of its openness in terms of political structure, however, he mentions the significance of constitutional and grounding legal framework of Islamic laws for various social and structural domains.<sup>95</sup> The crucial preoccupation here must be to delve into the jurisprudence of these 'constitutional' and legal frameworks which are inherently legitimate, timeless, and irreformable. Hierarchical classification of religions and genders—group identity politics of Islam based on religion and gender—in a variety of societal enterprises such as economic, criminal, and private life matters that are legitimately endorsed and practiced in Islamic governments are among those constitutional frameworks. Islamic political philosophy also requires Islamic governments to rule and spread these maxims. In other words, '[t]he purpose of the state in Islam is to enforce the principles of the *Shariah*'.<sup>96</sup>

There are also another group of reformist scholars and activists who have dedicated their life to the promotion of human rights within Islamic countries

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<sup>94</sup> *ibid*, 27.

<sup>95</sup> Mohsen Kadivar, 'Wilayat Al-Faqih and Democracy', *Islam, the State, and Political Authority: Medieval Issues and Modern Concerns* (Springer 2011) 219-220.

<sup>96</sup> Abdul Aziz Said, 'Precept and Practice of Human Rights in Islam' (1979) 1 *Universal Hum. Rts.* 63, 69.

such as Iran without however appearing as an Islamic Law scholar or a thinker who would delve into Islamic laws and commands and read it from a legal theory perspective. In detail, they have made remarkable efforts to stand pragmatically and bravely, under the Islamic government, against injustice, gender inequality, and violation of women's human rights in particular. Whether or not the ruling government is Islamic, or secular, or monarchical does not concern them, neither in their writings nor in their actual activism. A renowned example of a scholar and feminist of this kind is Shirin Ebadi, the 2003 Noble Peace Prize Laureate, lawyer and the founder of the Human Rights Defender in Iran that has championed decades of resistance against violation of human rights, particularly human rights of women, and paid the price by imprisonment, seizure of assets, and exile by the Islamic Republic of Iran for her unwavering efforts in protection of human rights in Iran.<sup>97</sup> In her keynote address in 2009 in *Emory International Law Review* (Vol. 23), she particularly addressed the issue of 'Islam, Human Rights, and Iran'.<sup>98</sup> In this piece, she argues that there are two groups who believe Islam and universal human rights principles are incompatible; Islamic fundamentalists and Western exclusionists who believe such a symbiosis would result in turmoil or clash of civilizations.<sup>99</sup> She believes that violation of human rights of women under Islamic governments does not stem from the jurisprudential pillars of Islam per se, but rather it emanates from the corrupt interpretation and confiscation of religion by politicians. Therefore, she openly opposes the Cairo Declaration of Human Rights adopted by the member states of the Organization of Islamic Cooperation (OIC) in Cairo, Egypt, in August 1990. She maintains:

I have always opposed the Islamic Declaration on Human Rights. It is quite simple. If Muslims want to have their own universal declaration of human rights based on their own religious premises, then we must grant the same right to the followers of all other religions as well. We will then have the Jewish Declaration of Human Rights, the Buddhist Declaration of Human Rights, and numerous other human rights declarations representing other faiths and belief systems across the globe.<sup>100</sup>

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<sup>97</sup> See Shirin Ebadi, 'Until We Are Free: My Fight for Human Rights in Iran' (2016) 5 *Rouya Türkiyyah* 18242.

<sup>98</sup> See *ibid.*

<sup>99</sup> See Shirin Ebadi, 'Islam, Human Rights, and Iran' (2009) 23 *Emory Int'l L. Rev.* 13.

<sup>100</sup> *ibid.*, 14.

Ebadi refers, in her keynote piece, to the verses 1-6 of *Suraa Al-Kafirun* in order to introduce Islam as the religion of multi-ideologies per se, where all ideologies are considered equal and in a peaceful symbiosis in theory.<sup>101</sup> The verses maintain: ‘Say, ‘O Prophet, O you disbelievers! I do not worship what you worship, nor do you worship what I worship. I will never worship what you worship, nor will you ever worship what I worship. You have your way, and I have my Way’.<sup>102</sup> However, she does not mention that this verse is a dialogue between prophet Mohammad and the *Qureysh* tribe in which the elites of the *Qureysh* tribe intended to bribe prophet Muhammad to not to taint their pagans, they even proposed to worship Prophet Mohammad’s *Allah* for one year and instead he must be neutral toward their esteemed pagans. In response, prophet Mohammad rejected their proposal and let them know that there will never be an accord between his *Allah* and their gods, he will never worship their pagans and never expects them to worship his God – due to the disappointment he had in regard to the *Qureysh* tribe. These verses highlight the ideological grudge and incompatibility of pagans and Muslim believers. It has nothing to do with the acceptance of multi-culturalism or multi-ideologism in Islam by any stretch of imagination. There is an absolute consensus among all Islamic law elites on the fact that this verse is the exact reiteration of a historical dialogue between Prophet Mohammad and the *Qureysh* tribe in which the ideological hostility became transparent between the two.<sup>103</sup> These verses are indeed an indication of a deep-seated ideological disaccord between the two ideologies; Allah believers and paganists.

Or, she mentions verse 99 of *Suraa Yunus* and argues that Islam is not the religion of compulsion.<sup>104</sup> The wording of the verse reads as follows: ‘And had your Lord willed, those on earth would have believed - all of them entirely. Then, [O Muhammad], would you compel the people in order that they become believers?’<sup>105</sup> There is a unanimous accord among Islamic law elites that this verse endorses the ‘free will’ of human-beings in making decisions and choosing

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<sup>101</sup> See *ibid.*

<sup>102</sup> Quran, *Suraa al-Kafirun*, verses 1-6.

<sup>103</sup> See Mohammad Hosein Tabatabaei, ‘*Al-Mizan fi Tafsir el-Quran*’ (Al-Mizan Interpretation of Quran), (Mosasat ol-A’lami Lil-Matbu’at Publication, Beirut 1973, in Arabic). See also, Makarem Shirazi N, ‘*Tafsir Nemooneh*’ (Islamic Books House 1995). Or see, Sayyid Abul Ala Maududi, ‘*Tafhim al-Qur'an*’ (understanding the Quran) (Ihsan Publication).

<sup>104</sup> Ebadi (*supra* note 99) 16.

<sup>105</sup> Quran, verse 99 *Suraa Yunus*.

their ideological path.<sup>106</sup> Obviously enough, there is no contradiction between ‘free will’ of individuals and the ideological responsibility of the Islamic state to expand ideologically (verses 29 and 5 of *Suraa Tawbah* and verse 89-91 of *Suraa Nisaa*), and bid people for what is right and forbid them from what is wrong (verse 104 and 110 of *Suraa Al-i Imran*) in order to fulfil the ultimate political and ideological end of the religion of Islam which is to prevail over other religions (verse 33 of *Suraa Tawbah*, and verse 9 of *Suraa Saf*). In other words, the endorsement of ‘free will’ does not omit the responsibility of paganists for example to pay the price of their ideological selection (Verse 5 of *Suraa Tawbah*). Such misrepresentation or misinterpretation of certain verses are the result of the writings of protectionists that have made effort to interpret the account of ‘free will’ in a way to convey the message to the reader that Islam is the religion of ease, at the expense of academic and conceptual integrity.<sup>107</sup>

As a widely referred human rights activist, Dr. Ebadi and her like-minded thinkers also make effort to make sure that Islamophobia, as an inhumane political mandate, is also rejected and abhorred in their writings and speeches. It is worth mentioning that prominent women’s human rights activists such as Nasrin Sotoudeh<sup>108</sup> and Narges Mohammadi (2023 Nobel Peace Prize Laureate) conspicuously ‘rejected the concept of an Islamic state and advocated (instead) a secular, or *urfi* (customary), democracy’.<sup>109</sup> All in all, the central aim of these real-life heroines is to raise strong against injustice and violation of human rights without taking a stand in the very jurisprudence of Islam. Nasrin Sotoudeh makes it clear in the introduction of her book that their goal is to pragmatically put pressure on the Islamic government for basic rights and democratic change, not any conceptual effort to clarify the interrelation and incongruence of Islamic laws and universal principles of human rights. She maintains:

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<sup>106</sup> See Mohammad Hosein Tabatabaei, ‘*Al-Mizan fi Tafsir el-Quran*’ (Al-Mizan Interpretation of Quran), (Mosasat ol-A’lami Lil-Matbu’at Publication, Beirut 1973, in Arabic). See also, Makarem Shirazi N, ‘*Tafsir Nemooneh*’ (Islamic Books House 1995). Or see, Sayyid Abul Ala Maududi, ‘*Tafhim al-Qur'an*’ (understanding the Quran) (Ihsan Publication).

<sup>107</sup> See for instance, Harun Yahya, *Islam, the Religion of Ease* (Global Yayincilik 2004). See also, Safroodin Safroodin, ‘Religious Freedom in the Context of Islamic Da’wa’ (2022) 42 Jurnal Ilmu Dakwah 144.

<sup>108</sup> BBC News. 9 September 2010. Retrieved 23 October 2010. ‘Iran opposition lawyer Nasrin Sotoudeh detained’. Available at: <https://www.bbc.com/news/world-middle-east-11243683>.

<sup>109</sup> Yadullah Shahibzadeh, ‘Islamism and Post-Islamism in Iran: An Intellectual History’ (New York, Palgrave Macmillan, 2016) 178.

There is a continual demand for social justice in Iran. The Woman, Life, Freedom movement began in 2021 after the arrest and brutal killing of Mahsa Amini by the morality police. The dictatorship's response has been to tighten the noose on the Iranian people, and our women in custody and in prison face the harshest violence. Children as young as nine have been gunned down. Young men who survived beatings were executed. Yet, we do not quit. We continue to pressure the government for basic rights and democratic change.<sup>110</sup>

## 5. Conclusion

This article has explored the jurisprudential dimensions of the human rights of women in the Islamic Republic of Iran, offering a comparative examination with the standards articulated in international human rights law. The article did not harbor any reservation for political and ideological projection of ideas and ends in this regard, rather it put forth a jurisprudential analysis which conforms solely to scientific scrutiny. The contribution lies in the domain of comparative legal theory, and calls for a re-engagement with the foundational texts of Islam that inform the legal and political treatment of women by the government of the I.R. of Iran. This re-engagement has been framed in comparison with universal human rights principles as enshrined in key international legal instruments. This comparative analysis suggests that there exists a conceptual and normative struggle or tension between Islamic jurisprudence, as it is currently interpreted and applied in the Islamic Republic of Iran, and the foundational tenets of international human rights law with regard to women's rights. This dissonance is not merely doctrinal but reflects deeper philosophical and epistemological differences concerning the sources of legal authority, gender studies within the jurisprudential texts, and the general function of law and human rights standards in society.

From the standpoint of intellectual and jurisprudential integrity, any attempt to reconcile these two distinct legal frameworks must begin with a critical inquiry grounded in the internal logic and structure of Islamic jurisprudence itself. Such an inquiry must engage with the historical, theological, and hermeneutical

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<sup>110</sup> Nasrin Sotoudeh, *Women, Life, Freedom: Our Fight for Human Rights and Equality in Iran* (Cornell University Press 2023).

traditions of Islamic legal thought while remaining open to constructive dialogue with international human rights norms. The goal is not to subordinate one framework to the other, but to explore the possibility of a conceptual synthesis—or at the very least, a productive coexistence—that respects the normative autonomy of both systems. Given this, this article does not conclude with a pessimistic view of the irreconcilability of these two traditions. Rather, it proposes the intellectual necessity of developing a conceptually rigorous and jurisprudentially informed school of thought and action capable of mediating between Islamic legal principles and international human rights standards. Such a framework must be premised on mutual respect, critical awareness, and a strategic orientation toward doctrinal evolution, rather than ideological rigidity or political expediency.

A fundamental precondition for this endeavor is the cultivation of jurisprudential literacy across both domains. Without a deep and critical understanding of the epistemological premises and legal methodologies that underpin each system, attempts at reconciliation will risk superficiality. Ultimately, the imperative is to safeguard, defend, and advance the human rights and inherent dignity of women—particularly against the institutionalization and normalization of gender inequality through ideologically driven legal and political systems that classify individuals based on religion, gender, class, and other identity markers.