Women and Social Protest in the Islamic Republic of Iran

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The highly visible presence and leadership of women during and in the protests following the June 2009 election has been widely reported in the media, newspapers, and blog sites. It is worth noting that women were also present in massive numbers during the Islamic Revolution of 1979. There are, however, distinct differences between the reasons for participation in social protest, as well as the types of demands that the participants have been articulating during the recent social protests versus the 1979 Revolution. In 1979, the primary articulated demands of female participants were largely similar to those of men. In 2009, however, women have been highly conscious of gender-based social and legal inequalities. Thus, equality of rights has been a primary objective for female participants. Indeed, many observers have noted the growing development of a strong feminist movement during the post-revolutionary period. This movement has been unparalleled anywhere else in the Middle East.1 Many studies have pointed at two distinct trends in the legal rights, public presence, education, and labor force participation of women during the post-Revolutionary period. In continuity with trends that began during the earlier part of the twentieth century, women’s education, presence in public

space, and participation in white collar jobs have increased. In comparison to the pre-Revolutionary period, however, discriminatory aspects of women’s legal rights, in particular, those pertaining to marriage, have been strengthened. In this chapter I argue that the changes in the status and emancipation of women have been dichotomous and contradictory since the 1979 Revolution. Women have achieved greater autonomy, public presence, education, and economic power. At the same time they are subject to increased legal subordination in marriage. I argue that the root of this legal subordination can be found in the strengthening of the medieval interpretation of legal commoditization of female sexuality in marriage.

In this chapter, I will focus on the legal interpretations regarding the treatment of female sexuality in marriage and its implication for freedom of labor and autonomy of women. I will argue that a Muslim marriage is in essence a legal sale of female sexuality and reproductive labor. As such, it treats female sexuality as a commodity that is sold under regulated and specified conditions. This commoditizing aspect, however, is limited only to sexuality. The woman is not sold in marriage. This commoditizing aspect, however, opens up the possibility of interpretations ranging from near complete legal

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ownership and control by the husband versus modifications and reduction to a symbolic aspect. I will argue that under the monarchy, the medieval legal interpretation of commoditization of female sexuality was treated as negotiable and modifiable. By contrast, the Islamic Republic has treated it as non-negotiable and reinforced it through enhancement of women’s entitlements in marriage. This reinforcement combined with a growing emancipation in economic, political, and social aspects has thus given rise to contradictions and female activism. Thus, women participate in social protests as agents aware of their own unequal rights who are aiming to eliminate gender-based legal discriminations.

**Background**

The origin and source of contention regarding legal commoditization of female sexuality and reproductive labor in marriage can be traced back to early Islamic society, the Seventh Century A.D. From the start, Islamic tradition contained an ambiguity regarding the rights, position, and status of Muslim women in society and in the family. Islam was born in the merchant cities of Mecca and Medina. These were early and incipient merchant cities that had evolved out of, coexisted, and interacted with their surrounding nomadic tribal societies. Thus, the early Muslim society can be viewed as one that was undergoing a transition from nomadic tribal to urban merchant. It was thus influenced by both traditions.

Studies indicate that women in nomadic societies participated in all aspects of production, seasonal migration, and even warfare. Communal land use, living in tents and migration minimized the distinction between private and public spaces and undermined
the possibility gender-based segregation. Thus, compared to many other pre-industrial societies, nomadic women enjoyed public presence, autonomy, and power. By contrast, in pre-modern urban merchant societies, the presence of women was limited to their family and private domain. They did not participate in trade. Most craft related products were produced by men. In instances such as textiles and carpets where women participated in production, the products were traded by men. As such, even in instances in which women were direct producers, they were not direct sellers of their products. As male populations were in excess of female, prostitution was prevalent in urban areas. As a result, distinct lines were drawn between ‘honorable’ and prostitute women. Family-oriented women were often veiled and secluded and did not participate in public space. Their activities were limited to production for home-consumption and bearing and rearing children. They were treated as properties of their families.3 Thus, the transitional aspect of the early Muslim society and the co-existence of the dual and somewhat contradictory nomadic and urban merchant traditions created ambiguity in the rights, status, public presence, and labor force participation of women.

In essence a Muslim marriage, *aqd*, is a sale contract. The man makes the offer, *ijab*, and the woman accepts, *qabul*. The object of the sale is female sexuality and reproductive labor. The product of marriage, children, belong to the husband. At divorce, he has the right to child custody, and at the death of the husband, custody is given to male relatives. In exchange, the woman receives a dower, *mahryyeh*, and financial support, *nafaqeh*. If capable of meeting the financial obligations, a man may

practice polygamy. The marriage contract may also include additional provisions that should be agreed upon by the two sides. This commoditizing contractual aspect can be attributed to the merchant tradition. By contrast, the early tradition encompassed autonomous aspects that may be attributed to the nomadic influence. A woman has the right to own and inherit property independent of her husband. No prohibition exists regarding women’s labor force participation. In fact, the Qur’an states that working women should receive fair wages.4 Indeed, the Prophet’s first and highly revered wife Khadijah, was a merchant. Their marriage was monogamous, which suggests that Khadijah may have included the condition of monogamy in the contract.5 The Prophet’s grand-daughter, Zeinab, publicly challenged and condemned Caliph Yazid (this is because Shi’i’s succession is through Prophet’s daughter Fatemeh). There were also many other well known and powerful women during the early Islamic period: the Prophet’s favorite wife A’yesha, another wife Salma, a grandchild Roqquia, etc. Indeed, the version of veiling introduced in early Muslim society was limited and moderate, and seclusion was not practiced in that society. The private house of the Prophet in Medina was connected to his residence and the apartment of his favorite wife A’yesha, was directly connected to the main mosque.6 There are ample examples of women who were economically and politically active; and, that women participated in public space and

4 This point was elaborated in an interview with Ayatollah Sayyed Mohammad Moosavi Bojnurd, Zan-e Rooz, December 1993, p. 13.

5 There is no record indicating that the condition of monogamy was stipulated in the contract. But such contracts were not uncommon during the period. Since the Prophet did not practice polygyny during Khadijah’s life, it is possible to hypothesize that the condition of monogamy was stipulated in the contract.

were not secluded. These autonomous and public participatory aspects can be attributed to the remnants of the nomadic influence.

A woman and her sexuality, however, are not separate. Therefore, the theoretical sale of sexuality, the provision of autonomous rights, and the exemplary lives of the revered women create ambiguity in the rights and autonomy of women and allow for interpretations ranging from near complete ownership and control versus a purely symbolic treatment of ownership of sexuality, and placing the emphasis on autonomy and public participation.

During the medieval period in Iran, the socio-economic conditions reinforced the near total ownership, seclusion, and excessive veiling of women in Iran. Medieval Iran encompassed large urban centers with active craftsmen, trade and merchant activities. Furthermore, from about the 11th through the 19th century most ruling dynasties were from a nomadic tribal origin. Within an existing nomadic tribal society women enjoy autonomy and participation. As pointed out by many historians, some elite aristocratic women from nomadic tribal origins enjoyed power and wealth.  

nomadic conquerors on a settled population, however, created a different dynamic. Since the main objective of the conquerors was to plunder the wealth of settled people, women were also objects of plunder. Thus, the settled urban population tried to hide their wealth and women, as evidenced by an architectural style that hides all signs of wealth inside walled houses, and a tradition of excessive veiling and seclusion of women. As a result, nomadic conquests and rule enhanced the extent of seclusion and further promoted male family control/ownership of the majority of urban women. Under these conditions, the medieval Islamic law, the Shari’a, made interpretations that emphasized commoditization of female sexuality and the legal and social mores amounted to near complete control and ownership by the husband. At the outset of the twentieth century, when the Constitutional Revolution (1906-07) and the rise of Pahlavi Dynasty (1925-79) marked clear departures from the medieval period, as the Shari’a was based on medieval interpretations.

**The Constitutional Revolution and the Pahlavi Era (1906-79)**

Many of these medieval legal, socio-economic, and ideological characteristics have persisted in modern Iran. An important development of the modern era, however, is a growing tendency to perceive women as agents whose potential or actual labor positively contributes to society. For example, at the turn of the twentieth century, advocates of

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women's education stated that educated women can be better mothers. The implicit assumption in this argument is that female labor productivity in child bearing and rearing is positive and can be increased through education. Reza Shah (1925-41) expanded female public education and allowed women to enter Tehran University. Thus, women were perceived as having the potential ability to contribute positively to public life. Similarly, advocates of the removal of veil argued that seclusion kept women away from public life and was a factor contributing to the backwardness of Iran. The controversial forced unveiling of women by Reza Shah (1936) is an example of this anti-seclusion perception and the belief that the absence of female participation in public space contributed to backwardness. The forced aspect of this policy can be criticized for being undemocratic. Veiling, however, implies that a woman can only be seen by her husband or male relatives who are sexually neutral to her. Consequently, a woman’s physical appearance belongs to her husband. It can thus be argued that veiling is yet another dimension of a husband’s ownership of his wife. Therefore, it can be argued that the unveiled presence of women in public space modified the extent of male ownership.

This perception of women as productive labor became pronounced in the 1960's and 1970's. Official government documents explicitly referred to women as "a relatively untapped supply of labor" that should be utilized for development. Therefore, the government policy aimed at removal and/or modification of the traditional barriers to education and labor market participation. In 1976, women comprised about 15% of the

labor force and one-third of the university students. During the 1960s and 1970s women were enfranchised and the minimum legal age for marriage was initially raised to sixteen and then to eighteen, limitations were placed on polygamy, men’s unilateral rights to divorce and child custody were terminated, and a woman’s ability to obtain divorce improved. Civil courts were empowered to rule on divorce and parental rights to child custody. The basis of child custody was now the comparative suitability of each parent. Furthermore, upon the death of a father, a mother had precedent on child custody over the immediate male relatives of the deceased father.

The reforms thus modified the legal commoditization of female sexuality. Prohibition of child marriage as well as the equal parental rights in child custody undermined a father’s ownership of his children and by extension, that of his wife’s reproductive labor. Limitations on polygamy, modification of a man’s unilateral right to divorce, and improvements in women’s rights to divorce were modifications of commoditization of sexuality in marriage. Furthermore, enfranchisement of women, the growing participation in public space, labor market, and education were trends toward emancipation of women.9

Since the Constitutional Revolution and particularly after the 1930s, a division within the legal system was created. The Personal Status Law covering marriage, divorce, and inheritance continued to be covered by the Islamic Law and largely under the control of the clergy. By contrast, all other laws were modernized and settlements of disputes were transferred from religious courts to the secular courts under the jurisdiction of Ministry of Justice, Vezarat-e Dadgostari. Thus, most aspects of the law were changed and modernized. By contrast, the laws pertaining to marriage and inheritance, the main legal sources of gender inequality, continued to be the medieval Islamic Law. However, the state did make partial attempts to change and modify the Personal Status law. Each time that the law was modified, however, the clergy viewed it as yet another intrusion by the secular state in the remnants of clerical power, control, and income.

Under Reza Shah there were no significant changes in the Personal Status Law. Reza Shah’s aggressive attempt to bring women into the public space through forced unveiling (1936), however, created strong antagonism amongst the clergy and within many devout Muslim families. In contrast to the forced unveiling that was viewed by all members of the clergy as un-Islamic, the Family Reform law of the 1970s was formulated in consultation with some members of the clergy. It was based on new interpretations of the law, and was not contradictory with the basic tenants of the Shari’a.10 Nevertheless, it faced a strong opposition from many segments of the clergy who viewed it as yet another intrusion of the secular state in legal matters that should be controlled by the clergy. It is worth noting that the reform removed the settlement of spousal disputes and the granting of divorce from the notary publics largely controlled by

10 Statement by Mahnaz Afkhami who was Minister of Women’s Affairs at the time.
the members of clergy and their families, to the secular courts with secular judges who operated under the supervision of Ministry of Justice. It thus deprived the clergy of a source of income.

In summary, the division in the legal system between modern secular and Islamic Law reduced the legal power and control of the clergy. Since attempts to reform the Islamic Law were initiated by the secular state, the clergy was defensive and viewed the medieval Islamic Law as the legitimate interpretation. Factors that contributed to the Islamic Revolution (1979) are beyond the scope of this paper. The dichotomy between Islamic and secular, however, was among the forces behind the social protests. One of the main aspects of this dichotomy was the modifications in medieval legal commoditization of female sexuality.

The Islamic Republic and the Post-election Protests (1979-2009)

The 1979 Revolution created a government led by the clergy. As a result, the Personal Status Law was revised. Child custody was returned to the father and, in the event of the father’s death, to the paternal grand-father or uncle. Child marriage was legalized provided that the girl has reached puberty, the father approves the marriage, and a judge asks the girl if she consents to the marriage. The obligatory limitation on polygyny was changed to a voluntary contractual condition in the marriage contract. A husband’s unilateral right to divorce was reconfirmed and the difficulties for women to obtain divorce were increased. These reversals are all legal reinforcements of male ownership of female sexuality and reproductive labor. As compensation, however, new favorable provisions were introduced for women. Arguing that stipulation of a monetary
value at the time of marriage in dower, *mahryyeh*, is meant to reflect a certain real purchasing power and value, the law requires adjustments for inflation at the time of payment of the dower, usually at divorce or the death of the husband. Given the increased legal power of a husband over his wife, families of brides also insist on high dowers. It can thus be argued that the post-revolutionary legal system has resulted in increased commoditization, and a rise in the price of female sexuality and reproductive labor.

The Islamic Republic also applied a policy of forced veiling of women. In its undemocratic and repressive aspects, the policy was reminiscent of the forced unveiling of the women. The extent of compliance to veiling is in many cases only minimal and veiling has not contributed to seclusion. On the contrary, veiling has brought to public space women from devout Muslim and traditional families who otherwise would have been prevented from participation in the labor market and education by their families. Nevertheless, the implicit and ideological assumption of veiling is the monopoly control of a husband over the physical appearance of his wife, thus increased male ownership.

The Islamic government also explicitly recognizes the productivity of female labor in production for family consumption and has introduced entitlements for household labor. Arguing that a marriage contract does not require women to perform household labor, that *mahryyeh* and *nafaqeh* are compensations for female sexuality and reproductive labor only, and that child-raising and household labor are the primary responsibilities of a married woman, new entitlements are introduced. The post-revolutionary marriage contracts include a stipulation of sharing at divorce of up to fifty
percent of the wealth accumulated by the husband during the marriage. The acceptance of this condition by the husband is voluntary and the condition applies only if divorce is initiated by the husband. Furthermore, a judge will decide the appropriate share of wealth that should go to the wife. According to the testimony of women lawyers that have been involved with such cases, the approved amount is generally far from the fifty percent of the husband’s accumulated wealth during marriage. According to the law, if the condition of sharing wealth was not included in the contract, at divorce the woman is entitled to the wage-equivalent, *ojrat-ol-mesl*, of the household labor performed during the marriage. Again, the entitlement to *ojrat-ol-mesl* applies only if a man initiates the divorce. Furthermore, there are no clear rules pertaining to calculation of the wage equivalent. The judge ruling over the case determines the amount which is generally far lower than the woman’s wage equivalent. As justification, the ruling clergy argue that the traditional marriage contract does not provide financial rewards for household activities, that such activities are the primary obligations of a Muslim woman and have precedent over participation in the labor market. Therefore, compensation to household activities has been introduced in the new reforms.

What did they introduce? It is worth noting that *nafageh*, and the new entitlements are used as justifications for resisting the reversal of the law requiring the husband’s permission for a married woman to work outside the home. While this law pre-existed

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11 In informal conversation with a woman lawyer who has been involved in many divorce cases, Tehran Summer of 2005

12 This argument begs the question that if the traditional marriage contract does not require women to perform household labor, why these activities are primary responsibilities of a Muslim woman.
the Revolution, its enforcement has been strengthened. It is argued that men pay nafqeh and ojrat-ol-mesl and therefore they are entitled to have control over women’s time.13

It is worth noting that the current legal interpretations of a man’s ownership rights over the labor-time of his wife go beyond the traditional medieval law. There are provisions in the Qur’an and the sayings of the Prophet that can be interpreted to mean that married women are entitled to compensation for child raising and household labor. There is a Quranic provision that a woman is not required to breast feed her child, and if she does so, can expect wages from the man.14 There is also the advice that men who can afford to should hire domestic help for their wives. These may be interpreted to mean that women are not required but may perform household services and expect compensation for these activities. The traditional marriage contract makes no explicit reference to requirement of household labor. Indeed, the proponents of the new law explicitly have argued that the traditional contract does not require women to perform household labor. Thus, it begs the question: If women are not contractually required to perform household labor, why are such activities the primary responsibilities of a Muslim woman; and why should the husband have legal ownership claims over his wife’s labor time? The new law thus extends a husband’s legal ownership claims beyond sexuality and includes ownership over a woman’s labor time. Thus, a married woman is not a full owner of her own labor and cannot freely choose work outside the home.


The Revolution brought masses of women to the streets and encouraged them to be politically active. The initial attempts to force women out of the labor market proved impractical and were resisted. While secular women view forced veiling as an infringement of their freedom, veiling undermined family opposition to female participation in public space for many women from religious and traditional families. Today the gender-gap in education has been substantially reduced. In recent years, more than sixty percent of all university graduates were females. In comparison to the pre-revolutionary period, the official data does not show a significant increase in the share of females in total labor force. But the official data indicates that the participants have much higher education and skills and are involved in wide-ranging professional, managerial and entrepreneurial activities.15 There are also indications that the official data underestimates the participation rates, and that there is a large unaccounted female informal economy that includes educated and professional women.16

In summary, in comparison to the pre-Revolutionary period, Iranian women have substantially increased levels of education, economic power, political awareness and participation, and overall presence in public space. Legally, however, their subservience to male dominance within the family has increased. This contradictory dichotomous


development has thus given rise to development of a strong feminist movement in Iran. Since the inception of the Islamic Republic, women have been in the forefront of protests and quests for democratic and gender-egalitarian rights. The active presence and leadership of women during the protests against the contested presidential election (June 2009) was yet another manifestation of their quest for a democratic and gender-egalitarian society.

Another noteworthy aspect of current developments in Iran is the dichotomy within the clerical establishment concerning human rights and gender equality. The clergy is in power and is no longer in a defensive position vis-à-vis reforms imposed by a secular state. The dichotomy is now between the conservative and progressive segments of the clergy. Today a segment of the ulama believe that even far reaching and sweeping gender egalitarian legal reforms are not contrary to Islam. A number of leading clerics, such as Ayatollah Sane’i and Ayatollah Bojnurdi, have advocated in favor of re-examination of the gender-based discriminatory laws and argued that the law has to be adjusted to the requirements of the time. Ayatollah Bojnurdi explicitly stated that Islam is supportive of human rights and does not value one sex over the other. The discussion over the issue of gender rights is now very internal to the debates within the clerical community.

**Conclusion**

This paper argues that since the establishment of the Islamic Republic in 1979, the original Islamic ambiguity between women’s autonomy and public presence versus

17 available at: [www.we-change.org](http://www.we-change.org).
husbands’ ownership and control has evolved into a highly contradictory and inherently unstable evolution of autonomy and emancipation, as well as increased legal accommodation and subordination. It has been argued that this dual contradictory development has given rise to a strong feminist movement that manifested itself in massive women’s participation and leadership in the social protests pertaining to the contested presidential election in June 2009.

References


