8. THE SEMIOTICS OF WOMEN’S HUMAN RIGHTS IN IRAN*

I. INTRODUCTION

The status of women’s human rights in Iran today is a complex issue mired in contradiction and paradox, not unlike the Iranian society itself. The Iranian language reflects this paradox because words reportedly have double meanings that produce vagueness and intentional ambiguity, resulting in misunderstandings for some and advantages for others engaged in the fine art of hiding what they really mean to say. This linguistic deception is not unusual especially for Iranian women who must behave one way publicly and another privately, even though society, in the Islamist State, has been forced to adopt a universalist moral code that proclaims against relativist ethics.

Human rights abuses are prevalent in Iran today, with women suffering the most from this deplorable condition. The following serious human rights abuses exist in Iran and detrimentally impact women: summary executions; disappearances; widespread use of torture and other degrading treatment including rape; severe punishments like stoning to death and public flogging; harsh prison conditions; arbitrary arrests and detention; and prolonged and incommunicado detention; impunity of government officials accused of misconduct in judicial proceedings; influence of conservative government clerics in the judiciary preventing citizens from receiving due process or fair trials; governmental restriction of the freedom of religion; flagrant discrimination against religious minorities, particularly Baha’is and Jews; governmental control over the selection of candidates for elections; governmental restriction of the work of human rights groups in Iran; domestic and public violence against women; increase in women and children runaways, prostitution and sex trafficking; and increased poverty in Iran where 29 percent of the families below the poverty line consist of single mothers.

Women’s human rights and the role of women in Iranian society are tied up in a thick web of historical, political, cultural, economic, social, and legal factors, all of which work together in an intricate contextual system like a structural puzzle whose parts or elements can be identified and analyzed. Each of these

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elements is itself a sign system with complex underlying mechanisms. Each sign system plays a significant role in the development and continuation of human rights abuses of women in Iran. Classical structural analysis provides insights into surface and deep meanings. Semiotic analysis, by which we study signs of women's human rights abuses, will reveal hidden, deeper structures that may be unknown even to the women themselves.

This semiotic study will examine various types of coded sign systems that, when decoded contextually and from the point of view of cultural peculiarities known to Iranians, reveal hidden realities about women's human rights in Iran. The analysis will attempt to determine how and the extent to which basic human rights are being denied to women in Iran today and whether there is hope for more justice and gender equality in Iran in the future.

Part I of this chapter will examine the historic and political contexts of women's human rights in Iran. Part II will look at the sign system of wearing women's Islamic garb known as the hejab or veil in an attempt to uncover the meaning of the many different messages this speech act conveys. I will discuss the significance of the French headscarf case and the Turkish headscarf case decided finally in the European Court of Human Rights. That court based its almost unanimous decision denying the right to wear a headscarf in public schools and universities on pure semiotics.

Part III will investigate cultural manifestations of women's human rights abuses in Iran through a study of the memoirs and films of four Iranian women. I will look at the best-selling memoir of Azar Nafisi, Reading Lolita in Tehran, written by an Iranian woman who is a literature professor. The second memoir is Iran Awakening, written by Shirin Ebadi, a Nobel Peace Prize winner and former Iranian female judge, who is currently a lawyer and women's rights activist working within the Iranian system to change it. The powerful documentary film, Divorce Iranian Style, sheds light on the institution of marriage in Iran and the deficiencies of its family laws and legal system, especially for women seeking a divorce. I will also look at the contrapuntal view of two Iranian women, one modern and one forced to be traditional, as represented in the very successful film Two Women directed by the Iranian feminist filmmaker, Tahmineh Milani. The juxtaposition of these two women represents the contradictions and paradoxes in Iranian society.

Part IV will investigate the Iranian family laws as a sign system that reflects the culture in Iran and conditions the status of women's rights today in that country. I will also discuss the inadequacies of the Iranian legal system that is caught up in a difficult relationship with Islam and the differing views of Koranic interpretation, some of which negatively impact women. Part V will examine some of the international human rights laws and instruments that protect gender equality. Finally, this study will conclude by looking at the future of women's rights in Iran.
II. HISTORY OF WOMEN’S RIGHTS IN IRAN

A. Iran and Its Invasion by Foreigners

Despite a constant tension between tradition and modernity in Iran, modern-day Iran actually began in the early nineteenth century by exposure to a wide range of new and Western ideas. At that time, it was quite fashionable for rich young Iranian men to be educated in Europe, especially France. Iranians were also exposed to Western ideas by reading translations of European literary and political works. Moreover, after Iran’s defeat in two wars with Russia, many European diplomats, merchants, and military advisors came to Iran and influenced the people by their very presence.

But the presence of these foreigners also made Iranians suspicious. Many claimed that Britain and Russia had imperialistic interests in Iran. When foreigners sold their industrial and commercial concessions to the debt-ridden Iranian government, this economic trade was interpreted by the religious classes as Iran’s willingness to sell out the country and Islam to the West. Reza Shah’s infatuation with Western traditions and modernity (which he imposed tyrannically on Iranians) was the start of a movement that resulted in the Constitutional Revolution of 1905–11 in Iran. The aim of this revolution was to limit the despotism of the Shah through the establishment of a constitution, an elected legislature, and an independent judiciary. Ironically, these were the same goals of the critical revolutionary movement that took place in Iran in the 1970s, a revolution that would change the face of Iran forever and have serious consequences for women’s rights and gender equality.

From 1911 to 1921, Iran was occupied by foreigners, and the country experienced disorder and insurgency until Reza Shah Pahlavi, a westernizing secular nationalist and an army colonel, successfully carried out a coup d’état against the Iranian constitutional government. Once Reza Shah Pahlavi came to power,

2. Id. at 11.
3. Id. at 12.
4. Id.
5. See Janet Afary & Kevin B. Anderson, Foucault and the Iranian Revolution: Gender and the Seductions of Islamism 106 (2005). Iran’s history and the development of forced dress for women is very much a reaction to the presence of foreign powers in Iran and the desire to retain Iranian and Muslim identity. The 1979 Revolution was also an attempt to free Iran from foreign or Western influences imposed on them by the Shah. “Iran was freeing itself from a foreign yoke, he said (Khomeini 1999, 6:15).” Id.
he immediately formed a strong military, centralized bureaucracy, secular judiciary, and secular educational system that appealed to the constitutionalists. His reforms were popular, but the constitution itself was largely ignored, and dissent was ruthlessly suppressed during his repressive reign. Reza Shah Pahlavi's obsession with modernity reduced the religious clerics to silence, and they were labeled "fanatical reactionaries." 

During World War II, British and Soviet forces occupied Iran in 1941. Reza Shah was forced to abdicate in favor of his son Mohammad Reza. In April 1951, a reformist Mohammed Mossadegh was appointed Prime Minister of Iran, but when he decided to nationalize the British-dominated oil industry, the British (with the help of the American Central Intelligence Agency) carried out a coup d'état to oust Mossadegh and restore the Shah to power. Thus, Mohammad Reza Shah resumed his reign with the support of the United States. The Shah's continued suppression of dissent and parliamentary activity in Iran were wrongs that Iranians blame heavily on the United States. The Shah further alienated much of the country by allowing a massive increase of Western (primarily American) influence in Iran after 1953. In an effort to win popular support, in 1962 the Shah instituted his "White Revolution" that included land reform and voting rights for women. However, very soon thereafter, Ayatollah Khomeini came into the limelight, publicly denouncing the Shah for his reforms as undermining of Islam, for his attacks on the clergy, and for his dependence on foreigners. Khomeini was arrested in 1963 and ultimately was exiled to Turkey and later Najaf, where he remained until 1978, one year before the Revolution.

B. The Iranian Revolution Against "Westoxication"

The Iranian Revolution was a mobilization of the people against the tyranny of the monarchy and the Shah's infatuation with Western and American customs and values (i.e., "Westoxication") that allegedly robbed Iranians of their own identity. The West's lack of sensitivity to cultural difference and the subtle humiliation of Iranians who many called primitive and backward no doubt exacerbated the


8. Id.
9. Sciolino, supra note 6, at 371.
12. Betty Mahmoody & William Hoffer, Not Without My Daughter (1987). This superb novel was made into an equally moving film about an Iranian man who left Iran at the start of the 1979 Revolution and received his medical training and degree in the United States, where he lived for twenty years and married an American woman with
revolutionaries’ suspicions about the foreigners and the West. Opposition to the Shah came from many factions: the leftists, the religious people, and clerics, and the nationalists. The leftists included the Tudeh who were linked to the USSR, the Marxist Fedayan-e Khalq, and the Islamic-socialist Mojahedine-e Khalq as well as the intellectuals, all of whom were opposed to the widespread corruption and oppression of the Shah’s regime. Religious opposition to the Shah included a number of Islamic associations composed of professionals, students, and intellectuals who all helped forge more modern ideas about Islam and a new Islamic discourse. The nationalists, leftists, and religious revolutionary forces all sought the same goals: to reject the autocratic Pahlavi monarchy, the inequalities in society, and the overwhelming influence of the United States in Iran. “The Revolution of 1979 was supposed to empower and embolden the oppressed masses and make them independent of the capitalist foreigners.” Furthermore, the Revolution “was supposed to disinfect the country of ‘Westoxication’.”

C. The Role of Women in the Revolution

Proponents of gender equality and equal rights for women in Iran come from diverse social strata: leftist secularists, pro-monarchists, and Islamic feminists. whom he had a lovely daughter. Troubled by the prejudice against Iranians around him in the hospital and fraught with guilt about his failure to support Iran in its revolutionary years, he dupes his wife and child into returning to postrevolutionary Iran. Immediately upon arrival into Iran, Betty Mahmoody’s husband shockingly transforms into someone she cannot even recognize. He asks her to wear the chador and scarf, which for all Iranians is a symbol of respect, national identity, and religious adherence to Islamic values. Very soon thereafter he starts to beat her and terrorize his daughter. The wife and child are held hostage by the troubled Iranian husband and his rural, very religious, and fanatical Iranian family who claim to be descendants of Mohammed. This family clearly hates Americans and the corrupt ways of the West. The husband was outraged in America by his colleagues’ slurs about Iran’s backwardness and primitive traditions, and he is equally outraged now back in Iran by his wife’s similar accusations. He is angry at the United States for its support of Iraq during the Iran–Iraq War. As his wife tries desperately to escape from his clutches and the Iranian enslavement to which she has been subjected, he holds her forcibly captive inside the home and threatens to kill her and indoctrinate his child into Islam, which he calls “the greatest gift I can give my child.”

13. The Iranian government has outlawed the Mojahedine-e Khalq Organization. Prison officials in Iran have threatened to execute a young sympathizer of this group who has been denied access to a lawyer. Valiollah Feyz Mahdavi’s trial “did not meet international standards for a fair trial.” See Human Rights Watch, Iran: Political Prisoner at Risk of Execution, Mar. 16, 2006, http://hrw.org/english/docs/2006/03/15/iran12998.htm.
15. Sciolino, supra note 6, at 13.
16. Id.
17. See Louise Halper, Law and Women’s Agency in Post-Revolutionary Iran, 28 Harv. J.L. & Gender 85, 103 (2005). Professor Halper’s article is one of the best on the subject of
The 1979 Revolution was a popular movement also composed of many different factions, all opposed to the repressive monarchy, and all determined to create a new order that would give greater rights to women.\textsuperscript{18}

In the early days of the Revolution, Khomeini desperately needed the popular support of the Iranian women to help him overthrow Reza Shah’s regime. To achieve his goal, Khomeini promised more rights and freedom for all women in a new form of government that would be an Islamist democratic theocracy.\textsuperscript{19} At that time many secular women such as Azar Nafisi, who supported a revolution that would provide further rights to all citizens and equality for women, were not supportive of an Islamic or religious State. But these secular women were not prepared to counter the mass support given by religious women for Khomeini and for the Islamists during the Revolution.\textsuperscript{20}

Although many secular women protested the idea of the formation of a theocracy, they were outnumbered by the religious women who believed an Islamic nation would rescue them from oppression.\textsuperscript{21} Khomeini established the Islamic State by betraying many of his only moderate supporters and by eliminating his enemies. In fact, once the Revolution occurred, Khomeini and his supporters consolidated their power by eliminating the opposition, destroying the leftist forces, purging the unsupportive religious leaders, and dividing the secular intellectuals by gender.\textsuperscript{22} The age-old tactic of divide and conquer worked brilliantly in Khomeini’s favor, allowing him to eradicate several facets of opposition at once.\textsuperscript{23} Needless to say that Khomeini’s promises of freedom and equality to women were not completely fulfilled, and he perpetrated what could be called one of the greatest frauds in the history of women’s human rights.

After the Revolution, Khomeini’s social and legal policies towards women became stricter and more repressive as he consolidated his political power. For example, soon after his Islamic regime became firmly entrenched, he declared the Family Protection Law\textsuperscript{24} un-Islamic. This law was instituted by the Shah in 1967 to give greater rights to women in the area of marriage, divorce, and child custody. Women judges such as Shirin Ebadi were forced to resign their positions\textsuperscript{25} and veiling became mandatory. Khomeini’s pronouncements

women’s rights in Iran, and I am deeply indebted to her for her encouragement and impeccable scholarship.

18. See id. at 105.

19. See id. at 108.

20. See id. at 107.

21. See id.

22. See id. at 109.

23. See id.


25. See id. at 48.
forced secular women in government and in other high-level positions to resign or be fired.\textsuperscript{26}

Ironically, the imposition of the veil under Khomeini’s regime has taken on a different meaning, and has actually led to greater freedom for traditional, religious women who were now able to participate in the public sphere for the first time in many years.\textsuperscript{27} Under Khomeini and in the Islamist Republic, the State guarantees that the public sphere is a safe place for Muslim women to be seen precisely because the State mandates religiously appropriate behavior by both sexes and strict adherence to the dress code by women. In accordance with the strict interpretation of the Koran, women must be covered up so as not to tempt men to behave indecently. In Iran’s postrevolutionary, highly regulated society, many traditional Muslim women who were formerly isolated in the privacy of their home actually experienced more opportunities and greater freedom to participate in education, politics, health, and many other fields.\textsuperscript{28} Nevertheless, forced veiling had an equal but opposite effect of alienating and isolating secular women, even those who had supported some form of revolution and who opposed the Shah.\textsuperscript{29}

\textbf{D. Religious and Secular Women in Iran After the Revolution}

To gain the support of women before and during the Revolution, Khomeini made many pro-feminist promises to guarantee greater support of women’s rights and freedoms.\textsuperscript{30} Once the Revolution ended, Islamic women expected those promises to be fulfilled.\textsuperscript{31} Khomeini did provide rural women with a university education and added more women in Parliament.\textsuperscript{32} In the absence of secular feminists within the new government, religious women were soon appointed to positions dealing with women’s affairs, and they actually became influential in the government’s new policies towards women.\textsuperscript{33} But the religious women in government helped foster anti-secular policies towards women, which was interpreted by the outside world as antifeminist behavior.\textsuperscript{34}

The division between religious and secular women in postrevolutionary Iran became more pronounced in the early days of the Khomeini regime, where only Islamic feminists had a real voice in government while secular women such as

\textsuperscript{26} See Halper, \textit{supra} note 17, at 123.
\textsuperscript{27} See id. at 124.
\textsuperscript{28} See id. at 124–25.
\textsuperscript{29} See id. at 125.
\textsuperscript{30} See id. at 108.
\textsuperscript{31} See id. at 117.
\textsuperscript{32} See id. at 108.
\textsuperscript{33} See id. at 110.
\textsuperscript{34} See id. at 111.
Azar Nafisi were marginalized. The policies of the new regime seemed contradictory and lacked cohesion with respect to women. On the one hand, the government required women to wear the veil, eliminated secular women from government and academic posts, and imposed strict Shari’a law on most private matters affecting women and the family. On the other hand, the government claimed to advocate for women’s rights, gave all women the right to a public education, maintained women’s suffrage, encouraged political activity in support of the government, and took a relatively moderate stance on family law issues.

E. Women, War, and Feminist Activism in Postrevolutionary Iran
In the new Iran, “approaches to women’s issues were divergent, even contradictory.” For example, soon after the Khomeini regime took power, Iran went to war with Iraq, an event that gave women inordinate power in Iran while Khomeini continued to create laws and policies that would marginalize them and render them dependent on men in a patriarchal society.

In Europe during World Wars I and II, women gained power because they were left alone to run the family while the men fought the wars. Similarly, the Iran–Iraq War gave more rights to Iranian women than did any other event. During that war, the strategy of the Iranian government was to outnumber the Iraqi forces. This approach took men out of the home onto the battlefield where dramatic numbers of injuries and fatalities in turn affected the gender balance of Iranian society. Women became indispensable during the war, and they were forced to take over a large percentage of the workforce. Women had to help maintain the war effort, and for the first time they became the heads of their own households in the absence of a male presence.

To retain the political support of these women, the Khomeini government implemented some policies and human rights laws that were favorable to women, such as child custody laws for war orphans and widows, employment benefits for women, education for women, and many other benefits. During the ten-year period of the Iran–Iraq War, women in Iran became accustomed to mobilizing for greater rights and achieving them. This pattern of feminist activism in Iran during the war period established a natural cycle in which

35. See id. at 110.
36. See id.
37. See id.
38. Id.
40. See Halper, supra note 17, at 115.
41. See id.
42. See id. at 115–16.
43. See id. at 114–15.
44. See id. at 114–16.
Iranian women were able to ask for and actually receive more rights without establishing a formal feminist movement. Thus, the mechanisms for Islamist feminism were firmly established during the Iran–Iraq War. Arguably, the mobilization of women for greater women’s rights established a kind of underground resistance movement initially led by the Islamist feminists and then continued by secular women in the 1990s. In 2006, Shirin Ebadi actually spoke of a “feminist movement” in Iran, but she hastened to add that it was a movement without a leader or home office, purposely designed that way to avoid endangering any one woman.

F. Foucault on the Global Impact of the Iranian Revolution

The Iranian Revolution was not any ordinary kind of revolution. Michel Foucault, a famous French philosopher, called it:

. . . a new type of revolutionary movement . . . an ‘Islamic’ movement [that] can set the entire region afire, overturn the most unstable regimes, and disturb the most solid ones. Islam—which is not simply a religion, but an entire way of life, an adherence to a history and a civilization—has a good chance to become a gigantic powder keg, at the level of hundreds of millions of men.

Michel Foucault’s prescient remarks made on February 13, 1979 imply that the Iranian Revolution would have an impact far beyond Iran’s borders due to the global influence of Islam.

Unfortunately, after the Revolution Foucault remained silent regarding human rights violations and feminist protests in Iran and abroad against Khomeini’s order that women re-veil. Foucault’s deafening silence about women’s human rights abuses in particular is the reason his writing was attacked by feminist, leftist, and liberal intellectuals who were no longer in center stage after the Revolution. By late February 1979, the real power in Iran was in the hands of the Revolutionary Council, a small and secretive group of clerics hovering around Khomeini who were responsible for summary executions, public whippings for alcohol consumption, and other infractions such as mal-veiling.

45. See id. at 117.
46. See id. at 119.
49. Id.
50. Id. at 108.
51. Id.
52. Id. at 109.
Foucault actually traveled to Iran, met with Khomeini, and celebrated the Iranian Revolution. He was initially impressed with the principles and concerns of the revolutionaries in Iran in 1979, but was called upon to admit that his support for the Khomeini regime was an error. Foucault considered the Iranian Revolution comparable to previous anticolonial struggles, referring to the United States and other Western backers of the repressive Shah as imperialists.

For Foucault, the Iranian Revolution was typical of the contradictions in Iranian society in general. The Iranian Revolution was greater and deeper than a pure manifestation of Iranian “nationalism” because the Revolution also involved a xenophobic revolt against modernism, against the West, against all foreigners, and against Jews. Foucault identified a deep-seated anti-Semitism in Iran around the time of the Revolution: “There were demonstrations, verbal at least, of virulent anti-Semitism. There were demonstrations of xenophobia, and not only against the Americans, but also against foreign workers who had come to work in Iran.” Later Foucault criticized the Islamist Republic for its unfair trials and summary executions that the regime tried to justify as an attempt to purify the country of its Westernized corruption. For Foucault, the Iranian Revolution was a revolution unlike any other, and it was “... outside the Western paradigm of revolution ... perhaps even outside history itself. ...”

53. See id. at 118.
54. Id.
55. Id. at 119–20.
56. Id. at 123.
57. Id.
58. See id. at 124–25.

Estimates of the size of the Iranian Jewish community vary from 25,000 to 30,000. These figures represent a substantial reduction from the estimated 75,000 to 80,000 Jews who resided in the country prior to the 1979 revolution. While Jews are a recognized religious minority, allegations of official discrimination are frequent. The Government’s anti-Israel policies, coupled with a perception among radicalized Muslim elements in Iran that Jewish citizens support Zionism and the State of Israel, create a threatening atmosphere for the small Jewish community. An increase in anti-Semitic propaganda . . . education of Jewish children has become more difficult in recent years . . . Jews were gradually dismissed from most government positions after 1979.

Id.

60. Afary & Anderson, supra note 5, at 124.
61. See id. at 129.
62. Id. at 131.
G. The Birth of the New Islamist Republic
On January 16, 1979, the Shah left Iran never to return again, and Ayatollah Khomeini came into power triumphantly on February 1, 1979. Khomeini immediately appointed a provisional government whose members included moderate nonclerical Islamists and nationalists who all wanted a secular democratic republic. But Khomeini’s clerical followers, who were populist Islamic radicals, were intent on establishing an Islamic State governed by Islamic law called Shari’a.63 Religious hardliners soon took control of the government. On March 30, 1979, a referendum approved the formation of an Islamic Republic claiming to be a democratic theocracy.

H. The New Iranian Constitution and the New Structure of Government
On December 2, 1979, a referendum approved a constitution that was, at best, a compromise document composed of a mixture of democratic and theocratic principles. On the one hand, the Iranian Constitution recognizes the right of the people to choose who will govern them and the right to establish democratic and legislative institutions such as the parliament and the president, both of whom are elected by direct popular vote.64 On the other hand, the Iranian Constitution subordinates the people’s will to the rule of the clerics through the institutions of the all powerful Velayat-e faghih (rule of the Islamic jurist)65 or Leadership (rahbari)66 of the Revolution and the infamous Guardian Council (shura-ye negahban).67 The Guardian Council is composed of twelve members, six of whom are appointed by the Supreme Leader of the Revolution. The other six are nominated by the head of the judiciary and approved by Parliament for a six-year tenure.68 The Guardian Council acts as an “Upper House” endowed with veto powers to strike down any law passed by Parliament that does not conform to Shari’a law and the Iranian Constitution. Because the Guardian Council interprets the Iranian Constitution,69 whatever civil, political, social, economic, or cultural human rights that are legislated in favor of women must ultimately come under the judicial review of the Guardian Council.

63. See Halper, supra note 17, at 114–15.
64. Afary & Anderson, supra note 5, at 17–18.
66. Id. at 61, art. 110 (providing the duties for the leader of the Revolution).
67. Id. at 52, art. 91.
68. See id. at 52–55, art. 91–99 (discussing the scope of the powers of the Guardian Council).
69. Mir-Hosseini & Tapper, supra note 1, at 18.
I. Women's Protest After the Revolution in March 1979:
Signs of a Feminist Movement

In the early months of 1979, religious extremists implemented the first “Reign of Terror”\(^\text{70}\) imposing hard-line interpretations of Islamic law that resulted in many summary executions of military officers of the previous regime, members of the Shah’s court, and capitalists who were killed because they had waged “war against God.”\(^\text{71}\) Prostitutes, adulterers, and homosexuals were also executed summarily because they allegedly committed the crime of “corruption on earth.”\(^\text{72}\)

On March 8, 1979, Khomeini gave his “infamous order compelling women to wear the *chador*.\(^\text{73}\) Hundreds of Iranian feminists on their way that day to Tehran University for the International Women’s Day demonstration reacted with “bitter derision to this news.”\(^\text{74}\) At that demonstration, Iranian women activists and male supporters protested in Tehran and Qom against this transformative order for women to re-veil themselves in the traditional *chador* normally worn only by highly religious women.\(^\text{75}\) The demonstration continued for five days and attracted tens of thousands in Tehran. Some leftist men formed a symbolic and protective circle around the women to fight off armed attackers from a newly formed group, the Hezbollah,\(^\text{76}\) or Party of God. The Hezbollah chanted, “You will cover yourselves or be beaten,” and they threw stones, knives and even bullets at the women protestors.\(^\text{77}\) The *Komiteh*, a “shadowy political and police force that was controlled by Khomeini and other mullahs” also harassed and detained women activists.\(^\text{78}\)

On March 10, 1979, many thousands marched for women’s rights, and fifteen thousand women held a sit-in at the Ministry of Justice. Protesters presented an eight-point proposal to the government calling for freedom for all regardless of gender, color, race, language, and opinion. They demanded free choice concerning dress, freedom of expression, and the removal of “all inequalities between men and women in national law.”\(^\text{79}\) By March 12, 1979, the women’s demonstrations

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\(^{70}\) See Chapter 3 of this book proposing a Semiotic definition of *terrorism*.

\(^{71}\) *Id.* at 16.

\(^{72}\) *Id.*

\(^{73}\) *Afary & Anderson*, supra note 5, at 112.

\(^{74}\) *Id.* at 112–13.

\(^{75}\) *Id.* at 111.

\(^{76}\) See Michael Slackman, *Mideast Conflict a Setback for Iran Reform Movement*, N.Y. Times, Aug. 1, 2006, at A9. This article shows a provocative picture of a large crowd of aggressive Iranian women with fists clenched and dressed in the *chador* and veil, wearing ammunition to symbolize that they are suicide bombers. These Iranian women are clearly in support of Hezbollah and in opposition to Israel.

\(^{77}\) *Afary & Anderson*, supra note 5, at 111.

\(^{78}\) *Id.* at 112.

\(^{79}\) *Id.* at 113.
had spread to numerous cities around the country, but that was the last big feminist demonstration in Iran, and soon after the women’s movement called off its public demonstrations, largely because of pressures from leftist groups such as the Fedayeen, which was the most influential group on the campus of Tehran University. The Fedayeen wanted above all to avoid a new civil war or possible foreign intervention in Iran.

But support for the women demonstrators and activists continued internationally. Simone de Beauvoir called a press conference in Paris on March 19, 1979 to announce that an international delegation of feminist activists and intellectuals was going to Iran to gather information. Although Simone de Beauvoir ultimately did not go to Iran for health reasons, she made a public statement of solidarity for the Iranian women’s movement. Kate Millet, a world-renowned feminist, actually went to the women’s demonstrations, but she was expelled by the new regime for “provocations against the Islamic Revolution.” Millet also held a press conference at Orly airport in Paris saying, “The Iranian women are marvelous human beings” who are “armed with great courage” in spite of the repressive nature of the new regime.

J. Religious Despotism in the Name of Democracy

After the 1979 Revolution and “in a violent return swing of the pendulum, religious despotism had ousted both secularism and democracy” in Iran. Between June 1981 and May 1982, a second Reign of Terror took place in Iran, with many people being executed or imprisoned so that the Islamic State and clerical government could be firmly secured.

Iran today calls itself a democratic theocracy, and its Constitution attests to its democratic intentions. But a careful look at the structure of the government set up in the Iranian Constitution reveals some of the flaws in its democratic intentions—flaws that negatively impact the human rights protections theoretically available to women. For example, the Iranian Constitution names the Leader for life, and the Assembly of Experts eventually chooses his successor and even supervises his activities. However, in practice the Assembly of Experts and the Guardian Council form a kind of closed system that gives the Leader

80. Id.
81. Id.
82. See id.
83. Id. at 114
84. Id.
85. Id. at 115.
86. Id.
87. Mir-Hosseini & Tapper, supra note 1, at 17.
88. Id.
89. See id. at 17–18.
unlimited power. He alone makes appointments to the Guardian Council and to the Assembly of Experts. In this way, Ayatollah Khomeini and his successors can control both the legislative and executive branches of government . . . hardly a Western notion of democracy at all.

**K. Public/Private Split in Iranian Society**

The religious clerics have enormous power in Iran, and they have “long since regulated Iran’s cultural life, banning discotheques, nightclubs, bars, alcohol, coed sports, satellite dishes, gambling, and many kinds of music.”90 Women’s social life in Iran is very restricted because they are relegated to the inside private arena of the home and dependent on their male protectors to provide a social life. Social relationships between men and woman are not permitted in public. This segregation forces people to act one way in public and another in private. As a result of the segregation of the sexes and an atmosphere of pervasive repression, Iran has seen a rise in prostitution,91 which is illegal in Iran, and the trafficking of women,92 which is a contemporary form of slavery.

90. Sciolino, supra note 6, at 2.
91. See *Prostitution Behind the Veil* (Cosmo Film Doc ApS 2005).

Iran is a source, transit and destination country for women and girls trafficked for the purposes of sexual exploitation and involuntary servitude . . . [Iranian] women and girls are trafficked to Pakistan, Turkey, the Gulf, and Europe for sexual exploitation . . . Afghan women and girls are trafficked [into Iran] . . . for forced marriages and sexual exploitation. Similarly, women and children are trafficked internally [in Iran] for the purposes of forced marriage, sexual exploitation, and involuntary servitude . . . Iranian authorities punish victims of trafficking with beatings, imprisonment, and execution.

Hypocrisy and deception abound within this public/private split that characterizes Iranian postrevolutionary society. In public, uniformity, anonymity, and conformity reign supreme; they are accomplished by strict laws regulating women's dress code. In public, all women must conform to State rules requiring them to cover their hair completely and be devoid of any makeup or other adornment. The only individuality women have in public is the special way they intricately knot the headscarf under their chin as well as a restricted number of options they have in their choice of clothing. Even though uniformity and the invisibility of women are intended by the rules of mandatory covering, women can actually gain some identity by choosing from a range\(^{93}\) of head covers that they are required to wear in public. Some women prefer simply a pastel-colored kerchief or scarf (roosari) covering only their hair or a more user-friendly maqnaeh, which is a tube of cloth that the women put over their head, around their face and over their shoulders.\(^{94}\) A woman can even wear a bright blue manto or a red or yellow maqnaeh, evidencing more official tolerance to variation in hejab.\(^{95}\) Many women wear a full-length black overcoat and head covering called a chador that covers them from their head to their ankles (supposedly worn by women holding official government positions).\(^{96}\) Some women cover not only their head but also their face with a black veil so that only a small slit reveals their eyes. More informally, some women wear a coat over trousers with a head covering that is either a scarf or the maqnaeh.\(^{97}\)

Even though adornment in public is strictly forbidden by law, various kinds of adornment actually accompany the hejab, such as a gold scarf holder that helps create a decorative bow under the chin or a frilled scarf worn under the chador to create a bit of color along the top of the woman's face.\(^{98}\) Moreover, there are variations even within the black chador motif. The chador can be made of either light or heavy fabric with a pattern woven into it or a shimmery fabric that can catch the light as the woman wears it.\(^{99}\) This is the very small range of dress code options within which all women in Iran, both Muslims and non-Muslims, can fulfill a basic need for self-expression and individuality by their choice of clothing worn in public.

In private, women enthusiastically seek out the latest fashion and variety in dress wear. Women, "even some of its most religious women—adorn themselves with makeup and jewelry behind high walls, then cover themselves in black on

\(^{93}\) See Halper, supra note 17, at 120–29 (providing a detailed discussion of the hejab and the range of dress wear).
\(^{94}\) See id. at 126.
\(^{95}\) See id.
\(^{96}\) Id.
\(^{97}\) Id.
\(^{98}\) Id.
\(^{99}\) Id.
the streets and struggle for their rights in the most creative and persistent ways.” Thus, the public/private split in Iranian society caused in part by the strictly enforced dress code results in contradictory behavior, if not hypocrisy.

L. The Quiet Revolt of Women

People frequently ask, “Why don’t the Iranian women revolt against the denial of their rights?” The answer is that they do, but the revolt is quiet to avoid harsh reprisals against them and their family. “[I]ranian women, whether they wear black chadors or Western dress topped with a small kerchief,” are being denied their rights, and they are quietly engaged in “a sustained and creative ideological war” against the State’s denial of these fundamental human rights.

With this kind of passive aggression and resistance against authority, women in Iran have made some gains in the area of human rights. For example, during the Iran–Iraq War, women pressured Parliament to change the custody laws relating to children of a war casualty. Muslim women outside Iran, especially in France, are also waging a quiet revolution.

M. Signs of the Denial of Women’s Rights in Iran

Even though women have made some human rights gains, they are still discriminated against, repressed, and oppressed in Iran. For example, blood money—compensation for the victim of a crime—received by a man is double that of the sum received by a woman. Moreover:

[W]omen do not serve as judges or religious leaders. Adultery is still punishable by stoning to death. Polygamy is legal. In a divorce, fathers control custody of sons over the age of two and daughters over the age of seven. A girl can be tried for a crime as an adult at the age of nine (a boy at fifteen) . . . Girls are allowed to be married at nine . . . Women inherit only half of what men do. Men can divorce their wives at will, but women need to prove that

100. Sciolino, supra note 6, at 6.
102. Sciolino, supra note 6, at 113.
103. Id.
104. See infra notes 113–120 and accompanying text (providing a more in-depth analysis of the gains made in Iran to protect women’s human rights).
105. Sciolino, supra note 6, at 115.
their spouse is insane, impotent, violent, or unable to support the family. A woman needs her husband’s permission to start a business and sometimes even to get a job.

Married women cannot get passports or leave the country without the written permission of their husband . . . Rape is more often than not blamed on the woman. A woman’s testimony in court has half the weight of a man’s. Women can be arrested for jogging or bicycling or swimming in sexually integrated places, and for exposing their heads and necks and the curves of their bodies in public. Women are not even allowed to share the same physical space with men of the same profession.\textsuperscript{108}

Marriage in Iran\textsuperscript{109} “is not a contract between equals but an acquisition of property”\textsuperscript{110} by the male of the female. The standard marriage contract gives women rights on paper that are difficult to enforce in the Iranian family court, which is a “hothouse of double standards and male vengeance.”\textsuperscript{111} Wife beating in Iran is tolerated and quite common, but generally denied.\textsuperscript{112}

The persistence of this long list of violations of women’s fundamental human rights in postrevolutionary Iran is troubling but slightly balanced by some small and unexpected developments in women’s rights.

N. Some Unexpected Developments in Women’s Rights

Women in Iran today are no longer excluded from public life and politics, and their participation has in fact increased in some noted areas due to rather than in spite of the compulsory wearing of the veil or \textit{hejab}.\textsuperscript{113} As of 1996, over 33 percent of university students were female, including 49 percent in medicine.\textsuperscript{114} By 2006, the statistics improved markedly, and Shirin Ebadi and others reported that over 65 percent of the university students in Iran were female.\textsuperscript{115} In some
subjects, up to 70 percent of Iran’s university students are women.116 Women are now permitted to study mining and agriculture and to serve as judges.117

Many advances in family law have taken place as well. For example, the Family Protection Law of 1967, which curtailed men’s rights to arbitrary divorce, was dismantled and its courts were abolished118 because that law was declared by Khomeini to be in contradiction with the Shari’a law. But amendments to Divorce Regulations enacted in 1992 effectively reinstated the rejected elements of the Family Protection Law.119 This study will examine some of the new Iranian legislation120 that provides more rights to women.

III. SEMIOTICS OF HEJAB, THE VEIL, AND WOMEN’S DRESS CODE

A. Regulated Dress Code as a Denial of Freedom of Speech

In the brief history and development of the Islamic Republic of Iran from the nineteenth century until today, we can see a consistent quest for more “opportunities and freedom”121 for all Iranians. But Iranian women have borne the brunt of a predominately patriarchic and repressive regime that intentionally discriminates against women and denies them basic human rights. One of the most visible signs of the denial of freedom is the Islamic State’s control of women’s dress. Shirin Ebadi calls the imposed hejab “a symbol of [women’s] broader lack of rights.”122 In fact, the way a woman dresses is one of the key signs of her freedom and one of the key issues in women’s rights in Iran today.123 The right to wear what one wants to wear in the public arena is the right to be seen as an individual, to make a statement about one’s own essence, and to express one’s own unique form of speech—and this right should not be restricted unreasonably or selectively.

The dress code is a difficult rule to implement legally and socially because its regulation is tantamount to denying a person the right to freedom of speech. To enforce the rule that women must dress in a manner that comports with Islamic

116. See Xin Li, Iranian Regime Erases Progress on Women’s Rights, WASH. TIMES, Mar. 8, 2006 (“Up to 70% of university students in Iran are female, said Swannee Hunt, director of the Women and Public Policy Program at Harvard University’s Kennedy School of Government.”). See also Frances Harrison, Women Graduates Challenge Iran, BBC News, http://news.bbc.co.uk/2/hi/middle_east/5359672.stm.
117. Mir-Hosseini, supra note 107, at 8.
118. Id.
119. Id.
120. For an analysis of some of Iran’s domestic laws affecting women’s human rights, see infra Section IV and text accompanying notes 391–445.
121. Nafisi, supra note 11, at 261.
122. Ebadi, supra note 24, at 72.
123. See Sciolino, supra note 6, at 132.
principles, the Iranian government has resorted to nothing less than terrorism.\textsuperscript{124} The government puts up warning signs everywhere in public areas stating that “bad-hejab (badly covered) women will not be served.”\textsuperscript{125} All women, even foreigners who are not Muslims, must wear the hejab in Iran. The morality police (men and women) circulate in cars and stop women on the street whom they claim are not properly veiled in order to humiliate, frighten, terrorize, and arrest them on a daily basis.

B. History of the Veil

1. To Wear or Not to Wear the Veil: Freedom of Choice Wearing a head covering known as the hejab (also referred to as the “veil”) was practiced long before the Islamic Republic came into existence. Veiling probably existed among the Zoroastrians. The practice of wearing an all-enveloping Islamic veil began in the sixteenth century, although it was not black and its style varied by region.\textsuperscript{126} Wearing of the all-black floor-length chador seen today in Iran and other Muslim countries probably began in the eighteenth century.\textsuperscript{127} But then the chador was worn only by a minority of wealthy women who lived in cities and at court.\textsuperscript{128} These women took up veiling and secluded themselves from public view. Some view the veil as highly “erotic,”\textsuperscript{129} which is borne out by the many artistic representations of veiled, seductive women who cover not only their hair but their face. Others view the veil as a sign of religious observance, respect, and purity.

In the countryside, women have always worn veils, including lively scarves with veils over them, wrapping and gathering them at their waists to free up their arms and make the garments less cumbersome.\textsuperscript{130} The chador, though, is a very bulky and uncomfortable garment that limits women’s physical freedom. “It gets caught in escalators. It drags along the ground collecting dust. It makes it hard to climb stairs. It is hot in summer.”\textsuperscript{131} It is very difficult to wear.\textsuperscript{132} The chador does not have a zipper, and in order to keep it closed, women have to hold it tightly at the neck, incapacitating one of their hands. Thus, the chador or long black zipless overcoat is another way in which women are rendered more dependent on men if not physically weakened and powerless.

2. “Do Not Wear the Veil”: No Freedom of Choice The denial of the freedom to choose whether to wear the veil dates back to Reza Shah, when he began his

\textsuperscript{124} For a discussion of the elements of terrorism, see Chapter 3 of this book.
\textsuperscript{125} Id.
\textsuperscript{126} Id. at 133.
\textsuperscript{127} Id.
\textsuperscript{128} See id.
\textsuperscript{129} Id. at 138.
\textsuperscript{130} Id. at 133.
\textsuperscript{131} Id. at 138.
\textsuperscript{132} Id. at 140.
well-intentioned policy of modernizing Iran in 1929. When he forced women to take off the veil, they protested. Ironically, in a tectonic reversal, the same policy denying women the freedom to choose their own dress code was continued by Khomeini and his successors who now force all women to cover their hair and wear the veil. Thus, women protested vigorously when the Shah refused to let them wear the veil, and they also protested when Khomeini forced them to wear the veil. The protest was clearly about freedom of choice.

More specifically, in the interests of modernity, Reza Shah ordered all men to dress in European styles and then ordered *kashf-e hejab*, the forced unveiling of women “which led to rioting that was harshly repressed.”133 In 1935, Reza Shah actually issued an edict declaring the wearing of traditional dress by both women and men an offense punishable by a prison term.134 The army and police enforced the rule by tearing *chadors* off women and handing out free Western-style suits to men.135 Reza Shah also banned men from wearing turbans and forbade beards, even for clerics.136 The Shah told all Iranian women to “cast their veils” which he referred to as a “... symbol of injustice and shame...”137 Many women objected to Reza Shah’s edict and refused to leave their homes, either because they did not want to be seen bareheaded in public or just to protest the decree that restricted their freedom of choice. However, others found the decree liberating.

3. “*Wear the Veil*: No Freedom of Choice  
Similar to the public outcry against Reza Shah’s limitations on women’s freedom of choice in dress code, when Khomeini ordered all women to wear the veil in March 1979, women protested against the order, and men joined in by hurling stones, bottles, and insults. Khomeini called the *chador* that covers the whole body except the woman’s face “the flag of the revolution.”138 Thus, the veil was a negative sign for Reza Shah (who saw it as a symbol of injustice, backwardness, and shame) and a positive sign for Khomeini (who raised the veil to the level of a forceful political symbol). By the beginning of 1982, three years after the Revolution, all women were forced to cover up in the public arena.139

C. Sign System of Wearing the Veil

1. *Veil is a Sign of Virtue and Honor* Wearing or not wearing the veil is a delicate and difficult issue that is tied up in a complex network of signs and symbols having both positive and negative connotations. For Iranian women, the veil represents many different things. It is a positive symbol designating the cultural

133. Halper, supra note 17, at 121.
134. Sciolino, supra note 6, at 133.
135. Id.
136. Id.
137. Id. at 133.
138. Id. at 134.
139. Id.
and religious “source of protection, respect, and virtue.” The importance of this symbol of virtue has been underestimated. The family honor in Iran rests on the virtue of women. Thus, an unveiled daughter can signify dishonor to the father and the whole family.

2. **Veil is a Sign of Muslim Identity** The veil is also a positive sign signifying Muslim identity, which by extension can be interpreted to convey the message of the wearer’s opposition to Western civilization. This threatening signification formed the basis of a legal argument in the courts of France, Germany, Turkey, and even the European Court of Human Rights. These courts all upheld the State’s right to ban wearing the veil in public schools. This is known as the famous and controversial “headscarf case.”

3. **Veil is a Sign of Power over Women** The veil is also a negative symbol of the Islamic Republic’s power over women. By refusing to wear the veil, the woman may not only be signifying a lower degree of her religious conviction, but also her political distance from the legal decrees and policies of the State. Thus, refusing to wear the veil may be interpreted by the State as her refusing to adopt a Muslim identity and maybe even her affiliating with what is considered the “evil” West by the Iranian clerics and the State.

4. **Veil is a Sign of Woman’s Political Engagement and Jihad** Women wearing the chador and the veil can be expressing their belief in jihad, or the holy struggle to spread the faith and to defend the Muslim community. Teaching the faith or spreading the word through an exemplary life is a form of jihad. Unfortunately, jihad has become synonymous in the Western mind with acts of terrorism carried out by extremist Islamic groups, by women soldiers, and by women suicide bombers. Jihad is an obligation on all Muslims, but women can perform it by merely obeying their husband and wearing traditional garb. Thus, in this strange phenomenon called sign systems, wearing the hijab and covering the face and head with a veil can be construed in a multiplicity of ways as a sign of a woman’s docile obedience to her husband, her aggressivity, her anti-West sentiment, or her active revolt against corruption. Hijab then is a contradictory “signifier of resistance” and nonresistance.

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140. Sciolino, supra note 6, at 133.
141. Ebadi, supra note 24, at 114.
142. See infra text accompanying notes 187–209.
143. Sciolino, supra note 6, at 132.
145. See id. at 109.
147. Halper, supra note 17, at 121.
5. Veil is a Polyvalent Symbol of Imprisonment and Liberation

The *hejab* is a polyvalent symbol that sends ambiguous and paradoxical messages because of the multiplicity of meanings associated with wearing the veil, the headscarf, and the *chador*. Depending upon the context, the *chador* and scarf can signify both a woman’s imprisonment by tradition into the privacy of the home as well as her liberation into the more modern public arena.

For many women, wearing Islamic dress is now their welcomed entry into public spaces, a tool to be used to their advantage, and a liberating vehicle. The veil is a garment that sends a double message to the world. The woman wearing the veil hides herself in anonymity and conformity, depicting herself by her outer garb as one of the masses of the many “shrouded wives and mothers.” She protects herself in this cloak by becoming just another passive, docile, and religious woman like any other. Paradoxically, however, the veil also represents her as a politically engaged person, a “warrior of Islam,” giving her freedom to move about in society and feel powerful through political engagement.

Thus, wearing the veil is a paradoxical sign. The veil signifies both purity and political power and provides the woman with more social freedom while limiting her physical movement inside the cumbersome garment that she is forced to wear publicly. Wearing the veil is like “. . . a code that allows anyone and everyone to vent their private aspirations, fears, dreams, and nightmares. An emblem now of progress, then of backwardness, a badge now of nationalism, then of domination, a symbol of purity, then of corruption, the veil has accommodated itself to a puzzling diversity of personal and political ideologies.”

D. Veiling as a Form of Humiliation

The Iranian State has tried to justify its abusive power to regulate women’s dress code by explaining to women that the headscarf and veil are actually a form of women’s liberation. Wearing the veil permits women to appear in public in accordance with the rules laid out in the Koran. The veil covers a woman’s body and thereby prevents women from tempting men and corrupting morality. In this way, *hejab* provides women with a lever of power.

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148. See *Marjane Satrapi*, *Persepolis* 2 (2004). Satrapi makes fun of the view that wearing the veil is a form of liberation.

149. See *Sciolino*, * supra* note 6, at 134–35.

150. *Id.* at 136.

151. *Id.*

152. *Id.* at 134–35 (punctuation omitted) (quoting *Farzaneh Milani*, *Veils and Words: The Emerging Voices of Iranian Women Writers* (1992)).
But wearing the veil is also a means of humiliating women. Humiliation is carried out by the “lower-class morals police” (men and women) against higher-class Westernized women, who are accused unjustly of being “loose” women simply because they choose not to follow the rules of the Koran to the letter and prefer to adopt their own dress code. Moreover, not wearing the veil could be interpreted for women as an act of political treason as the veil can signify a refusal of Western traditions.

E. Veiling and the Koran: A Matter of Interpretation

Although the veil is considered “the most distinctive emblem of Islam,” forcing Muslim women to wear the veil, surprisingly, it does not appear anywhere in the Koran. The tradition of women’s “veiling and seclusion (known together as [hejab]) was introduced into Arabia long before Mohammed, primarily through Arab contacts with Syria and Iran, where the [hejab] was a sign of [upperclass] social status.” The “verse of [hejab]” first appeared in 627 C.E. and was addressed to Mohammed’s wives. The “veil was neither compulsory nor . . . widely adopted until [many] generations after Mohammed's death, when a large body of male scriptural and legal scholars began using their religious and political authority to regain the dominance they had lost in society as a result of the Prophet’s egalitarian reforms.”

The Koran says, “Say to the believing women that they should lower their gaze and guard their modesty . . . They should draw their veils over their bosoms and not display their ornaments.” This rule, which is interpreted strictly to require all women to appear in public in Islamic dress, was also written into Iran's penal code under Khomeini. But many of the more moderate clerics and secularists claim “the Koranic verse that defines [the dress code] is subject to interpretation.” In fact, Monir Gorji, a woman preacher and activist for the Revolution and the only woman on the Constitutional Council, started to write Koranic exegesis in the late 1980s “in order to show that the Koran does not sanction the restrictions imposed on women by orthodox interpretations of

153. See id. at 142–43.
154. Id. See also Ebadi, supra note 24, at 96 (“The komitch, or morality police, harassed all Iranians—Muslims as well as Iranian Christians and Jews, old people as well as the young—but they preyed upon women with a special enthusiasm.”).
155. Sciolino, supra note 6, at 143.
157. Id. at 65.
158. Id. (“Believers . . . when you ask something from the Prophet's wives, do so from behind a [hejab]. This will assure the purity of your hearts. . . .”).
159. Id. at 66.
160. Sciolino, supra note 6, at 132.
161. Id. at 133.
the [Shari’a].” But by making the dress code enforceable under criminal law, the Iranian government has removed the flexibility and denied the freedom that interpretation permits.

F. Women’s Reaction to the Regulation of Their Dress Code
How have women reacted in the past to the regulation of their dress code? During the Revolution of 1979, women were permitted to go bareheaded in Iran and were promised increased freedom. But one month after the Revolution, Khomeini ordered all women to wear Islamic dress. Women felt betrayed, especially in view of Khomeini’s promises to them and the significant role Iranian women played in his rise to power. Thousands of women marched and protested the mandatory veiling. The American feminist Kate Millet showed up at the protest march, branding Khomeini a “male chauvinist” and marching with Iranian women. When Millet was expelled, that expulsion made waves among feminists the world over.

Similarly, when Reza Shah forced women to unveil, women objected to the denial of their right to dress as they please or as their religion requires. Wearing the veil later became permissible once again under Mohammed Reza, but ironically hejab then took on a decidedly political character and signified anti-Shah sentiments. Women wore the veil to make a political statement against the tyranny of the monarchy. They remembered that during Reza Shah’s modernization campaign, police began to forcibly unveil women in the streets, not unlike the more recent “morality squads” of the postrevolutionary Islamic regime that would enforce mandatory veiling by corporal punishment in the streets. The paradox here is that veiling is enforced in Iran today to purify the people from the corruption of capitalism and the West, yet stories abound about the

162. Mir-Hosseini, supra note 107, at 84. Mir-Hosseini’s very scholarly and illuminating work uncovers the range of Koranic interpretations that are possible. She interviews clerics to analyze in depth the exegesis of many conservative and moderate clerics. For scholars of women’s rights in Iran and the notions of gender that inform Islamic jurisprudence, this work is indispensable. She finds three main notions of gender and interpretation: an insistence on “traditional” patriarchal interpretations of the Koran based on “complementarity” and “inequality” of the sexes; an attempt to introduce “balance” into traditional interpretations; and finally a radical rethinking of the jurisprudential constructions of gender.

163. Sciolino, supra note 6, at 134.

164. Id.

165. See id.

166. Id.

167. Id.

168. Halper, supra note 17, at 121.

169. Id.

170. Id. at 123; see, e.g., Nafisi, supra note 11, at 167.
corruption among security police who harass women for bad veiling and who steal their purses.\textsuperscript{171}

Under the reign of Reza Shah, the issue of veiling led to undemocratic class distinctions and social unrest. A dichotomy existed between upper-class women, whose families wanted to curry favor with the modern Shah by agreeing to unveil, and the middle- and lower-class women (primarily in the countryside) who were forced to isolate themselves in order to wear the veil and maintain their religious observances.\textsuperscript{172} Nevertheless, Reza Shah often supported further advancement in equality for women.\textsuperscript{173} He tried to implement democracy under his rule, but his version of democracy was imperfect because only the secular, upper-class women in urban areas had access to public education, career opportunities, and political participation. Democracy under Reza Shah was imperfect because at this time “traditional” women living in rural areas were deprived of the right to work and to manage their own finances, and they were forced into seclusion in their own homes, far from public life.\textsuperscript{174} Thus, the so-called democratic but heavy-handed reforms of Reza Shah that were administered harshly and selectively actually resulted in further repression and limitation of the rights of rural women in Iran.\textsuperscript{175} Therein lay the roots of the Shah’s downfall. Khomeini promised to right the wrongs the Shah inflicted upon women, but he betrayed the very women who put him into power. When Khomeini reintroduced \textit{Shari’a} law, women’s rights in Iran suffered a severe setback.

\textbf{G. Veiling as a Form of Segregation}

Wearing the \textit{chador} and veil distinguishes women from men and, in that sense, isolates women. Mandatory segregation of men and women in Iran is actually regulated by law, but in practice it is rather complicated, confusing, and contradictory. For example, men and women are legally segregated in government offices, but not in the elevators leading up to the offices. When Ahmadinejad, the current President of Iran, was mayor of Tehran, he enforced separate male/female elevators in public buildings, canceled concerts, and reinforced wearing the full \textit{chador}.\textsuperscript{176} Men and women are still required by law to use separate entrances at airports, but they sit together on domestic flights. Prayer is always segregated in mosques.\textsuperscript{177} Buses are segregated, and women must ride in the back, but taxis are not segregated.\textsuperscript{178} Public toilets are integrated.\textsuperscript{179} There is a ban on men and women shaking hands in order to implement the defined distance

\begin{itemize}
  \item \textsuperscript{171} See Sciolino, \textit{supra} note 6, at 145.
  \item \textsuperscript{172} See Halper, \textit{supra} note 17, at 122.
  \item \textsuperscript{173} See \textit{id}.
  \item \textsuperscript{174} See \textit{id}.
  \item \textsuperscript{175} See \textit{id}.
  \item \textsuperscript{176} Sciolino, \textit{supra} note 6, at 367.
  \item \textsuperscript{177} See, \textit{e.g.}, Mir-Hosseini, \textit{supra} note 107, at 79.
  \item \textsuperscript{178} Sciolino, \textit{supra} note 6, at 147.
  \item \textsuperscript{179} \textit{Id.} at 147.
\end{itemize}
allowed between men and women.\textsuperscript{180} Accordingly, segregation of men and women in Iran is highly inconsistent.

H. Meaning of Resistance to Veiling

The \textit{hejab} is undeniably a symbol of the will of the Islamic State, with women’s quiet but courageous resistance to this kind of repression being barely visible, yet everywhere in everyday life in Iran. “[T]here is no consensus among Iranian women on \textit{hejab} . . . enforcement of it can be empowering to women.”\textsuperscript{181} “Although it undoubtedly restricts some, it emancipates others by legitimizing their presence in public, which is still a male domain” in Iran.\textsuperscript{182} “Many women in Iran today owe their education, their jobs, their economic autonomy, and their public persona, to \textit{compulsory hejab}.”\textsuperscript{183} Nevertheless, many women try to resist compulsory veiling. When Shirin Ebadi accepted the Nobel Peace Prize in 2003, she wore Western garb and no headscarf. In a recent interview, I asked Shirin Ebadi whether the State as well as Iranian women at large objected to her choice of dress on that public occasion that was televised internationally.\textsuperscript{184} She answered that women applauded her decision to choose Western garb, even though the State objected.\textsuperscript{185} When I asked her if it is true that most women in Iran today would prefer to dress in Western garb, she said incontrovertibly, “It’s true.”\textsuperscript{186}

I. Laws Outside Iran Banning the Veil in Public Schools: The Headscarf Case in France, in Turkey, and in the European Court of Human Rights\textsuperscript{187}

The forced wearing of the headscarf is a very controversial legal and political issue that has risen to the level of domestic and international courts not

\begin{itemize}
\item \textsuperscript{180} See, e.g., Sciolino, supra note 6, at 148. In the movie, \textit{Not Without My Daughter}, Betty’s “liberator” is an Iranian “modern” secular man, who helps her escape captivity, but who flinches, nevertheless, when she shakes his hand at their first meeting. \textit{See Not Without my Daughter} (Pathé Entertainment 1991).
\item \textsuperscript{181} Mir-Hosseini, \textit{Islam & Gender}, supra note 107, at 278.
\item \textsuperscript{182} \textit{Id.}
\item \textsuperscript{183} \textit{Id.}
\item \textsuperscript{184} Shirin Ebadi Lecture, \textit{supra} note 47, at 19.
\item \textsuperscript{185} \textit{Id.}
\item \textsuperscript{186} \textit{Id.}
\item \textsuperscript{187} See Olivier Dutheillet de Lamothe, “The French Headscarf Case: Why Girls Cannot Legally Wear Headscarves in French Public Schools” (July 10, 2006) (unpublished, on file with author, Susan Tiefenbrun). Olivier Dutheillet de Lamothe is a judge of the Constitutional Council of France. The unpublished paper was delivered on July 10, 2006 at the University of Nice School of Law International Conference on Women’s Rights, sponsored by the Hofstra Law School International Law Summer Program in France. Much of the information contained in this section of the chapter is derived from his paper. I am deeply indebted to Judge Dutheillet de Lamothe for his incisive and sensitive analysis of the cultural dilemma on which this case is based. It is purely a matter of the interpretation of the sign system of the headscarf, which, as we have shown, involves an analysis of the historical, political, cultural, and legal contexts in which the sign appears.
\end{itemize}
only in France, but in Germany, Turkey, and the European Court of Human Rights (ECHR).

The French headscarf case has lasted more than a decade and has resulted in the passing of a law banning the headscarf in public schools, the legal reasoning of which is based on adherence to a sacred French principle of secularism (laicité) or the separation of religion and State.

The headscarf controversy in France erupted in October 1989 when the principal of a majority-Muslim middle school in the Parisian suburb of Creil suspended three Muslim girls because they wore their headscarves in the classroom of a public school. The Minister of Education, Lionel Jospin, referred the matter to the Conseil d’Etat, France’s highest Administrative Court, for a legal opinion. The Conseil d’Etat ruled on November 27, 1989 that wearing religious garb in a school “is not in itself incompatible with the principle of secularism” but must not “constitute an act of pressure, provocation, proselytism or propaganda” that “impinges on the freedom of the other students or impedes the school’s educational mission.” Here the ruling has a double edge that reflects the principle of secularism in France requiring the public schools to respect the free expression of religion while also imposing limitations on that principle. Thus, the ruling of the Conseil d’Etat seems to be in favor of the girls and the right to wear a headscarf in public schools. However, the ruling places the implementation of limiting conditions in the hands of the individual school principals who must determine whether to ban the headscarf on a case-by-case basis. This determination is naturally based on the principal’s interpretation of the significance of the person’s act of wearing the headscarf.

The reaction to the ruling of the French Conseil d’Etat is quite interesting. In 1994, commentators began to report an increased number of girls wearing the headscarf. Because of the favorable rulings by the Conseil d’Etat in 1989, 1992, and 1999, what was once just a handful had grown to 700 students who wore the veil in public schools. In those rulings students in 41 of the 49 cases were given the right to wear the headscarf in French public schools. In 2003, the last year before implementation of the French law banning the headscarf, 1500 girls wore the headscarf out of ten million students. This large number reflects the intense pressure being put on principals to rule in favor of the free expression of religion and the wearing of the scarf in French public schools.

Political pressure against the headscarf began to mount because of this large increase in girls wearing the headscarf in French public schools. President Chirac appointed a commission in 2003 (headed by a conservative politician, Bernard Stasi) to examine the issue of secularism and the headscarf. On December 11, 2003, the Stasi Commission composed of politicians, scholars and other people unanimously recommended a ban on wearing the headscarf.

The Stasi Commission voted to ban the headscarf for many reasons. One justification was the liberation that such a prohibition would provide to the many girls who testified they were being pressured by their parents to wear the headscarf against their will. Other reasons for the ban are bound up in the political
significance of the headscarf in France. Some argued the headscarf is a symbol of political passion felt by North African immigrants against native French people who feared the rise of fundamentalist Islam in France. The French are afraid that fundamentalism will infiltrate French political and social life. In fact, the headscarf was interpreted to be a clear sign by the girl wearing the scarf that she rejected the process of integration into French society. The Stasi Commission saw the headscarf, then, as a political threat. The French are very insistent on the importance of assimilation of immigrants into French mainstream culture. In fact, a new law was passed on June 27, 2008 denying French citizenship to a Moroccan woman simply because she chose to wear a burqa, which the French court deemed to be a symbol of her failure to show enough “assimilation.”

The French Parliament voted unanimously on March 15, 2004 to enact a short bill stipulating the following: “In public schools, the wearing of symbols of clothing by which the students conspicuously manifest a religious appearance is forbidden.” The interpretation of this law is troublesome for several reasons. What is a “conspicuous” religious symbol? Is it “conspicuous” to wear a big cross, a large Jewish star, a bright colored yarmulke, a black turban, clicking worry beads, etc.? How big does the symbol have to be before it becomes “conspicuous?” These questions of interpretation of the law trouble many jurists.

More bothersome, of course, is the law’s arguably flagrant violation of the freedoms of speech and of religious expression. The French justify banning this form of symbolic speech because it is tantamount to a political threat, arguably like yelling “fire” in a crowded movie theater, which is impermissible speech under American law. The issue here is the interpretation of the symbol of the headscarf as a political threat. This interpretation is deeply bound up in a contextual matrix of French history, French culture, and the rise of a huge immigrant population in France—and with that, the rise of anti-West sentiment and current events in France and in other parts of the world related to terrorist threats.

Justification of the French legal ban on wearing a headscarf in public schools is virtually inconceivable to an American jurist and to American citizens for whom the principle of freedom of speech is a basic constitutional right. This right to free speech is so fundamental that American law permits the outrageous act of burning of the American flag on the theory that this is a permissible yet reprehensible expression of free speech.

Moreover, the French ban on wearing the headscarf seems destined to cause more immigrant students to move out of the public schools in France and into

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189. Emphasis added.
the social isolation of private schools or to become influenced by some dangerous imams in madrassas or schools that reportedly harbor intense anti-West sentiments. The ban denying the right to young girls to manifest the expression of their religion could result in the erosion of a much-needed policy of integration of immigrants into French society.

It is true that most Americans cannot understand or justify this ban because it flies in the face of the First Amendment of our Constitution. Freedom of speech is America’s most precious freedom. However, Americans must understand that the most precious legal principle in France is secularism and the separation of Church and State. In France, secularism is the dominant ideology of the French Republic that was founded in defiance of the Church and the monarchy. In the United States, the Establishment Clause, free exercise of religion, and freedom of speech were written early (1791) into the Bill of Rights of the U.S. Constitution. In contrast, in France the freedom of speech and the free exercise of religion were established much later by the French Parliament in 1905. Thus, to understand the French interpretation of the headscarf, we must consider the historical and cultural context of secularism in France.

The United States and France have very different attitudes toward immigrants. The United States is founded on the principle of a heterogeneous society or melting pot whereas France lays claims to a more homogeneous society. The United States was founded on the labors of the many immigrants who came in waves throughout its history. Generally speaking, the United States is very respectful and not fearful of the different faiths of its many immigrants.

Despite the arguments raised against the ban and the fears of its impact on French society, the implementation of the French ban on wearing a headscarf in public schools has been rather smooth. There are fewer headscarves in schools in France today because of the ban. In 2003, 1500 girls wore the headscarf, but in 2004, only 600 continued to wear it in areas with a higher number of Muslims in the community (e.g., Montpellier, Strasbourg, Lille, Creteil). Predictably, 143 girls left the public school either on their own recognizance or after being expelled for wearing the scarf and violating the ban. Three of the 47 students expelled were excluded for wearing a Sikh turban. When 28 immigrant families referred the expulsion decisions to the French courts, the referrals were all rejected.

1. Leyla Sahin v. Turkey (European Court of Human Rights) Even though the ban on wearing the headscarf in France seems inconceivable to the American jurist, a similar case was referred by a Turkish woman to the European Court of Human Rights. That Court, which is an international court whose final decision preempts State court decisions in Europe, expressly recognized the necessity to leave to the national authorities of each individual State “a margin of appreciation” to decide on cases involving the wearing of religious symbols in teaching institutions.
Leyla Sahin, a Turkish citizen, originally lodged a complaint with the European Commission of Human Rights under Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedom (ECHR)\(^\text{191}\) against the Republic of Turkey for denying her the right to wear the Islamic headscarf in an institution of higher education in Turkey. The application was transmitted to the European Court of Human Rights on November 1, 1998, and the Court ultimately rendered a judgment based on an almost unanimous vote. On November 10, 2005, the European Court of Human Rights ruled to leave this decision up to the individual States because rules on the subject of the wearing of religious garb vary from one country to another depending on national traditions.

The Turkish law of 1998 banned the wearing of headscarves (and for men, beards) in universities. Leyla Sahin, a Turkish medical student, was refused admission to a neurology lecture on June 10, 1998 and to a written examination on oncology earlier because she wore her headscarf.

The European Court of Human Rights argued that the wearing of the headscarf is “a symbol of a political Islam.”\(^\text{192}\) The Court’s interpretation of the act of wearing a headscarf is filtered by political conditions in Turkey at the time of this case. Turkey’s attachment to democratic values was being threatened by “accession to power on June 28, 1996 of a coalition government comprising the Islamist [Refah Partisi], which was viewed as a “genuine threat to republican values and civil peace.”\(^\text{193}\) The European Court of Human Rights inferred that wearing the scarf was also a symbol of women’s lack of equality in Turkey.\(^\text{194}\)

Ultimately, the European Court of Human Rights declared the ban on wearing the headscarf in Turkish universities was not a violation of Article 9 of the ECHR.\(^\text{195}\) The European Court of Human Rights claimed that there is no uniform European conception of the requirements of “the protection of the rights of others” and of “public order.”\(^\text{196}\) Therefore, whether the act of wearing the headscarf rises to the level of a political symbol or a political threat is up to the State to decide.\(^\text{197}\) Accordingly, in Leyla Sahin v. Turkey (European Court of Human Rights, 2004), the highest court of human rights voted 16:1 in favor of giving the State discretion to declare a ban on wearing the headscarf in public universities.\(^\text{198}\) This decision, together with the French ban of March 15, 2004 in primary and secondary schools, leaves the issue of the woman’s right to wear the


\textsuperscript{193}. Id.

\textsuperscript{194}. See id. at para. 11 (Tulkens, J., dissenting).

\textsuperscript{195}. Id. at para. 123.

\textsuperscript{196}. Id. at para. 70.

\textsuperscript{197}. Id. at para. 115.

\textsuperscript{198}. Id. at para. 3.
headscarf in all public schools including universities up to the determination of the State.

2. The Meaning of Dissent in the Headscarf Case The one dissenting opinion in the European Court of Human Rights headscarf case by Judge Tulkens is very revealing. Judge Tulkens does agree strongly with the majority that the right to freedom of religion guaranteed by Article 9 of the ECHR is a “precious asset” not only for believers, but for atheists, agnostics, skeptics, and the unconcerned. He also agrees that in “democratic societies, in which several religions co-exist, it may be necessary to place restrictions on freedom to manifest one’s religion in order to reconcile the interests of the various groups and ensure that everyone’s beliefs are respected.” Finally, he agrees that compromise is necessary in a pluralistic democratic society based on tolerance.

Admittedly, this ban on wearing the Islamic headscarf on university premises is a clear interference with the right under Article 9 of the ECHR to manifest one’s religion, but it is an interference that has a legitimate aim—“the protection of the rights and freedom of others and of public order.” To determine whether this interference is “necessary in a democratic society,” the Court must be convinced the interference is “appropriate,” that it is “the least restrictive [measure],” and that the “measure was proportionate.”

In this case, the reasons for imposing the ban on wearing the headscarf were based on two arguments: secularism and equality. Judge Tulkens finds it inconsistent, if not paradoxical, that “manifesting one’s religion by peacefully wearing a headscarf may be prohibited whereas, in the same context, remarks which could be construed as incitement to religious hatred are covered by freedom of expression.” The Court’s decision is based on “the threat posed by ‘extremist political movements’ seeking to ‘impose on society as a whole their religious symbols and conception of a society founded on religious precepts’ which, in the Court’s view, serves to justify the regulations in issue, which constitute ‘a measure intended to (. . .) to preserve pluralism in the university.’”

The judge agrees on the need to prevent radical Islamism, but he objects to the Court’s reasoning because in his view, merely wearing the headscarf cannot be automatically associated with fundamentalism. “[I]t is vital to distinguish

199. Id. at para. 1 (Tulkens, J., dissenting).
200. Id.
201. Id.
202. Id. at para. 2 (Tulkens, J., dissenting).
203. Id.
204. Id. at para. 4 (Tulkens, J., dissenting).
205. Id. at para. 9 (Tulkens, J., dissenting).
206. Id. at para. 10 (Tulkens, J., dissenting).
207. Id.
between those who wear the headscarf and ‘extremists’ who seek to impose the headscarf as they do other religious symbols. “Not all women who wear the headscarf are fundamentalists. . . .”

Judge Tulkens’ dissent and the decision itself are based on semiotics. For this judge, the act of wearing a headscarf does not necessarily signify fundamentalist affiliation and anti-West sentiments that threaten the Western world. However, for a grand majority of the judges on the European Court of Human Rights, the French Courts, and the Turkish Courts, the headscarf did have this threatening signification that warranted the ban on the freedom of speech and the freedom to manifest one’s religion.

IV. SIGNS OF WOMEN’S RIGHTS IN IRAN AS REPRESENTED IN THE HUMANITIES

The content of literature, film, and the law often reflect prevailing social, political, and economic conditions. Authors and filmmakers use mediated forms of communication to convey personal messages to readers and viewers about the need for social change. Legislators write laws, and lawyers and judges interpret and carry them out in order to change injustices in society. These vehicles of communication—literature, film, and the law—are sign systems reflecting infrastructural conditions that can and do affect women’s rights to equality and justice. Important information about society, its traditions, and sometimes its hidden policies perpetuated by government can be conveyed most effectively through mediated signs. Messages are not conveyed by words alone. As the proverbial statement “a picture is worth a thousand words” suggests, communication happens by transmission of information through signs and symbols—and this is the essence of the semiotic system. A writer speaks sometimes directly to her readers through words and sometimes indirectly through tropes and literary figures that need interpretation to uncover the meanings hidden in analogies. The filmmaker communicates messages through the immediacy of pictures that create an aura of authenticity and drama.

This study will look at four artistic works written or directed by four Iranian women all of whom portray the state of women’s human rights in

208. Id.
209. Id.
210. See Susan Tiefenbrun, Legal Semiotics, 5 Cardozo Arts & Ent. L.J. 89 (1986) (discussing the history and development of semiotics and its application to the field of law) and its revised version in Chapter 2 of this book. I have written extensively on the application of semiotics to the law. See, e.g., Susan Tiefenbrun, A Semiotic Approach to a Legal Definition of Terrorism, 9 Isla. J. Int’l & Comp.L. 357 (2003), as revised in Chapter 3 of this book.
postrevolutionary Iran. The first is a memoir of an Iranian woman who is no
longer living in Iran. *Reading Lolita in Tehran* was written by Azar Nafisi, a
literature professor who chose to withdraw from the public arena in postrevolu-
tionary Iran in order to immerse herself in the world of the imagination and in
the privacy of her home (with a few of her favorite students, mostly women, who
read, interpret, and discuss great books of primarily Western literature). Nafisi’s
decision to withdraw into the world of interpretation is her form of passive resis-
tance to the violation of women’s rights occurring in postrevolutionary Iran.
She actively resisted against oppression when she wrote her own memoir after
she left Iran. The book became an instant best seller not only because of its
treasures of valuable information about Iranian society, but its beautiful, learned
and literary style that appeals especially to experienced readers of Western
literature.

The second book is also a memoir of an Iranian woman who lived through
the 1979 Revolution and who still continues to fight within the legal system for
human rights, women’s rights, and rights of Iranian political prisoners. 211 Shirin
Ebadi’s *Iran Awakening* recounts the life of one Iranian woman who, like all
women, assumes many roles—wife, mother, female judge (removed from the
bench simply because she is a woman living in a patriarchal society), activist
Although Shirin Ebadi can now become a judge again in Iran, she prefers to
remain a human rights defense attorney to help more effectively in the advance-
ment of women’s rights. Her book is provocative and political; a form of
active revolt by a woman who chooses to remain in Iran. Thus, Nafisi and Ebadi
both represent two different styles of resistance and two legitimate forms of
engagement.

The third work is a documentary film, *Divorce Iranian Style*, codirected by a
woman, Ziba Mir-Hosseini, “who is a feminist, an Iranian, and a Muslim,”212
with an independent British filmmaker, Kim Longinotto. The film was inspired
by Mir-Hosseini’s book *Marriage on Trial*, based on her ethnographic research on
Islamic family law. 213 The film focuses on four women who come to court to
divorce their husband, obtain their rightful marriage gift, teach their husband a
lesson, or regain custody of their daughters who were taken away legally by their

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211. See also Christopher De Bellaigue, *In The Rose Garden Of The Martyrs: A
Memoir Of Iran* (2004). Christopher de Bellaigue was born in London and spent the past
decade in the Middle East; he lives now in Tehran. He writes from personal experience
about the mullahs, artists, traders, mystics, academics, and all who were revolutionaries
in Iran.

212. Ziba Mir-Hosseini, *Negotiating the Politics of Gender in Iran: An Ethnography of a
Documentary, in The New Iranian Cinema: Politics, Representation and Identity

213. *Id.* at 167.
husband as a result of a divorce initiated by the wife. This film paints a vivid picture of the deficiencies of the Iranian family laws and the family court system, its bureaucracy, its patriarchy, and its lack of fairness to women.

Mir-Hosseini is a social anthropologist who collected case studies of marriage and divorce to report on the conflicts and contradictions between marriage as represented in the law and marriage as it exists in reality. She put the results of her case studies into a creative documentary film that reveals many subtleties of the legal system in Iran. Due to strict censorship policies, the film has not been publicly screened in Iran, even though the codirectors successfully obtained a “permit to film by Khatami’s reformist government.” Nevertheless, although the film was not shown in Iran, it is known and has been seen by those who regularly attend film festivals abroad and by ordinary people who heard reports of it on the “BBC and [on] Voice of America Persian-language programs, both of which have many listeners in Iran.” Most film critics (both Iranian and foreign) were enthusiastic about the film that apparently “helped to humanize Iranians, who have been demonized in the West since the Revolution.”

In order to contrast Mir-Hosseini’s very accurate and at times humorous picture of the grim state of women’s rights in Iran and the unfairness of its family laws, I will also look briefly at another very important film depicting two different kinds of women in Iran today. Two Women, directed by an Iranian feminist filmmaker Tahmineh Milani, portrays a woman who is actually a symbol of the modern Iranian woman. She is married and happily protected and supported psychologically by her husband who miraculously shares in the household chores. But the film also portrays the tragic transformation of another woman who was once young, beautiful, modern, and intellectually curious. Because of her father, she is forced to leave the university, marry a man she despises, and become a more traditional woman in Iran. She is enslaved in a loveless marriage with an abusive husband who imprisons her into the deepest interiors of his household. This movie “attracted more viewers and sparked more reaction than any other [film] in recent memory,” and its filmmaker is one of the few women in Iran today who admits to being a “feminist.”

Let us now look more deeply into these four different representations of women’s human rights abuses in the humanities.

214. See id.
217. Id.
218. Id.
219. Sciolino, supra note 6, at 265.

No amount of political correctness can make us empathize with a child left orphaned in Darfur or a woman taken to a football stadium in Kabul and shot to death because she is improperly dressed. Only curiosity about the fate of others, the ability to put ourselves in their shoes, and the will to enter their world through the magic of imagination, creates this shock of recognition. Without this empathy there can be no genuine dialogue, and we as individuals and nations will remain isolated and alien, segregated and fragmented.\(^{220}\)

Reading Lolita in Tehran is a compelling narrative of a woman’s struggle to protect her individuality and satisfy her passion for experiencing life through literature in postrevolutionary Iran. As the State continued to blur the distinction between the personal and the political, Azar Nafisi fought in her own way to separate the two through the use of creative imagination.\(^{221}\) After being expelled from one university for refusing to wear the veil, Nafisi was forced to resign from another because of her “controversial” subject matter and teaching habits.\(^{222}\) She then secretly formed a book group with some of her best female students and one male student who were also passionate about reading Western literature.\(^{223}\) For two years, “her girls” identified their own struggles, hardships, losses, and political disappointments with those of the characters in the books they read, discussed, and interpreted together. In postrevolutionary Iran, these female readers yearned for personal freedom. They do experience freedom and agency vicariously in the act of reading and interpreting literature, but they are forced to do so in the secrecy of their teacher’s home.

In its very poetic, personal, learned, and literary style, Reading Lolita in Tehran illustrates the contradictions about women in Iranian society and the human

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\(^{221}\) See Nafisi, supra note 11, at 273.

\(^{222}\) See id. at 10.

\(^{223}\) Even though Nafisi’s book is very popular in the United States and Europe, she has been criticized severely by some commentators. They accuse her of not treating the very rich Persian literature she studied as a child and mastered as a student of world literature. Nafisi’s choice of Western literature is viewed (perhaps too harshly) as a “sign” of her political affiliation with the West and her abandonment of the Iranian cause. She is even linked by some of her critics with the “neo-conservatives” simply because Bernard Lewis admires her book. Some attack her, no doubt, out of sheer jealousy because she has a comfortable teaching position at a prestigious university in the United States. See Hamid Dabashi, Native Informers and the Making of the American Empire, http://weekly.ahram.org.eg/2006/797/special.htm (providing a scathing review of Nafisi’s book). See infra text accompanying notes 325–330 for an analysis of his negative critical commentary on Nafisi’s work, which, in itself, is a sign that begs interpretation and decoding.
rights abuses they have had to endure since the Revolution. The women in Nafisi’s reading group relate how they have witnessed or personally experienced arbitrary arrests, torture, summary executions without trials, restricted movement within Iran and across borders, degrading body searches, forced religion and religious expression, employment discrimination, limitations on the enjoyment of cultural life, unequal gender treatment by the legal system (especially Iranian family law regarding divorce and child custody), and restrictions on women’s freedoms of assembly and expression, all of which are violations of basic human rights protected under customary international law and international human rights treaties and instruments that Iran has signed and ratified.

1. Narrative Structure of Reading Lolita in Tehran Azar Nafisi is a scholar and a reader of Western literature who identifies certain periods of her own life with various literary works224 she has taught in Iranian universities. In a first-person narrative that creates a sense of authenticity and intimacy with her reader, Nafisi’s memoir takes the reader on a personal journey into her own life through various works of fiction that reveal many of the hidden facets of the legal, social, and political realities the narrator has experienced as an academic in the Islamic Republic of Iran.225 Nafisi juxtaposes the reality of the world of literary fiction and the seeming unreality of life in a changing Iran.226 The act of reading and interpreting literature is an escape from an unstable and harsh reality. It is “our moment of pause, our link to that other world of ‘tenderness, brightness and beauty.’”227 “Only eventually, we were compelled to return.”228

Nafisi shares her private thoughts, hopes, and fears with her students and eventually her readers.229 Like Baudelaire, who spoke directly to his readers with whom he identified lovingly (and whom he also rejected harshly in an ironic ambivalence)—“Hypocrite lecteur, –mon semblable, –mon frère,”230—Nafisi, too, expresses her frustrations with a passive society that tolerates the political and social changes in Iran that detrimentally and unjustly affect her role as a professional woman.231

While working as a professor of literature in the Islamic Republic of Iran, Nafisi admits to despising the indifference of her colleagues and students to the transformations happening in Iran that greatly jeopardize the well-being of women. She is disgusted with the mindless bureaucracy in the university where less time is spent on intellectual matters than on what she considers formalistic

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224. See Nafisi, supra note 11, at 170–71.
225. See id. at 168–69.
226. See id. at 6.
227. Id. at 57.
228. Id.
229. See id. at 6.
231. See Nafisi, supra note 11, at 169.
trivia. At one point, Khomeini even closed all the universities for several years to weed out his opponents and implement cultural changes. The increasing gap between the public and private life in Iran caused Nafisi to give up her tenured job and choose her private life over the public one. She actually gives up her teaching career, which is a form of protest, and invests her efforts in a less visible form of political engagement by teaching only a few handpicked students whom she chooses to see in her home. Despite the regime’s everlasting goal of blurring the distinction between the public and the private life (a problem that is endemic to the erosion of women’s rights in general), Nafisi refuses to be completely controlled by the government and secludes herself in her books, her family, her few friends, and her girls—her only links to the outside world.

2. Concept of Literature as a Reflection of Reality in Reading Lolita Nafisi focuses on the receivers of the hidden messages contained in books. Her memoir begins with a detailed description of her girls who read and discuss Nabokov’s Lolita, a highly controversial book that titillates its readers by the daring treatment of such taboo subjects as incest and child molestation. Nafisi encourages the girls to use their imagination while reading and interpreting to rise above and beyond the closure and indignities they suffer every day as women in Iran. She also encourages her girls to see in Lolita the representation of what the Ayatollah and the Islamists really are. They are men who like Humbert actually fear giving women freedom, so they force them to “become the figment of someone else’s dreams.” There is no doubt that Nafisi has always loved literature, but ironically it is the new Islamic Republic and its oppressiveness that gives her greater appreciation for these books and the freedom of thought and expression she finds within them through interpretation.

Literature for Nafisi is a means of opening up a closed, suffocating world imposed on her by the new regime in postrevolutionary Iran. She adopts an elegant and authorial tone in contrast to the cacophony of this chaotic era full of contradiction and paradox where women are given an education only to be forced to remain inside and isolated in the home. Nafisi examines and even dares to criticize this new and dehumanizing regime through the distancing elements of literature and the adoption of an academic and intellectual perspective.

232. See id. at 151.
233. See id. at 29.
234. See id. at 3.
236. See Nafisi, supra note 11, at 47.
237. Id. at 28.
238. See id. at 47.
239. See id. at 274.
240. See id. at 9.
By focusing attention on the literary words of Western authors, she exposes the complex methods and rationales of the postrevolutionary Iranian government. She asks her students to consider “how these great works of imagination [can] help us in our present trapped situation as women...[to] find a link between the open spaces the novels provided and the closed ones we [a]re confined to.”

3. Themes in Lolita: Women’s Loss of Agency, Individuality, and Freedom In Lolita, Nafisi’s girls see parallels between their own vulnerability and the life of Lolita, a very young girl who is systematically but subtly reduced by the power of her own stepfather. Shockingly, Humbert has sex with his young adopted daughter, forcing her to become his mistress and to live according to his rules. Like the men in the new regime, Nafisi claims that Humbert controls every aspect of Lolita’s life; he cares nothing for her happiness or well-being and shifts the blame for any wrongdoing on his part to her. Just like Lolita, who lost her freedom to the lustful demands of Humbert, the women in Iran have lost their sense of self. The days following the Revolution did not lead to the kind of freedom the Iranian women who supported the Revolution were promised. Instead, women were told how to dress and what to think as they were cut off from the outside “polluted” world. Like Lolita, every aspect of the Iranian woman’s life was controlled by the regime. Like Lolita, Iranian women were gradually subsumed under the misogynistic rules of the regime.

However, unlike Lolita, Iranian women were made anonymous, invisible, indistinguishable, and any trace of personhood, femininity or individuality was erased and replaced by “black-scarved, timid faces” that float about two by two like nameless masses of black-cloaked matter. Conformity is enforced by the media in Iran which controls women’s behavior in society. Subtle forms of indoctrination, threats, and warnings are everywhere; posters shout at the women from the walls of the school corridors and streets, warning them against indecency or revolt. Thus, reading Lolita is a lesson in the manipulation of women by controlling men who are supported by the patriarchal society.

4. Themes in The Great Gatsby: Women in a Black-and-White Ethos After Lolita, the girls read F. Scott Fitzgerald’s The Great Gatsby, and with this book, Nafisi transports her readers back to the early days of the Revolution and her

241. Id. at 19.
243. See Nafisi, supra note 11, at 33.
244. See id. at 42.
245. See id. at 38.
246. See Halper, supra note 17, at 107.
247. See id. at 106–12.
248. See id. at 106.
250. See id. at 26–27.
teaching career. The ambiguous morality and values of *Gatsby* were difficult for many of her now-indoctrinated students to grasp. Her students were now living in the days of black and white morality touted by the emerging leadership of the Islamic Republic of Iran. Nick, the protagonist of *Gatsby*, is not altogether good, and the other characters also commit major sins such as adultery, decadence, and indecency. Students reacted to the potentially negative impact this kind of literature could have on society and on their own value system.

Like Plato who wanted to throw out the poets from the Republic, and the Soviet Communists who rigidly censored their writers and philosophers, the Khomeini regime also struggled with the concept of the role of writers and artists in an Islamist State. The Ayatollah proposed that writers espouse only the ideals of the regime, a similar policy of strict censorship that was implemented quite effectively for eighty years in Communist Russia. Censorship in the Soviet Union ultimately forced the artists to go underground to develop a rich and penetrating literature.

Nafisi’s students struggled with the allegorical implications of the novel. Several of the religious students in the class vehemently objected to reading *Gatsby*, claiming the novel’s characters promoted ambiguous and immoral values as qualities that should be emulated by the readers. Nafisi countered this objection by stating that a novel is not meant to be a parallel to, or an “allegory” of, real life, either in the West or in Iran. A novel is meant to be:

... the sensual experience of another world. If you don’t enter that world, hold your breath with the characters and become involved in their destiny, you won’t be able to empathize, and empathy is at the heart of the novel. This is how you read a novel: you inhale the experience.

According to Nafisi, great novels are supposed “to make you feel like a stranger in your own home. [They make us] . . . question what we [take] for granted. . . . [and question] traditions and expectations when they [seem] too immutable.”

Despite the advice of the teacher, as the class reads *Gatsby* and fails to understand the concept of “experiencing” the novel, one of the more radical Muslim students, Mr. Nyazi, claims that the book “poison[s]” the “minds” of the students,

252. See Nafisi, supra note 11, at 92.
253. See id. at 108.
254. See id. at 109.
255. See id. at 126.
256. See id. at 124.
257. See id. at 127.
258. See id. at 120.
259. See id.
260. Id. at 111.
261. Id.
262. Id. at 94.
and makes them susceptible to follow the immoral example set by the *Gatsby* characters. Reading this book, he fears, would make them prone to forget the high-minded ideals of the Revolution.

In those days of frequent public prosecutions and executions in Iran, Nafisi herself decides to place *Gatsby*, the book, on trial. Mr. Nyazi would be the prosecutor, Nafisi would actually be the defendant (i.e., the book), a female student would be the defense attorney, and a male student would be the judge in this mock trial. On the day of the trial, Mr. Nyazi sets forth his scathing allegations against “every page” of the novel, which he claims is full of the ideals of the West that comprise a sinister assault or rape of their culture. Nyazi’s accusations that reflect his fear of losing his own Iranian identity to the hegemony of the West are the prelude to Iran’s current fears of “Westoxication” and to young Iranian children being taught in school to say “Death to America.” Nyazi concludes that Gatsby deserved to die for his actions, as does the whole American society for pursuing such a decadent and immoral dream. Here Nafisi seems to foresee the Jihadist discourse that would develop in recent years.

Zarrin, the defense attorney, holds a more liberal position on freedom of speech, stating that to reject a book based on the “morality” and behavior of its characters is to oversimplify the novel and to completely miss the point. The revolutionaries in Iran and Fitzgerald’s characters have in common an obsessive pursuit of dreams. When this obsession for revolution takes over reality, and the pursuit of an impossible dream becomes a mania of the masses, any means necessary to accomplish the dream becomes acceptable, even violence. Just as Gatsby’s dreams were lost in the façade of his reality, the dreams of the revolutionaries are lost among the thousands of murdered youths—ghosts of their own ideals.

5. Henry James’ Novels: Existential Courage of Conviction Even If It Means Inevitable Defeat

Nafisi points out that the days of the Iran–Iraq War left the

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263. Id. at 120.
264. See id.
265. Id.
266. Id. at 121.
267. Id. at 126.
268. See, e.g., Sciolino, supra note 6, at 3 (“On the day of the government rally, I watched from a street corner as thousands of angry bearded men and black-clad women screamed ‘Death to America’ and punched the air with their fists. The student unrest had to be blamed on somebody, so why not the United States?”).
269. NAFISI, supra note 11, at 127.
270. Id. at 132.
271. Id. at 144.
272. Id.
273. See id.
274. See id. at 153.
citizens of both countries in a state of financial, structural, emotional, and intellectual ruin.\textsuperscript{275} The government of Iran was forced to maintain strict control over its citizens in order to pursue the war.\textsuperscript{276} Nafisi discusses the details of these repressive days in Iran through the lens of different works by Henry James.\textsuperscript{277}

In the years following the Revolution, Nafisi observed her students gradually becoming acculturated into blind acceptance of the mandates of the regime.\textsuperscript{278} They were told what to think, how to act, what to wear, and how to live.\textsuperscript{279} Their personal narratives had been confiscated by the government, leaving them with no hope to think and form opinions for themselves.\textsuperscript{280} Dissent was rarely an option for students or women after the Revolution, and when a dissenting voice rose up, this revolt was met with grave consequences, even death.\textsuperscript{281} Nafisi paints a rather grim picture of women in postrevolutionary Iran who are reduced to subservience and silence. There is little evidence of women in revolt in Nafisi’s book. Nevertheless, women did make some progress during this wartime period in achieving certain rights that they demanded and received because women were Khomeini’s much-needed constituency. Shirin Ebadi, Ziba Mir-Hosseini, and others report the existence of an emerging feminist movement, feminist protest marches, and an attempt to make change for women by women in Iran.

As if attempting to encourage a nascent feminist movement in this oppressive environment, Nafisi introduces such courageous Jamesian characters as Daisy from \textit{Daisy Miller} and Catherine from \textit{Washington Square}. Once again, Nafisi’s postrevolutionary students are unsure of what to think of the ambiguously immoral protagonists in Jamesian novels\textsuperscript{282} because they have been indoctrinated into an absolutist system of morality. Nafisi wants her girls to see and understand the courage of the Jamesian characters that face up to unpleasant circumstances without wavering, even if they encounter bad consequences. Nafisi also wants her students to see the value of courage, which is the quality that makes these characters so admirable.\textsuperscript{283} Even if they do not gain happiness in their existential effort, they do gain “self-respect.”\textsuperscript{284}

During wartime, basic human rights such as freedom of speech are sometimes denied in the name of national security. During the Iran–Iraq War, critics of the Iranian government or its policies were deemed “Iraqi-inspired and

\textsuperscript{275} See \textit{id.} at 239.
\textsuperscript{276} See \textit{id.} at 158–59.
\textsuperscript{277} See \textit{id.} at 186–90.
\textsuperscript{278} See \textit{id.} at 199–200.
\textsuperscript{279} See \textit{id.} at 288.
\textsuperscript{280} See \textit{id.} at 221.
\textsuperscript{281} See \textit{id.} at 275–76.
\textsuperscript{282} \textit{Id.} at 196.
\textsuperscript{283} See \textit{id.} at 224–25.
\textsuperscript{284} \textit{Id.} at 225.
dangerous to national security” and doomed to severe consequences. Intellectuals were reduced to silence or forced to become either revolutionaries or hermits, such as Nafisi’s “magician” and her friend Mina, who were compelled to retire from public life and seclude themselves with their books and their “dashed dreams.” The regime turned people into “perfectly equipped failure[s],” who had to sacrifice their public lives for their sense of integrity. Although tempted to retire into seclusion as many of her academic friends had done to preserve their idealism, Nafisi is persuaded to return to teaching for the sake of her students—in order to teach them to think and to feel, and to live the existential life of courageous action in the face of inevitable defeat.

Nafisi reads Henry James to find courage in her changing world of utter absurdity. “[T]he most courageous characters [in James’ works] are those with imagination” and empathy. Merely to exist, to live only as the regime insisted they must, is not enough for Nafisi. She wants her students to think, to feel, to experience a full life outside of what the government tells them life was supposed to mean. As James writes in The Ambassadors, “Live all you can; it’s a mistake not to. It doesn’t so much matter what you do in particular so long as you have your life . . . Live, live!” James also writes in a letter to a friend,

Feel, feel, I say—feel for all you’re worth, and even if it half kills you, for that is the only way to live, especially to live at this terrible pressure, and the only way to honour and celebrate these admirable beings who are our pride and our inspiration.

Nafisi adopts the philosophy of her existential brothers such as Camus and Sartre. By living life fully and trying to fight the impossible battle (like Sisyphus who was forced to roll the big rock up a hill only to see it roll down again every day of his life), any and all attempts to fight against the absurd make life worth living, even though defeat may be inevitable. The women in postrevolutionary Iran must fight against tyranny and oppression even though they may lose the battle. Life in this misogynistic regime is not worth living without trying. By engaging in imagination, feelings, and thought about the great books, Nafisi’s girls could thwart any attempt the government made “to eliminate[e] the personal [and the] private.”

285. Id. at 158.
286. Id. at 204.
287. Id. at 202.
288. Id. at 215.
289. Id. at 249.
290. See id. at 215.
291. See id.
292. Id. at 247.
293. Id. at 215.
294. Id. at 237.
6. Jane Austen’s Works: Freedom from Women’s Human Rights Abuses

Through the works of the great ironist, Jane Austen, Nafisi sheds light on basic women’s rights issues in Iran such as systematic abuse of children and forced marriages. “[I]t’s a truth universally acknowledged that a Muslim man, regardless of his fortune, must be in want of a nine-year-old virgin wife.” To Nafisi and her girls, the concepts of arranged marriages, family courts that frequently side with men, and harsh parental control over daughters seem to be outdated ideas from the days of Jane Austen. But these traditions were all brought back and imposed upon women in modern-day Iran with the advent of the Islamic Republic and the establishment of Shari’a law.

Austen’s works revolve around the search for individual freedom by her heroines who struggle against overbearing parents, societal pressure to marry a “suitable” man, monetary pressures, and the desire by women to find true love and happiness in their own lives. Like the women in postrevolutionary Iran who were subjected to the chaos of ten years of war, the women in the world in which Jane Austen lived were caught up in the Napoleonic wars. Like Nafisi, who some blame for not being politically engaged because she uses books as a mere form of escape from reality, Jane Austen went even farther and refused to address the war or become involved in the politics of her time. Instead, she “created her own independent world” of characters from her imagination, thereby allowing herself through fiction to escape from the society in which she lived. This was Austen’s form of engagement, her own form of revolt. Like Austin, Nafisi and her girls refuse to give up their imagination or their right to pursue personal happiness. This refusal is a form of resistance against oppression because it alters the regime’s ability to control them or to make them conform to the fantasy world of moral perfection that it had created.

Nafisi admittedly was tempted to blame all of the problems faced by her girls on the Islamic Republic. For example, it would be easy to claim that Sanaz was jilted by her fiancé because the regime had forced her to become the kind of

295. Id. at 260.
296. Id. at 258.
297. Id. at 273.
298. Id. at 258.
299. Id.
300. See id. at 262.
301. Id. at 282.
302. See id.
303. Id.
304. See, e.g., id. at 283–84 (describing female experiences with marriage through one special character’s excitement at the prospect of marriage).
305. See id. at 282.
306. Id. at 278.
woman that he was no longer interested in marrying.\textsuperscript{307} Similarly, it would be easy to claim that Azin was a victim of her abusive husband and a family court system prejudiced against women.\textsuperscript{308} It would be easy to claim the incredibly intelligent and talented Mahshid could not advance in her job simply because her fundamentalist employer was suspicious of her political past.\textsuperscript{309} The girls searched for happiness, fulfillment, and love in a new world in which sex or any form of intimacy with a man is evil.\textsuperscript{310} In Iran, women are marginalized and mistrusted, and at times “don’t know what it means to love.”\textsuperscript{311} The girls learn that the cruelties and misogyny they experience around them these days are not just due to the brainwashing and extreme cruelties of the new regime. Sadly, they learn that male misogyny is deeply engrained and commonplace in Iran, even prevalent in the mentality of the ordinary people who have been indoctrinated by the regime.\textsuperscript{312}

According to Nafisi, the new government seeks obedience through uniformity and dehumanizing conformity. Thus, the true evil of the Islamic Republic is its blindness to the individuality of its citizens. Iran for Nafisi is like the blind film censor, “imposing [its] visions and desires on others.”\textsuperscript{313} “How does the soul survive? is the essential question. And the response is: through love and imagination.”\textsuperscript{314}

Nafisi tries to show that using one’s imagination through a study of great works is a form of political engagement and a legitimate form of revolt against conformity and dehumanization. It is not without good reason that Nafisi quotes one of her favorite authors, Saul Bellow, who valorizes the political power of words and the use of poetic language in times of crisis:

Perhaps to remain a poet in such circumstances . . . is also to reach the heart of politics. The human feelings, human experiences, the human form and face, recover their proper place—the foreground.\textsuperscript{315}

7. Literary Critics on Reading Lolita in Tehran

a. Positive Assessments of the Book as Signs of Women’s Human Rights Struggle. Reading Lolita has been at the top of the bestseller lists and a favorite among American book clubs.\textsuperscript{316} Nafisi has also received high praise from

\begin{itemize}
\item 307. See id. at 279–80.
\item 308. See id. at 272–73.
\item 309. Id. at 270.
\item 310. See id. at 302.
\item 311. Id. at 323.
\item 312. See id. at 315.
\item 313. Id.
\item 314. Id.
\item 315. Id. (emphasis added).
\end{itemize}
literary critics.\textsuperscript{317} But what does this generally positive assessment of the book actually signify? No doubt readers appreciate the beauty of her style, the contagious excitement Nafisi finds in uncovering different interpretations of works in the canon of Western literature, and the activism she encourages through the interpretive process.

But many critics are stumped by the genre of this text: is it an autobiography, a literary critique, or a political commentary?\textsuperscript{318} In truth, it is all of these, which explains its broad appeal. Although most Americans, especially women, cannot really identify personally with the abuses Nafisi or her girls endured, Nafisi urges each reader to use his imagination and to empathize with Nafisi’s longing to be free from the restrictions of a theocracy under the totalitarian Islamic Republic of Iran. Nafisi’s work reveals the various devastating effects of human rights violations on women from different social strata in Iran and on readers from outside the regime.

Susan Sontag (a well-respected writer, philosopher, and literary critic) enjoyed Nafisi’s book. In her critical review of it, Sontag recognizes that teaching, reading, writing, and interpreting books do play an active role in the revolt against tyranny and oppression of women. Sontag writes:

\begin{quote}
I was enthralled and moved by Azar Nafisi’s account of how she defied, and helped others to defy, radical Islam’s war against women. Her memoir contains important and properly complex reflections about the ravages of theocracy, about thoughtfulness, and about the ordeals of freedom—as well as a stirring account of the pleasures and deepening of consciousness that result from an encounter with great literature and with an inspired teacher.\textsuperscript{319}
\end{quote}

Mona Simpson in Atlantic Monthly writes:

\begin{quote}
There are certain books . . . [that] carry inside their covers the heat and struggle of a life’s central choice being made and the price being paid, while the writer tells us about other matters, and leaves behind a path of sadness and sparkling loss. Reading Lolita in Tehran is such a book.\textsuperscript{320}
\end{quote}

\begin{footnotes}
\item [318] See Margaret Atwood, A Book Lover’s Tale: A Literary Life Raft on Iran’s Fundamentalist Sea, \textit{Amnesty Mag.} (Fall 2003), http://www.amnestyusa.org/amnestynow/lolita.html.
\item [319] Nafisi, supra note 11, at iii.
\end{footnotes}
In an Amnesty International review, Margaret Atwood recognizes the tyranny of the Islamic regime in Iran and the effect this governmental regulation has on women who virtually become invisible to the public eye:

*Reading Lolita* provides us with a chilling account of what it feels like to live under such conditions: the heaviness, the constant weighing down—which is what we mean by “oppression”—and at the same time a lightness, a sense of unreality—They can’t be doing this!—and a feeling that one is becoming both invisible and fictional. Nafisi’s reading group paid so much attention to Nabokov partly . . . because they saw, in the fate of the defenseless Lolita at the hands of Humbert, their own position reflected. Lolita was turned into a fantasy object, just as every woman in Iran had become a fantasy object for the regime—a regime that wanted to censor all narratives but its own. . . .

Reading, writing, and discussing literature and its multiple interpretations are acts of escape and liberation that explain the attraction of this incredibly popular memoir: “*Reading Lolita in Tehran* is both a fascinating account at how [Azar Nafisi] arrived at th[e] belief [in freedom of imagination], and a stunning vindication of it.”

**b. Negative Assessments of *Reading Lolita*: Signs of Women’s Human Rights Abuses in Iran.** The negative assessments of Nafisi’s book are signs of underlying issues in women’s rights abuses and are elements of the semiotic system. I have been told by several women in Iran that *Reading Lolita* is not a popular book there. Critics attack the book for its failure to recognize the value of Persian literature and Nafisi’s unwarranted emphasis on Western classics in an era when “postcolonial, black and Third World feminists, scholars and activists [have] finally succeeded to introduce a modicum of attention to world literatures.”

They criticize the book because Nafisi herself came from a socially privileged class and is a secular woman, not a practicing devout Muslim. Without being a human rights activist or lawyer herself (such as Shirin Ebadi), Nafisi does reveal serious women’s human rights violations in Iran such as forced marriage (including the very young age of women forced to marry), divorce inequities, loss of professorial academic freedom, purges, censorship, limited or lost access to many books, and show trials of professors and others who opposed the regime.

Some critics point to historic and cultural errors in the book such as the claim there were Communists in Iran in the middle of 1979. Apparently, most if not all

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322. Id.
Communists were virtually eradicated by Khomeini. Similarly, some object to Nafisi’s claim that the marriage age for women is nine, despite marriages of young women in Iran at the age of nine being a rare phenomenon today, as is stoning. Nafisi attacks forced marriage as an unwanted cultural phenomenon, and yet historically, after the war many women actually desired to have an arranged marriage. Some claim that Nafisi’s insistence on the rapes of virgins in prisons is pure rumor and myth.

Nafisi is accused of seeing Iran through the eyes of an upper-class privileged person who does not live in reality. Possibly some of these critics may be jealous and have a political predisposition against a very successful Nafisi who now lives comfortably and freely in the United States. To them, her book represents what the wearing of Western garb symbolizes to Iranian traditionalists: a rejection of Iranian/Muslim identity and a preference for Western civilization and its alleged corruption.

Hamid Dabashi published a very negative critique of Nafisi’s book in Al-Ahram Weekly. In a highly politicized and polemical discourse pitching East against West, Dabashi states that Nafisi’s book has achieved three objectives: “(1) systematically and unfailingly denigrating an entire culture of revolutionary resistance to a history of savage colonialism; (2) doing so by blatantly advancing the presumed cultural foregrounding of a predatory empire and (3) while at the very same time catering to the most retrograde and reactionary forces within the United States, waging an all out war against a pride of place by various immigrant communities and racialised minorities seeking curricular recognition on university campuses and in the American society at large.”

The language of this reviewer’s scathing critique of Nafisi’s book reveals a clear political agenda. His vitriolic anti-Americanism blurs his objectivity and prevents him from analyzing and interpreting the book for what the words actually say and mean. He prefers to use hyperbolic language, exaggerations, and generalizations to persuade his readers, couching his commentary in politically coded phrases such as “US imperial designs” and “an American empire”. He accuses Nafisi and her book of being “partially responsible for cultivating the US (and by extension the global) public opinion against Iran.” He demonizes Nafisi and the book’s “unfailing hatred of everything Iranian—from its literary masterpieces to its ordinary people.” He is outraged simply because Bernard Lewis endorses the book, and he resorts to calling Lewis bad names (“the most wicked ideologue of the US war on Muslims”). Although admitting that oppression of women exists under Muslim laws, he accuses Nafisi of denigrating Iranian and Islamic literary cultures and feminist movements, claiming a “collective

325. See Dabashi, supra note 324.
326. Id. (emphasis added).
327. Id.
328. Id.
amnesia of historical facts surrounding successive US imperial moves for global domination. . .

The author of this review actually admits to linking Azar Nafisi with the “US leaders of the neo-conservative movement” and claims that Nafisi engages in “a systematic depreciation of Iranian culture, and by extension local and regional cultures of actual or potential resistance to the US empire, glorifying instead a canonized inner sanctum for an iconic celebration of “Western literature”. . . placing her squarely at the service of the predatory US empire.” This review continuously spews venom at Nafisi and the United States by referring to the United States more than several times as a “predatory empire.”

I understand that for some, this type of negative criticism may be an understandable expression of sensitivity to a perceived disregard for Persian culture and literature in a time when upheaval and fragmentation have been particularly acute. Nevertheless, literary critical responses that are fraught with political prejudices have limited value. This brand of literary criticism is disreputable because it is blinded by cultural hatred and corrupted by a political agenda and an outdated 1980s’ disdain of the Western literary canon and the “Euro-centricity of the literary imagination.” It also fails both to illuminate the text and by its subjectivity and prejudices, to understand the multiplicity of hidden meanings that only an objective analysis of the words, the signs, and the symbols of the text itself can reveal.

This kind of critical commentary could be construed as a metaphor of the compulsory hejab itself. Just as Dabashi misreads Nafisi and misinterprets her messages because the reader/reviewer is himself blinded by a fanatical political agenda, the Islamic State justifies its strict regulation of women’s garb on grounds of religious conservative traditionalism, and even more suspiciously, if not paradoxically, on grounds of women’s liberation. This kind of critical commentary and governmental justification is a cover-up and a covert attempt to proselytize more important political goals. To the Islamic rulers the hejab is a symbol of the rejection of Western hegemony and Western civilization as well as a valorization of Muslim identity. The fact that only women are required to be bearers of this symbol of identity is unfair, just as Dabashi’s commentary is unfair.

B. Shirin Ebadi’s, Iran Awakening: A Lawyer’s Look at Women’s Human Rights in Iran

Shirin Ebadi is an Iranian woman who never left Iran and has no intentions of leaving. She recounts her personal life story in a memoir that, like Azar Nafisi’s book, reveals the personal plight of a professional woman in postrevolutionary Iran. Nafisi’s writing style reflects her immersion in literature and scholarship.
while Shirin Ebadi writes with the clear and persuasive skills of a lawyer. Both are Iranian women who recognize the need to provide more opportunities and equal rights for women in Iran, but Nafisi left Iran early in her life and was educated in Switzerland, while Ebadi remained in Iran to fight for equal rights and fairness from within the system. Nafisi drinks endless cups of coffee (the proverbial Western European and American drink), and Ebadi drinks endless cups of tea (the Eastern and Iranian drink). This preference is an important sign that points to a significant difference in the perspectives of both women writers.

Ebadi is a woman, like all women, who must juggle many responsible roles in life. She was the first female judge in the Iranian high court and was forced to resign simply because she is a woman. She is now a lawyer, writer, human rights activist, devoted daughter, mother of two beloved daughters, wife, and courageous dissident. Ebadi was arrested and jailed; she eventually won the Nobel Peace Prize in 2003. Like Nafisi, she supported the Revolution at first, but later felt betrayed by it:

I felt that I too had won, alongside this victorious revolution. It took scarcely a month for me to realize that, in fact, I had willingly and enthusiastically participated in my own demise. I was a woman, and this revolution’s victory demanded my defeat.331

After the Revolution, “public space . . . became fraught with uncertainty. [Women] simply did not know where, at what hour, and under what pretext you might be harassed, and often the confrontations with the komiteh [morality police] turned alarming.”332 After the Revolution Ebadi herself was arrested and imprisoned in Evin where “[w]omen who are arrested . . . after dark are typically prostitutes”333 and where prison conditions are appalling.334 Like Nafisi, and despite her humiliation and fears, Ebadi writes about her prison experience in a very poetic style, revealing her deeply emotional state of mind and her profound understanding of the power of literature as a vehicle of liberation and escape:

Ten more days in prison. Ten more days of clanking breakfast trays, of sullen guards smoking and despising me for a oneness that required the supervision of their four. Ten more days of trying to imagine the gentle, rocky slope of the Alborz Mountains behind Evin, where my poet friend Simin Behbahani and I hiked each week, talking languorously while we scaled the mountain, as teenagers scampered past us with their boom boxes and jaunty bandannas . . . Simin and I are kindred spirits, and many of the themes of her

331. Ebadi, supra note 24, at 38.
332. Id. at 103.
333. Id. at 164.
334. See id. (“The best cell was covered in filth, and the sink had no running water. Dirt and rust rimmed the metal toilet in the corner.”). See also id. at 168 (“Torture there was rampant.”).
poetry—women’s suffering, the celebration of their rights and existence—inspire my own work. I tried to force more hours to pass by remembering lines of her ghazals. The images came, of monsters soaring the sky in trails of smoke, of plundered mermaids.  

The Khomeini regime understood the power of literature and systematically arrested and tortured writers in Iran. Ebadi sadly recognizes that there is no freedom for writers, journalists, or activists in Iran.

Shirin Ebadi has been harassed and has experienced several assassination attempts and the constant humiliation of her family in order to pursue her dream of a democratic Iran. On the day she came to San Diego to deliver her speech at the Kroc Peace and Justice Center, I had the privilege of interviewing her personally. She admitted in a taped interview that just before her departure to the United States, she received a threatening letter from the Iranian government telling her not to pursue her political agenda.

Ebadi understands that the “headscarf” has many meanings. She admits that “[t]he headscarf ‘invitation’ was the first warning that this revolution might eat its sisters, which was what women called one another while agitating for the Shah’s overthrow.” Like Nafisi, Ebadi felt betrayed by the revolutionaries who believed that “[i]n their hierarchy of priorities, women’s rights would forever come last. It was simply never the right time to defend women’s rights.”

Between the lines of her book, Ebadi reveals her incredible courage, determination, modesty, and delightful sense of humor in the midst of a rather grim picture of Iran today. She never gives up hope, even though she recognizes the failure of the Iranian judicial system that lacks accountability, shows unfair preference for men, and suffers from “rampant impunity, disregard for fundamental constitutional rights, manipulation of the law to promote a political agenda, systematic use of torture, and above all, abuse of judicial powers to repress peaceful expressions of dissent and criticism.” Ebadi is chronicler, a...
troubadour who sings to women and the world about critical current events that are bound to become legends. She writes articles in magazines and books that become best sellers to let women in Iran know that their legal system discriminates against them and that women have an “inferior status in the [Iranian] penal code.” For example, in a vivid and gripping style she writes that there is a “section of the [penal] code devoted to blood money, diyeh, [which] holds that if a man suffers an injury that damages his testicles, he is entitled to compensation equal to a woman’s life.” In questioning the significance of the language of these provisions, Ebadi asks “Is this really how the Islamic Republic regards its women?” This language in the penal code is a sign of discrimination against women and the cultural devaluing of women in Iran.

Ebadi does recognize that the Islamic State has educated women from the provinces for the first time, but this right to education has resulted in major tension within families. Legal rights cannot be implemented effectively if the culture of society has not yet caught up with the intent of the legislation. Ebadi recounts a story in which an Iranian father refused to send his daughter to school, even though men and women were segregated at the universities, because he felt the need to defend her virtue and, thereby, his own honor. This hypothetical is represented most vividly in the movie Two Women where one father yanks his brilliant daughter out of the university simply because he learns she is being stalked by a man on a bicycle.

Even though there have been more women in universities in Iran than men, laws affecting women are discriminatory and inadequate. Marriage laws in Iran allow the man to remain a “person” while the woman becomes “chattel.” The man has a right to divorce the woman at whim, take custody of the children (even if the father abuses the child), and acquire three wives who live together with the first wife. Ebadi recognizes that one of the most serious problems in Iran is the inadequacy of the laws themselves and the failure to enforce protective women’s rights laws.

343. See Ebadi, supra note 24, at 117.
344. Id.
345. Id.
346. Id.
347. See id. at 106–07.
348. See id. at 107.
349. Id. at 53.
350. Id. at 123.
351. Id. at 53.
352. See id. at 111 (“I had to choose cases, I realized, that illustrated the tragic repercussions of the theocracy’s legal discrimination against women. I could recite a litany of objectionable laws—a woman’s life is worth half as much as a man’s, child custody after infancy goes automatically to the father . . . To attract people’s attention, to solicit their
1. The Power of Interpretation Ebadi’s hope for the future of Iran lies in the power of interpretation. She recognizes the need to adopt a more dynamic interpretation of the Koran in order to protect and provide equal rights for women. She believes “a basic right for women could be guaranteed within an Islamic framework of governance, provided those in government were inclined to interpret the faith in the spirit of equality.”

Ebadi reminds us that:

In Islam, there exists a tradition of intellectual interpretation and innovation known as *ijtihad*, practiced by jurists and clerics over the centuries to debate the meaning of Koranic teachings as well as their application to modern ideas and situations. Sunni Islam effectively closed the door to *ijtihad* several centuries back, but in Shia Islam, the process and spirit of *ijtihad* thrive. *Ijtihad* is central to Islamic law, because [Shari’a] is more a set of principles than a codified set of rules.

*Ijtihad* “imposes flexibility on Islamic law and creates an exciting space for adapting Islamic values and traditions to [women's] lives in the modern world.” But *ijtihad* can be burdensome because it lets clerics and jurists debate and interpret the Koranic teachings for an endless period of time. “An interpretation of Islam” must be “in harmony with equality and democracy.”

2. The Power of Words Shirin Ebadi believes in the power of the written word and its ability to free women from tyranny in Iran.

The written word is the most powerful tool we have to protect ourselves, both from the tyrants of the day and from our own traditions. Whether it is the storyteller of the legend Scheherazade, staving off beheading by spinning a thousand and one tales, feminist poets of the last century who challenged the culture’s perception of women through verse, or lawyers like me, who defend the powerless in courts, Iranian women have for centuries relied on words to transform reality.

3. Americans Must Keep Out of Iran and Its Fight for Women’s Human Rights Ebadi firmly believes that change for Iranian women is possible, but it must come peacefully from within the system with no help from foreign sympathies and convince them that these laws were not simply unfair but actively pathological, I had to tell stories.”

353. Id. at 190–91.
354. Id. at 191.
355. Id.
356. Id.
357. Id. at 209.
358. Id. at 204.
countries. There are signs of a feminist movement now in Iran, whereas during the 1990s women were “not yet organized” in a feminist movement, although they were working to change women’s rights in the Islamist State of Iran. The conditions for women in Iran are deplorable. Many women commit suicide, or become suicide bombers, preferring to die as martyrs rather than live lives of contradiction and paradox in a community that does not treat them fairly or equally. “The suicide rate among women rose after the Islamic Revolution, commonly taking the form of self-immolation. This tragic exhibitionism . . . is women’s way of forcing their community to confront the cruelty of their oppression.” Today Iran has the third highest rate of self-immolation after India. Suicide and self-immolations are signs of women’s oppression. Protest and revolt are met with harsh responses. Any attempt to protest by the great number of unhappy young people in Iran or by the highly educated women in universities is crushed with typical brutality, especially if America supports the protest. “Public American support for any pro-democracy phenomenon in Iran, whether from an individual or a trend or a demonstration, always provoked the Islamic system’s ire and generally resulted in an even harsher crackdown.”

Ebadi abhors Iran’s “patriarchy” and speaks out vocally against the oppression of the conservative rulers who have stripped women of their basic human rights and their political and social freedom. She clearly advocates sovereignty for Iran and a “hands off foreign policy” for America vis-à-vis Iran. She admits her anger at the United States and its CIA for assisting in the removal of Mossadegh, whom she greatly admired. In her moving speech at the Kroc Peace and Justice

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359. Ziba Mir-Hosseini, *Muslim Women’s Quest for Equality: Between Islamic Law and Feminism*, 32 Critical Inquiry 629, 645 (2006) (describing Mir-Hosseini’s views shared by many feminists that the United States should not involve itself in Iran’s internal problems, “especially in the context of the neo-imperialist war on terror, which many Muslims perceive to be directed against them once again. Such a perception—whether justified or not—not only puts them on the defensive and makes them more likely to cling to religious tradition; it also erodes the credibility and moral high ground of secular and Western discourses.”).


361. Id. at 109.

362. These statistics were reported on the radio station KPBR, a San Diego public radio, at 7:00 a.m. Pacific Time on January 10, 2007.


364. Id.


366. See id. at 5 (“It was a profoundly humiliating moment for Iranians, who watched the United States intervene in their politics as if their country were some annexed backwater, its leader to be installed or deposed at the whim of an American president and his CIA advisors.”).
Center in San Diego on September 7, 2006, she implored the United States to keep out of Iran. “We will not allow Iran to turn into another Iraq,” she said.367

4. Iran’s Esthetic of Death Ebadi describes her modest beginnings in a Tehran family that had no power to put her in high places.368 She had to build her own career by herself, using her own determination, intelligence and hard work.369 She believed in the ideals of the 1979 Revolution and was as disillusioned as Nafisi with the direction that Iran has since taken under the hard-line clerics and their strict interpretation of the Koran.370 After the Revolution and during the Iran–Iraqi War, Ebadi spoke of the number of “secret show trials” and public executions,371 arrests, and tortures in prison.372 Ebadi and women in general felt betrayed by Khomeini but also by the West because of its support for Saddam and Iraq.373 But she concedes that “[i]f we admitted to ourselves that the revolution had been betrayed, we would surely lose the war.”374 Iran’s Revolution and the Iran–Iraq War produced a frightening “cult of martyrdom . . . that glorified human sacrifice in the name of Islam.”375 The “engorged enthusiasm for martyrdom and the aesthetic of death”376 that Ebadi and all the women around her observed in Iran did not feel alien or excessive to them because “everything—public space, rituals, résumés, newspapers, television—became dominated by death, mourning and grief.”377

5. Patriarchy in Iran and Male-Child Preference Women’s role in Iranian society is conditioned by a widespread cultural preference for male children. This preference is one of the main causes of the establishment and continuation of a troublesome patriarchy in Iran as well as the persistence of women’s low self-esteem and their social and economic dependence on males for survival. Ebadi understands that in Iran, male children are preferred, even though in her own family she was lucky enough to be treated as equal to her brother.378

367. Id. at 39.
368. See id. at 14.
369. See id.
370. See id.
371. EBADI, supra note 24, at 59.
372. Id. at 69.
373. Id. at 61 (“Freshly wounded by a violent revolution, we put aside our grievances and betrayal. Those images marching across the television every night inflamed our nationalism. My heart cracked for our young men, setting out for Saddam’s killing fields with their shoddy weapons, no match for a dictator armed with the latest from the West’s arms boutiques.”).
374. Id. at 60.
375. Id. at 61.
376. Id. at 62.
377. Id.
378. Id. at 11. See Chapter 9 and the cultural preference for male children in China that has resulted in an increase in trafficking of women and a serious decrease in the number of women in China due to female infanticide among other causes.
In most Iranian households, male children enjoyed an exalted status, spoiled and cosseted by a coterie of aunt and female relatives. They often felt themselves the center of the family’s orbit . . . As children grew older, the boys’ privileges—from running about the neighborhood to consorting with a range of friends—expanded, while the girls’ contracted, to ensure that they remain *najeeb*, honorable and well-bred. In Iranian culture, it was considered natural for fathers to love their sons more; the sons are the repository for the family’s future ambitions; affection for a son was an investment.\(^{379}\)

Ebadi admits that her own upbringing spared her “from the low self-esteem and learned dependence that [she] observed in women reared in more traditional homes.”\(^{380}\)

Ebadi’s book breathes life into the cult of death that permeates the Iranian society today, and she brings a message of hope for women in her belief in the power of words and the liberating effects of interpretation and the message of semiotics.

**C. Ziba Mir-Hosseini’s Documentary Film, *Divorce Iranian Style*\(^{381}\)**

Women in Iran today revolt against oppression through the medium of art. Despite Iran’s policy of censorship, filmmakers, journalists, and writers abound in Iran. Artists attempt to reveal the injustices imposed upon women in Iran in the name of religious tradition. For instance, Ziba Mir-Hosseini’s extraordinary film addresses the inadequacy of the Iranian legal system, especially its family court and divorce laws. Mir-Hosseini is an Iranian woman, an independent consultant, and a researcher and writer on Middle Eastern issues, specializing in gender, family relations, Islamic law, and development. She is a social anthropologist who earned her PhD in social anthropology from the University of Cambridge. She lives in Britain and has held numerous prestigious research and visiting fellowships and professorships in the United States. She was herself twice divorced and understands profoundly divorce proceedings in Iran. She also codirected an important documentary film that illuminates the vagaries of the Iranian system of divorce, the Iranian family court, and the way the legal system and culture in Iran affect women’s rights.

*Divorce Iranian Style* was produced with the cooperation of the Ministries of Justice and of Islamic Guidance in Iran. It provides a clear picture of the bureaucracy of the legal system, the litany of allegedly “lost files” in the court, the mean-spirited nature of the male judges and the female clerks of the court, and the male-driven nature of the judicial system where judges are predisposed not to

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379. *Id.*

380. *Id.* at 12.

381. See DIVORCE IRANIAN STYLE, supra note 111. The statement in this section, which refers to the movie, is supported by the author’s review of the movie.
grant a divorce to the woman. The few female clerks in the courts are deeply indoctrinated in the patriarchal system that openly favors men. The whole judicial system in Iran is highly politicized, and there is no guarantee of due process or judicial independence.

Mir-Hosseini’s film takes place in a tiny, overcrowded and messy Tehran courtroom presided over by a judge wearing a white turban. The goal of the judge is to persuade couples in dispute to save the marriage because in the eyes of God, divorce is shameful and abominable. Women come into this court to plead for a divorce using every form of persuasion available from yelling, screaming, threatening, and deceiving to smiling, flirting, and being charming or applying logic, reason, and legal argument, but all to no avail. One woman tries to convince the prejudiced judge that her husband is mad and abusive: “This man has made my life hell,” and she claims he refuses to let her answer the phone even if it rings a hundred times. The judge’s response to this testimony is to tell the woman to go back home and make herself more beautiful for her husband so she can get from him what she wants and needs.

Another woman who at age fourteen was forced by her family to marry a man she did not love, seeks a divorce and her $10,000 mehriyeh (a kind of dowry or marriage gift given by the husband to the wife and pledged at the time of marriage in case of divorce) on the theory that her virginity was taken from her and that she has the legal right to the marriage gift. After she goes to court, she also argues her case before a group of family members in a kind of arbitration setting in the living room of a relative, surrounded by her uncles who serve as mediators. Even though she was attempting to claim her legal right to the mehriyeh, the husband and his family object to the materialistic way the woman and her family perceive of the marriage. “Her family is treating it like a business deal.” In Iran, the marriage gift rarely is given to the woman by the man in a divorce, even though women have a legal right to the marriage gift. Instead it is used as a bargaining chip to get a divorce.

Another woman, who courageously initiated a divorce and married another man whom she loved, is ordered by the court to give custody of her beloved four-year-old daughter to her first husband, who already had custody of their eleven-year-old daughter. Apparently, the father does not care at all about providing an education for his daughters. But in Iran, when a woman wants to divorce her husband, custody for the children automatically reverts to the father. This is a harsh impediment to divorce.382 This woman sobs and pleads for the mercy of the court, but the unsympathetic female clerk of the court whispers, “She’s ruined her children’s lives just for lust . . . lust, lust, lust.” The judge is equally

382. See Mahmoody & Hoffer, supra note 12 (describing how Betty Mahomoody refused to get a divorce in Iran from an abusive husband because she knew it would mean having to give up her daughter, whom the father was indoctrinating with force into the Muslim religion).
unsympathetic with the despondent woman’s pleas: “You remarried, and when you remarry you lose the child.”

1. Reactions to the Film as a Sign of the State of Women’s Rights in Iran

Iranians abroad (primarily educated and sophisticated diaspora Iranians) objected to the film, claiming it did not represent the reality of women’s lives in Iran. They argued the film gave foreigners a “distorted and wrong image of Iranian culture and society.” These Iranians abroad as well as officials in Iran were shocked to see illiterate and uneducated women portrayed on screen because this “shattered the picture of Iranian culture that they were trying to build in their host communities.” In other words, the film went against the party line. Islamic officials claimed the film undermined the image of the strong Iranian family (which is the basis of the Islamic system) by showing women trying to get out of bad marriages. Both these criticisms, one sociological and the other political, are characteristic of the sensitivities of Iranian society today. Iranian critics of the film believe the film judges them too harshly. Hosseini’s film, *Divorce Iranian Style*, illustrates the difficult relationship that exists between Islam, gender, and democracy—a subject about which Mir-Hosseini has written several very important articles and books. Mir-Hosseini is one of the most reliable sources for providing consistently in-depth analyses of this highly complex issue. She is no longer living in Iran.

D. The Cinematographic Representation of the Modern Iranian Woman in a Traditional Society: *Two Women*

The feminist film *Two Women* tells the story of two very different types of women, Fereshteh and Roya, who represent tradition and modernity in Iran today. At the outset, the two had much in common: as friends in college in Tehran, both were

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384. *Id.*
385. *Id.*
386. *See id.*
387. *See id.*
very happy, bright, intellectually engaged women who believed in their own futures. Fereshteh was an exceptionally brilliant math student who loved college until one day she started to be stalked by a man on a motorcycle who refused to give up. He followed her for many days, and Fereshteh was very frightened. This incident caused her father to send her back home to Isfahan. Her father then forced Fereshteh to marry a man she did not love. Her husband soon transforms himself from a kind, caring person into a cruel, controlling tyrant, not unlike the husband in Not Without My Daughter, who also changed from a kind, loving Iranian husband and father (when they were living in the United States) into a wife beater in Iran. Fereshteh’s husband reneges on his promise to allow her to finish her education. Instead he forbids her from reading books, denies her the right to use the telephone by locking it, and becomes paranoid, accusing her of having a lover. This loveless marriage and sequestration transform the once beautiful and vibrant Fereshteh into a pale, lifeless being whose appearance scares even her best friend, Roya, who luckily married an emancipated husband.

Roya’s husband allows her to work in a high-level management position. She drives a car, wears Western garb with a headscarf only, and juggles many roles like most Western women do in society. She is a happy woman who represents if not the modern Iranian woman living in Iran today, then perhaps the image of what modern women in Iran could be like.

When the enslaved Fereshteh tries to get a divorce on the grounds that her husband “humiliates” her, the judge declares her grounds insufficient. Despondent and hopeless, she retires to her prison-like life in the home with no connections to the outside world. But she is amazingly liberated by the very same stalker who threatened her in college and caused her downfall. The stalker kills her terrible husband, leaving Fereshteh “like a free bird” without “wings to fly.” Now newly emancipated, she contemplates going back to school and work, but she is overwhelmed by her liberation.

“[W]omen in the audience cheered and clapped[, and] Two Women became the biggest box office hit in Iranian history.” This reaction is a clear sign of women’s hope for equality in the future.

What went wrong for all these women represented in these four literary and cinematographic works? The answer can be found by looking closely at the inadequacy of Iranian domestic laws and the lack of enforcement of women’s human rights despite those rights being protected by international laws and treaties to which Iran is either a signatory or subject to their provisions by customary international law. I shall now examine the history and development of Iranian family laws and later the international instruments that should theoretically protect women’s rights in Iran if the political will to enforce them is developed.

390. Sciolino, supra note 6, at 265.
V. IRANIAN FAMILY LAWS: THEN AND NOW

Iranian family law in postrevolutionary Iran is based on Shari’a law, as interpreted according to the Ja’fari school of Shi’a law. Shari’a law is not very favorable to women. The implementation of Shari’a law is arguably one of the causes for the establishment of gender inequality leading to a “gender apartheid” in Iran. Family law in Iran has changed several times, once under the Pahlavi monarchy in 1925 and again in 1979 under the Islamic Republic. According to Donna Hughes, “[n]ew laws strengthening gender apartheid and repression of women are not a thing of the past.” Even under Khatami’s reformist regime in 1997, new restrictive laws and policies were enacted in order to segregate women and men in the fields of medicine and healthcare. Until the 1930s, the Shi’a clergy performed marriages and divorces in Shari’a courts that had jurisdiction in all family matters. Under Reza Shah’s reign there was a move to create a more centralized judicial system based on a Western model, establishing new courts and laws reminiscent of European legal concepts and codes. A Civil Code was enacted between 1927 and 1935. However, Iranian Civil Code (ICC) Articles 1034–1206 on marriage, divorce, family affairs, and children “retain the patriarchal bias of the Shari’a.” In ICC Article 1129, an attempt was made to extend the grounds upon which a woman could obtain a judicial divorce to include the husband’s refusal or his inability to provide for her, his refusal to perform his sexual duties, his mistreatment of her, and his affliction with a disease that could harm her life (Article 1130). The Civil Code departed from Shari’a law by prohibiting the marriage of girls under thirteen in Article 1041.

The 1931 Marriage Law consisting of twenty articles and two notes reduced the administrative and judicial functions of the clergy. The Iranian Marriage Law also established financial penalties and a prison term for anyone involved in the marriage of girls under thirteen (Article 3). ICC Articles 4 and 8–17 provide

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393. Id.
394. See id.
395. Id. See supra note 391, at 192.
397. Id.
398. Id.
399. Id.
the wife with a right to maintenance and the right to initiate divorce proceedings in a civil court.\textsuperscript{400}  

In 1967, a big change in family law occurred when the Iranian Family Protection Law was enacted.\textsuperscript{401} This law, which prohibited men from having a right to an automatic divorce and prohibited polygamy, was written into the Civil Code as well.\textsuperscript{402} The Family Protection Law set up new court procedures for family disputes.\textsuperscript{403} Divorcing couples were required to appear in courts presided over by civil judges, some of whom were women.\textsuperscript{404} If both parties did not agree to a divorce, the court could issue a certificate evidencing “Impossibility of Reconciliation.”\textsuperscript{405} Men and women could appoint arbitrators to try to bring about reconciliation, but the final decision rested with the court (Articles 6–13).\textsuperscript{406} The Family Protection Law included many other provisions favorable to women’s rights to a divorce in Iran.\textsuperscript{407}  

In 1975, the Family Protection Law was amended, and the minimum age for marriage was increased from fifteen to eighteen for females and from eighteen to twenty for males.\textsuperscript{408} The new law also provided more rights to women seeking a divorce and child custody.\textsuperscript{409} However, many clergy opposed this law, viewing it as the destruction of Muslim values and the dissolution of the entire Iranian family structure.\textsuperscript{410} “Ayatollah Khomeini denounced it [the Family Protection Law (FPL)] as contrary to Islam, declaring divorces issued under the FPL to be void”\textsuperscript{411} retroactively.  

Khomeini and the Islamic Republic reinstated strict Shari‘a law and special civil courts presided over by religious judges who were “free” from the Civil Procedure Code.\textsuperscript{412} During this period, Khomeini instituted certain contradictory policies resulting in the reduction in restrictions imposed on men’s rights to divorce and polygamy and the increase in compensation to women who are harmed by divorce and polygamy.\textsuperscript{413} The Council of Guardians was now required to revise any laws found to be in contradiction with Shari‘a law.\textsuperscript{414} Thus, for

\textsuperscript{400} Id.  
\textsuperscript{401} Id.  
\textsuperscript{402} Id.  
\textsuperscript{403} Id.  
\textsuperscript{404} Id.  
\textsuperscript{405} Id.  
\textsuperscript{406} Id.  
\textsuperscript{407} See id. (providing an in-depth analysis of Iranian Family Law).  
\textsuperscript{408} Id.  
\textsuperscript{409} Id.  
\textsuperscript{410} Id.  
\textsuperscript{411} Id. at 194.  
\textsuperscript{412} Id.  
\textsuperscript{413} Id.  
\textsuperscript{414} Id.
example, Article 1041, which formerly set a minimum age for marriage at thirteen for females and fifteen for males, was amended in 1982 to prohibit marriage prior to the age of nine for girls and fifteen for boys.\textsuperscript{415} Legalizing marriage for nine-year-old girls is a serious step backwards for women’s human rights because these young girls are generally forced into marriage by their parents.\textsuperscript{416} Incidentally, Article 3 of the 1931 Marriage Law makes it illegal and punishable by six months to two years imprisonment to marry a girl under thirteen.\textsuperscript{417} Similarly contradictory rules exist in Iran for polygamy.

Temporary marriage (\textit{sigheh}, a custom that allows a married man to have sex with another woman by temporarily “marrying” her and unmarrying her after the sex is completed) is recognized as a valid marriage under the Iranian Civil Code, but the 1931 Marriage Laws are silent as to the legality of this temporary marriage.\textsuperscript{418} After 1979, special civil courts heard disputes involving temporary marriages and even authorized their registration, thus giving legal status to the temporary marriage and the legitimization of extramarital sex.\textsuperscript{419}

Women’s custody rights were also curtailed in 1979. The Iranian Civil Code gives a mother the right to the custody of her daughter only until the age of seven and to the custody of her son only until the age of two (Article 1169).\textsuperscript{420} In the case of the husband’s death, a woman naturally acquires custody of her children (Article 1170), but loses custody if she remarries (Article 1171), in which case the child is then raised by the child’s paternal grandfather (Article 1180).\textsuperscript{421} Mothers of martyrs have the right to receive their deceased husband’s salary and to keep custody of their children under a new legislation that was passed on 6 Mordad 1365 (Islamic year).\textsuperscript{422}

In 1982, new stipulations were added to the marriage contract entitling a woman to claim half the wealth acquired by her husband during the marriage (provided she does not initiate the divorce) and enabling women to seek a judicial divorce without the signature of their husband.\textsuperscript{423} Article 1130 of the Civil Code was amended in 1982 to give judges the power to grant or withhold a divorce requested by a woman.\textsuperscript{424} Article 1130 was again amended in 2002 to empower a judge to issue a divorce when a woman establishes that the continuation

\textsuperscript{415} Id.
\textsuperscript{416} Id.
\textsuperscript{417} Id.
\textsuperscript{418} Id.
\textsuperscript{419} Id.
\textsuperscript{420} Id.
\textsuperscript{421} Id.
\textsuperscript{422} Id.
\textsuperscript{423} Id.
\textsuperscript{424} Id.
of the marriage would entail intolerable suffering or hardship.\textsuperscript{425} The enforcement of Islamic jurisprudence rules (\textit{fiqh}) in Iran since the 1979 Revolution resulted in these two favorable amendments to Article 1130 of the Civil Code; however, there are serious gaps between legal theory and social practice in Islamic law as enforced in Iran.\textsuperscript{426} These gaps have “made the unequal construction of gender relations a site of contestation.”\textsuperscript{427}

In 1992, Amendments to Divorce Regulation (ADR) were passed to reinstate some of the elements of the Family Protection Law’s divorce provisions that were rejected earlier.\textsuperscript{428} ADR “requires all divorcing couples . . . to go through a process of arbitration,” and if the arbiters fail to reconcile the couple, then “the court allows the man to effect and register a divorce . . . after he has paid his wife” what she has a legal right to receive.\textsuperscript{429} ADR note 6 “enables the court to place a monetary value on women’s housework and to force the husband to pay her ‘wages in kind’ for her work done during her marriage” (provided that the wife does not initiate the divorce and provided that the divorce is not caused by any fault of hers).\textsuperscript{430} Thus, if the woman decides to divorce her husband, she loses her right to the housework wages.\textsuperscript{431} If wages for housework are not possible, the husband must provide the wife with a marriage gift, “the amount [of which is] to be decided by the court” on the basis of the husband’s financial need.\textsuperscript{432}

A new Law of Formation of General Courts, enacted in June 1994, was designed to bring about a restructuring of the courts in Iran.\textsuperscript{433} Mir Hosseini predicted that the Special Civil Courts governing family law matters would disappear.\textsuperscript{434} In the future family disputes would appear in General Courts presided over by either a mojtahed or a civil judge who has jurisdiction over all penal and family law cases.\textsuperscript{435} Currently, the political regime in power is very repressive, and women’s rights in Iranian courts have taken a turn for the worst.

\textbf{A. Concept of Marriage in Iran: The Marriage Contract}

Marriage in Iran is a contract regulated by a code of law that is deeply rooted in religious precepts and based on a “patriarchal ethos.”\textsuperscript{436} The three elements of an

\begin{itemize}
\item \textsuperscript{425} Ziba Mir-Hosseini, \textit{When a Woman’s Hurt Becomes an Injury: “Hardship” as Grounds for Divorce in Iran}, 5 HAWAA 111 (2007).
\item \textsuperscript{426} Id.
\item \textsuperscript{427} Id.
\item \textsuperscript{428} Mir-Hosseini, \textit{supra} note 391, at 196.
\item \textsuperscript{429} Id.
\item \textsuperscript{430} Id.
\item \textsuperscript{431} Id.
\item \textsuperscript{432} Id.
\item \textsuperscript{433} Id.
\item \textsuperscript{434} Id.
\item \textsuperscript{435} Id.
\item \textsuperscript{436} See Mir-Hosseini, \textit{supra} note 215, at 137–38.
\end{itemize}
Iranian marriage contract constitute (1) the offer of marriage made by the woman or her guardian, (2) the acceptance by the man, and (3) the payment of a dower (mahr) called the “marriage gift,” which is “money or any valuable [item] that the husband pays or pledges to pay the wife on consummation of the marriage.”

Polygamy is a man’s legal right to marry more than one woman. Therefore, one man can enter into more than one marriage at a time, “up to four permanent unions and as many temporary ones as he desires or can afford,” by virtue of the “temporary marriage” (mut’a).

The marriage contract sets forth certain rights and duties for the man and for the woman, such as tamkin (sexual submission, obedience) and nafaqa (maintenance). The husband has the right to demand the woman’s sexual submission because this is the wife’s duty. The husband must provide shelter, food, and clothing, and the wife has a right to this maintenance. According to the Iranian marriage contract, a wife possesses nothing more than her marriage gift and her own personal wealth. Only the husband has the unilateral right to terminate the contract, which he can do without any grounds and without the wife’s consent or even her presence. The inherently patriarchal discrimination and the lack of equality established by this contract are vividly portrayed in Divorce Iranian Style, a film that illuminates the vagaries of Iranian family law and the procedural difficulties of divorce cases initiated by women in Iran.

A large majority of divorce cases initiated by women never reach a decision [because] they are [either] abandoned after two or three hearings [or the] couple succeed[s] in reaching an out-of-court agreement or they give up [because of] the futility of their efforts. More than 70 percent of all divorces registered in any given year in Tehran are . . . by mutual consent . . . [involving] the wife waiving her claim to mahr [the marriage gift] in exchange for the husband’s consent [to divorce].

The marriage gift is, thus, a bargaining chip used by women to get the husband to consent to the divorce.

437. Id. at 137.
438. Id. (citing Shahla Haeri, Law of Desire: Temporary Marriage in Iran 50 (1989)).
439. Id.
440. Id.
441. Id.
442. Id.
443. See id.
444. See id.
445. DIVORCE IRANIAN STYLE, supra note 111; see also Sciolino, supra note 6, at 264 (“‘In our country, the problem is the law,’ Hashemi says. ‘All the judges are men, and they don't understand the problems of women.’”).
446. Mir-Hosseini, supra note 215, at 149.
VI. INTERNATIONAL HUMAN RIGHTS LAWS PROTECTING WOMEN’S RIGHTS AND THEIR REPRESENTATION IN THE HUMANITIES

“Respect for basic human rights in Iran, especially freedom of expression and opinion, deteriorated considerably in 2005.” Human Rights Watch reports routine use by the government of torture, ill treatment in detention, and prolonged solitary confinement where the judiciary commits serious human rights violations. Abuses are perpetrated by parallel institutions such as paramilitary groups, plainclothes men, and intelligence services that attack protestors. Iran has signed and is bound by certain international human rights treaties that, if enforced, would provide protection against these abuses and give women the justice and equality they deserve.

A. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 by the U.N. General Assembly; it is considered to be the international bill of rights for women. This comprehensive treaty codifies human rights as they specifically apply to women and girls. It defines discrimination against women and sets up a program for nations to eradicate discrimination domestically. As there are currently 183 State parties to the Convention, and the treaty has been in existence for more than twenty-seven years, arguably the provisions of CEDAW can be considered “customary international law” and applicable to even non-signatory States. Iran, along with the United States, has not signed CEDAW.

CEDAW provides the foundation for achieving equality for women publicly, politically, and privately. It protects equality in voting, education, health, employment, access to the legal system, nationality, and many other fundamental freedoms. Although Iran’s parliament approved CEDAW in August 2003, the

448. Id.
449. Id.
451. See Henry J. Steiner & Phillip Alston, International Human Rights in Context: Law, Politics, Morals 69, 72 (2d ed., 2000) (“Customary law refers to conduct, or the conscious abstention from certain conduct, of states that becomes in some measure a part of international legal order” (inferring that CEDAW is accepted as customary law because more than 140 states have adopted it since its inception)).
452. See CEDAW, supra note 450.
hard-line clerics in the Guardian Council ultimately refused to sign the treaty, stating that it went against Islamic law and was unconstitutional. Nevertheless, because CEDAW has risen to the level of customary international law, Iran may not take any action inconsistent with it.

Article 2 of CEDAW requires States to implement policies of equality between men and women within their national constitutions and legal systems. All forms of discrimination against women are forbidden, whether by public or private entities, and “penal provisions which constitute discrimination against women” must be repealed. Discrimination against women exists on many levels of the public and private sphere in Iran. Women are not given as many rights as men, and they are under the constant domination and control by their husbands or fathers. Women in Iran cannot travel without their husbands’ permission and must sit in the back of gender-segregated buses. A woman’s testimony in court is worth only half as much as a man’s, and judges frequently give preference to men in domestic matters even if the man has a history of domestic violence. Women are punished more severely than men in criminal matters—such as stoning women for adultery as they are buried from the neck down, while men are buried from the waist down, thus arguably giving men a greater opportunity for escape. Women are rarely given the promotions they deserve; even when they work tirelessly, and women cannot reach their full potential in a stultifying, patriarchal system that looks down on working women. For example, the Islamic Republic applies “blood money” (compensation to the victim) in criminal cases, and the family of a victim of homicide or manslaughter has the right to choose between legal punishment or

454. See Steiner & Alston, supra note 451.
455. CEDAW, supra note 450, at 16.
456. Id.
457. See Nafisi, supra note 11, at 261.
458. Id.
459. See Hughes, supra note 392; see also Brooks, supra note 144, at 106 (using the main character in that chapter as an example of the extraordinary amount of control that a man in Iran has over his wife’s life).
460. See Nafisi, supra note 11, at 286. (“Azin had applied for a visa to Canada, but even if her application was accepted, she couldn’t leave the country without her husband’s permission.”).
461. Id. at 27.
462. Id. at 261.
463. Id. at 273.
465. See Ebadi, supra note 24, at 75.
blood money. Under the Iranian Code, the worth of a woman’s life equals half of a man’s. In one case, a judge ruled that the blood money for two men was worth more than the life of the murdered nine-year-old girl, and the judge demanded that her family pay thousands of dollars to finance the execution of the male criminals, thus unjustly punishing the victim’s family.

States are obligated by Article 5 of CEDAW “to modify the social and cultural patterns of conduct of men and women” in order to eliminate the idea that women are inferior to men or that men are their superiors. In Iran, women are blamed for their beauty and sexuality and forced to bear the responsibility of a man’s lustful looks, thoughts, or behavior. To “protect” the men after the Revolution, women were forced to veil themselves, and they could not even maintain eye contact with a man. After the Revolution women could not sing publicly because a woman’s voice is considered provocative. Because “family honor rests on the virtue of women,” the shame of a woman’s rape could only be erased by execution of the perpetrator, for which the family of the woman would have to pay “blood money.”

Article 7 of CEDAW requires that women have equal access to voting rights and to run for election for public office. CEDAW also requires that women participate equally “in the formulation of public office” and “perform all public functions at all levels of government.” Although women in Iran are allowed to vote, there are severe restrictions upon women who run for public office, and only approximately 4 percent of seats in Parliament are held by women. Women in Iran who held ministerial positions at the time of the Revolution were stoned to death (e.g., the Minister of Education) or forced into exile (e.g., the Minister of Women’s Affairs). Female members of Parliament are segregated and forced to work in an empty room behind a curtain, without chairs, a table, or even office equipment to make their attempts to legislate any easier.

466. Id. at 113–14.
467. Id. at 114.
468. Id.
469. CEDAW, supra note 450, at art. 5.
470. See Nafisi, supra note 11, at 27.
471. See id. at 152.
472. See id. at 183.
473. Nafisi, supra note 11, at 108; Ebadi, supra note 24, at 181.
474. Ebadi, supra note 24, at 114.
475. CEDAW, supra note 450, at art. 7.
476. Id.
478. Nafisi, supra note 11, at 262.
479. Ebadi, supra note 24, at 185–86.
Female government employees are regarded as a “nuisance,” especially those who are vocal about their oppression.\textsuperscript{480} In Article 9 of CEDAW, women are assured their right “to acquire, change or retain their nationality.”\textsuperscript{481} A woman’s nationality is protected because marriage does not “change the nationality of the wife, render her stateless or force upon her the nationality of the husband,” and women shall be granted “equal rights with men with respect to the nationality of their children.”\textsuperscript{482} In Iran, women must convert to Islam in order to marry an Iranian.\textsuperscript{483} Any children born to a non-Iranian mother and an Iranian father are considered Iranian, and the father has complete control over his wife and children.\textsuperscript{484} Fathers and husbands even have the ability to notify the government and forbid their wives from leaving the country.\textsuperscript{485}

Article 10 of CEDAW requires States to “take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education. . . .”\textsuperscript{486} Education of women is one of the areas that has been gradually improving in Iran.\textsuperscript{487} Immediately after the Revolution, some women were refused tenure,\textsuperscript{488} forced out of universities, and fired from teaching positions because of their refusal to wear the veil and conform to Khomeini’s “ideal of . . . a Muslim woman teacher.”\textsuperscript{489} University faculty and students were expelled, jailed, and purged for a variety of offenses, from being “too Western in . . . attitude”\textsuperscript{490} to being “an enemy of God”\textsuperscript{491} and for “using obscene language in class.”\textsuperscript{492} Nafisi’s university did not allow women to enter through the main university entrance, so they had to use a separate door to the side.\textsuperscript{493} It “segregate[d] men and women in classes”\textsuperscript{494} and even segregated them in the cafeteria.\textsuperscript{495} Professors extolled the differences between virtuous Muslim girls and promiscuous Christian girls,\textsuperscript{496} and the faculty were summoned to

\begin{footnotesize}
\textsuperscript{480} Id. at 73.
\textsuperscript{481} CEDAW, supra note 450, at art. 9.
\textsuperscript{482} Id.
\textsuperscript{483} Brooks, supra note 144, at 92.
\textsuperscript{484} See id. at 106; see Nafisi, supra note 11, at 286.
\textsuperscript{485} See Nafisi, supra note 11, at 286.
\textsuperscript{486} CEDAW, supra note 450, at art. 10.
\textsuperscript{487} Halper, supra note 17, at 90.
\textsuperscript{488} See Nafisi, supra note 11, at 10.
\textsuperscript{489} Id. at 165.
\textsuperscript{490} Id. at 118.
\textsuperscript{491} Id. at 119.
\textsuperscript{492} Id. at 117.
\textsuperscript{493} See id. at 29.
\textsuperscript{494} Id. at 9.
\textsuperscript{495} Ebadi, supra note 24, at 106.
\textsuperscript{496} See Nafisi, supra note 11, at 30.
\end{footnotesize}
endless meetings and debates over “women’s rights” and the government’s “war against women.”

Women were also forbidden to have certain careers or study in certain technical and experimental fields. Other fields were restricted for women because of quotas ranging from 20–50 percent. Women were not allowed to receive scholarships for study-abroad programs without the permission of their husbands or fathers. Schools below the university level were segregated by gender.

However, in the years following the Revolution, many changes occurred in the area of education for women. Religious women were able to attend universities once they became “protected” by the veil. Because of increased gender segregation in Iran, more female teachers, doctors, and social workers were needed. As the restrictions on women’s study of science and technical subjects were lifted, the percentage of female university students also dramatically increased. There was also a drive to improve the literacy rates of women in rural areas, which cut the illiteracy rate of women from 60 percent in 1980 to 30 percent in 2005. Although these numbers are far from perfect, they do show an improving trend in the government’s commitment to the education of women in Iran after the Revolution.

The right to equal employment rights guaranteed in Article 11 of CEDAW is another area of fluctuation within the political tide of Iran’s government. After the Revolution, the government initially encouraged women to stay inside the home and refrain from working. However, during the Iran–Iraq War, working conditions for mothers improved significantly, such as the addition of daycares to workplaces and the availability of better benefits for women. Once the war ended and the government began to rebuild its economy with greater global involvement, the need for women in the workplace continued.
In Iran today, improvements in the area of women’s salary need to be made as half of the women in Iran contribute to the family income; yet a woman typically earns less than a third of a man’s salary. With the increase in educational opportunities for women, many more have earned university and graduate degrees, but the professional market has been unable to keep up. The few jobs available usually go to men, and “[t]hough educated women outnumber educated men, the rate of women’s unemployment is three times higher.”

Article 13(c) of CEDAW requires that women have the “the right to participate in recreational activities, sports and all aspects of cultural life.” But after the Revolution, sports became segregated by gender, and women’s teams received far less funding, training, or quality coaching. Attendance at women’s games or sporting events is limited to women only, so that they may participate without wearing the hejab. Recently, President Ahmadinejad made a surprising move towards allowing women to attend soccer games with men, but he was overruled by the Supreme Leader Ayatollah Khomeini. Women’s participation in the arts was also severely curtailed after the Revolution. Ballet and dancing were forbidden, and eventually, women singers were banned “because a woman’s voice, like her hair, was sexually provocative and should be kept hidden.”

Equality with men before the law is guaranteed to women in Article 15 of CEDAW. One of the first decisions of the new Islamic Republic, before even establishing a constitution or electing a parliament, was to abolish the Family Protection Law that guaranteed women equal rights in marriage, divorce, and child custody issues. By abolishing this law, the drafters of the postrevolutionary penal code “turned the clock back fourteen hundred years” and imposed laws highly discriminatory towards women. For example, a woman may not travel

513. UNDP, supra note 477, at 312.
514. EBADI, supra note 24, at 108.
515. Id.
516. See Brooks, supra note 144, at 201–13 (discussing Iranian women in sports in pre- and postrevolutionary Iran).
517. CEDAW, supra note 450, at art. 13(c). See also Brooks, supra note 144, at 201–13 (discussing Iranian women in sports in pre- and postrevolutionary Iran).
518. Halper, supra note 17, at 106.
520. See id.
522. NAFIGI, supra note 11, at 108.
523. Id.; EBADI, supra note 24, at 181.
524. CEDAW, supra note 450, at art. 15.
525. NAFIGI, supra note 11, at 261.
526. EBADI, supra note 24, at 51.
outside the country without the permission of her husband, and the husband may notify the government not to allow his wife to leave. 527 A “woman [must] ask her husband’s permission for divorce.” 528 In some cases, physical and mental abuse of women is not considered sufficient grounds for a divorce, and the judge might even blame the woman for her husband’s beatings. 529 In Iran, alimony is not given to women, and child custody is usually awarded to the father, 530 even if the father is “guilty of horrific abuse” of the child. 531 Women are given harsher sentences in criminal matters 532 and their testimony is worth only half that of a man’s. 533

Finally, Article 16(f) of CEDAW gives women “[t]he same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children.” 534 However, when Khomeini declared that the Family Protection Law was un-Islamic, this decision quickly set a patriarchal precedent affirming that men and paternal family members would be given preference in child custody matters. 535 If divorced, women are allowed to retain guardianship of male children but only until the male child reaches the age of two and until the female child reaches the age of seven. 536 Although the proactive demands of women during the Iran–Iraq War gave widows more physical custody over their children, guardianship is still technically held by paternal family members. 537 Women need the permission of their husbands to travel even just overnight with their children, 538 and parenting duties are heavily unequal, with the mother shouldering most of the responsibility. 539

B. International Covenant on Civil and Political Rights (ICCPR)
The International Covenant on Civil and Political Rights (ICCPR) 540 is one of two major international human rights treaties that guarantee the rights of every individual to civil and political freedoms. The ICCPR codifies the first-generation

527. Nafisi, supra note 11, at 286.  
528. Ebadi, supra note 24, at 51.  
530. Id. at 286; Ebadi, supra note 24, at 111.  
531. Ebadi, supra note 24, at 123.  
533. Id.; Ebadi, supra note 24, at 51.  
534. CEDAW, supra note 450, at art. 16(f).  
535. Nafisi, supra note 11, at 286; Ebadi, supra note 24, at 53.  
536. Halper, supra note 17, at 95.  
537. Id. at 115.  
538. Ebadi, supra note 24, at 100.  
539. Id. at 153.  
civil and political rights delineated in the Universal Declaration of Human Rights (UDHR), such as freedom of speech, the right to due process and a fair trial, and freedom of religion. Iran signed the ICCPR in 1968 and ratified it without reservations in 1975. Although there was a regime change in Iran in 1979, State parties are still obligated to respect their international treaty obligations.

Ayatollah Khomeini faced criticism from many international human rights groups because of the large number of summary executions that followed the Revolution. Khomeini’s response was heartless and indicates a flagrant disrespect of traditional notions of human rights:

Criminals should not be tried. The trial of a criminal is against human rights. Human rights demand that we should have killed them in the first place when it became known that they were criminals. . . . They criticize us because we are executing the brutes.

In direct violation of the right to life guaranteed by Article 6 of the ICCPR, executions became the rule rather than the exception in postrevolutionary Iran.

Dynamic interpretation of the Koran is the key to providing women with civil and political rights as well as human rights under Islam. Although these and other human rights of all persons men and women alike are often violated under a totalitarian regime such as the Islamic Republic of Iran, women’s basic civil and political rights are particularly implicated in Iran because of the strict Islamist regulations set by the clerics. They interpret the Koran more narrowly than the feminists such as Shirin Ebadi would like. For Ebadi, Islam and women’s rights are compatible as long as the Koran is interpreted in a manner to favor women.

Fundamentalists apply a literal interpretation of the Koran, resulting in harsh sentences such as stoning being the punishment for adultery and prostitution. Unfair show trials for suspected criminals are quite common. For example, one woman was charged with “corruption on earth,” “sexual offenses,” and “violation of decency and morality,” but her only real “crime” was her position under the Shah as the former Minister of Education. She was placed in a sack and

542. NAFISI, supra note 11, at 96.
543. Id.
544. EBADI, supra note 24, at 140–41.
545. NAFISI, supra note 11, at 108.
546. EBADI, supra note 24, at 122.
547. Id. at 187–88; see also Abdullah Ahmed An-Na’im, Human Rights in the Muslim World, in International Human Rights in Context 396 (Henry J. Steiner & Philip Alston eds., 2000).
548. NAFISI, supra note 11, at 261.
549. Id. at 101; EBADI, supra note 24, at 59.
either stoned or shot to death.\textsuperscript{550} One official, whose only crime was to name his
dogs after two clerics as an insult to them, was ordered to die.\textsuperscript{551} So-called
“enem[ies] of God” were murdered daily, whether former ministers and educa-
tors, prostitutes, leftist revolutionaries,\textsuperscript{552} or women of amazing beauty.\textsuperscript{553}

In Iran, several sources report that Iranian girls believed to be virgins and
convicted of a crime were often “married” off to prison guards who would rape
them before executing them to deprive the girls of eternal bliss in heaven, confi-
dent that if the girls died as virgins they would go to heaven.\textsuperscript{554} Khomeini issued
a \textit{fatwa} sanctioning the rape of girls before their execution and another \textit{fatwa}
permitting the execution of pregnant women.\textsuperscript{555} Minors were not exempt from
this series of murders, and many teenagers and young children were killed with-
out mercy or even a trial.\textsuperscript{556} During the Iran–Iraq War, boys under the age of
thirteen were abducted off the streets and sent off to war to die in the minefields
(although these boys died as martyrs, and their families boasted of their martyr-
dom with pride in a prevailing new cult of death). Iran became bloodthirsty,
publishing the names, pictures, and crimes of those executed in the paper on a
daily basis.\textsuperscript{557} Rather than protests calling for an end to the killings, there were
increasing demands and slogans calling “for more blood.”\textsuperscript{558} A female photo-
journalist, Zahra Kazemi, was imprisoned and tortured for taking pictures and
defying a prison guard.\textsuperscript{559} Her injuries from the torture and the beatings were so
severe that she died only a few weeks after her imprisonment.\textsuperscript{560}

Article 7 of the ICCPR forbids degrading treatment or punishment.\textsuperscript{561} Like
the villainous Humbert in Nabokov’s \textit{Lolita}, who regulated every step of Lolita’s
young life,\textsuperscript{562} Ayatollah Khomeini forced women with threats of punishment and
humiliation to live as he envisioned them: as ideal Muslim women.\textsuperscript{563} Failure to
adhere to this vision with improper dress length, scarf thickness, wearing of nail

\textsuperscript{550} Nafisi, supra note 11, at 112–13.
\textsuperscript{551} Id. at 137.
\textsuperscript{552} Id. at 119.
\textsuperscript{553} Id. at 212.
\textsuperscript{554} Id. at 212; Ebadi, supra note 24, at 91.
\textsuperscript{555} The Nat’l Council of Resistance of Iran Foreign Affairs Comm., \textit{Islam:}
\textsuperscript{556} Nafisi, supra note 11, at 191.
\textsuperscript{557} Id. at 102.
\textsuperscript{558} Id. at 100.
\textsuperscript{559} Ebadi, supra note 24, at 196.
\textsuperscript{560} Id. at 196–97.
\textsuperscript{561} ICCPR, supra note 540, at art. 7.
\textsuperscript{562} Nafisi, supra note 11, at 49.
\textsuperscript{563} Id. at 165.
polish, makeup,\textsuperscript{564} or even pink socks\textsuperscript{565} subjected women to violent inspections, molestations,\textsuperscript{566} detention, or public lashing.\textsuperscript{567} When one girl was found in mixed company, she and the other girls were arrested for infractions on matters of morality and subjected to two brutal virginity tests, forced to sign confessions at a “trial”, and sentenced to twenty-five lashes.\textsuperscript{568}

The arbitrary nature of these arrests and the severe punishments meted out for minor infractions allegedly committed by women cannot remain unnoticed. For example, one girl traveling with her fiancé and two male companions was arbitrarily detained by the morality police, tried, and sentenced to forty lashes; however, the punishment was given instead to her fiancé (who committed no crime or infraction at all) as there was no woman present to mete out her punishment.\textsuperscript{569} Propaganda admonishing women to adhere to this vision of Khomeini’s morality adorned the streets. In this repressive climate, women were reduced to “ethereal being[s] drifting soundlessly down the street.”\textsuperscript{570}

Arbitrary arrests and detentions are prohibited by Article 9 of the ICCPR.\textsuperscript{571} However, during the days of the Revolution, many were unfairly arrested by the government simply for belonging to certain political groups,\textsuperscript{572} speaking out or writing against the government,\textsuperscript{573} or traveling with a man who was not a relative.\textsuperscript{574} People were arrested just because the Revolutionary Guards had a search warrant, and even though they found no evidence of illegal activities, they could not let the warrant “go to waste.”\textsuperscript{575} The “frightening, thuggish”\textsuperscript{576} morality police in later years roamed the city of Tehran in white jeeps, jailing any woman they found for showing hair from underneath their scarves, wearing improper robes,\textsuperscript{577} and wearing makeup or even slippers.\textsuperscript{578} A few of Nafisi’s girls were imprisoned for several years after the Revolution because of their “political

\begin{thebibliography}{99}
\bibitem{}\textit{Id.} at 29; \textit{Ebadi, supra} note 24, at 180.
\bibitem{}\textit{Nafisi, supra} note 11 at 76.
\bibitem{}\textit{Id.} at 168.
\bibitem{}\textit{Ebadi, supra} note 24, at 180.
\bibitem{}\textit{Nafisi, supra} note 11, at 73.
\bibitem{}\textit{Ebadi, supra} note 24, at 98–99.
\bibitem{}\textit{Nafisi, supra} note 11, at 168.
\bibitem{}\textit{ICCPR, supra} note 540, at art. 9.
\bibitem{}\textit{Nafisi, supra} note 11, at 31; \textit{Ebadi, supra} note 24, at 67.
\bibitem{}\textit{Nafisi, supra} note 11, at 116.
\bibitem{}\textit{Ebadi, supra} note 24, at 98.
\bibitem{}\textit{Nafisi, supra} note 11, at 72–73.
\bibitem{}\textit{Ebadi, supra} note 24, at 102.
\bibitem{}\textit{Nafisi, supra} note 11, at 275; \textit{Ebadi, supra} note 24, at 102–03.
\bibitem{}\textit{Ebadi, supra} note 24, at 102–03.
\end{thebibliography}
activities”; they reported being grateful they were the lucky ones who were not executed.\(^{579}\)

Article 12(2) of the ICCPR states that “everyone shall be free to leave any country, including his own.”\(^{580}\) Women in Iran do not have this basic human right. When one of Nafisi’s girls struggled with a bad marriage, she applied for a visa to Canada, “but even if her application was accepted, she couldn’t leave the country without her husband’s permission.”\(^{581}\) A husband could also forbid his wife from leaving the country by refusing to sign the papers that would allow her to travel.\(^{582}\) Women who were granted scholarships to study abroad were also not allowed to leave the country without being accompanied by their father or husband.\(^{583}\)

Article 18 of the ICCPR guarantees that “[e]veryone shall have the right to freedom of thought, conscience and religion.”\(^{584}\) When the Revolution ended, the Islamic forces took power and made everyone wear a religious façade, regardless of their religious beliefs.\(^{585}\) Women were forced to wear hejab, whether or not they were practicing Muslims.\(^{586}\)

[Once] the mullahs ruled the land, religion was used as an instrument of power, an ideology. It was this ideological approach to faith that differentiated those in power from millions of ordinary citizens, believers like Mahshid, Manna and Yassi, who found the Islamic Republic their worst enemy.\(^{587}\)

In addition to forced religious garb, Iranian women were also required to support the war against Iraq. Iranians were forbidden to protest the war or to show grief when loved ones were killed or a neighbor’s house was bombed.\(^{588}\) Censorship was then and is now everywhere in Iran. Nafisi reports that “certain books had been banned as morally harmful”\(^{589}\) or “politically objectionable.”\(^{590}\)

\(^{579}\) Nafisi, supra note 11, at 323 (“There, in jail, I like the rest of them thought we would be killed and that would be the end.”).

\(^{580}\) ICCPR, supra note 540, at art. 12(2).

\(^{581}\) Nafisi, supra note 11, at 286.

\(^{582}\) Id.; Brooks, supra note 144, at 106.

\(^{583}\) See Halper, supra note 17, at 88.

\(^{584}\) ICCPR, supra note 540, at art. 18(1).

\(^{585}\) Ebadi, supra note 24, at 40. See Nafisi, supra note 11, at 112 (discussing the reimposition of the veiling of women signifying the “victory of the Islamic aspect of the revolution”).

\(^{586}\) Nafisi supra note 11, at 152; see Ebadi, supra note 24, at 72.

\(^{587}\) Nafisi, supra note 11, at 273.

\(^{588}\) Id. at 211.

\(^{589}\) Id. at 108.

\(^{590}\) Ebadi, supra note 24, at 66.
“Fires were set to publishing houses and bookstores for disseminating immoral works of fiction.”

Iran's xenophobia spread from inside Iran to the rest of the world. In Iran, discriminatory treatment of religious minorities, such as Bahias and Armenians, is pervasive. Minorities face constant threats, and they can not even be buried in the same graveyard as Muslims. Anti-semitism also abounds in Iran, with the recent case of thirteen Iranian Jews accused and convicted unjustly for their alleged spying and affiliation with Israel arousing suspicion and controversy worldwide.

According to Article 19 of the ICCPR, “[e]veryone shall have the right to hold opinions without interference” and “have the right to freedom of expression . . . orally, in writing or in print, in the form of art, or through any other media of his choice.” Yet protestors during the Revolution were often beaten or arrested for passing out leaflets. Any critics of the new regime or of its laws were deemed “enemies,” “against Islam,” and “counterrevolutionar[ies]”; these victims of oppression “faced, often as not, the firing squad.” Secular women who initially refused to wear the veil were fired from their positions and then pushed out because of their ideological beliefs and expressed opinions. Today all women in Iran must wear at least the headscarf, if not the chador.

In particular, the Iranian postrevolutionary regime understood the power of the word. Those who did not support the war and wrote or even spoke about it were considered unpatriotic and faced severe consequences. As in the repressive Soviet regime, the Iranian government actually killed writers and poets such as Ahmad Mir Alai and Jahangir Tafazoli. The government made attempts to kill any intellectual who did not support the Islamic regime. On a manhunt, the Islamic Republic began searching for writers, poets, and intellectuals, sending death squads to assassinate them one by one. Some were detained, tortured, and imprisoned for several years while many others died under mysterious circumstances or were even blatantly murdered. “Reporters were

592. Id. at 230.
593. ICCPR, supra note 540, at art. 19.
595. Ebadi, supra note 24, at 52.
596. Nafisi, supra note 11, at 152–53.
597. Id.
598. Id. at 158–59.
599. Id. at 310.
600. Id., at 308; Ebadi, supra note 24, at 128–29.
601. See Ebadi, supra note 24, at 129–32.
602. Id. at 134–35.
603. See id. at 132.
604. Id. at 137.
jailed, magazines and newspapers closed and some of our best classical poets, like Rumi and Omar Khayyam, were censored or banned.\textsuperscript{605}

In Article 21 of the ICCPR, “the right of peaceful assembly shall be recognized.”\textsuperscript{606} After the Revolution, the ability for writers and intellectuals to meet in public or in private was drastically curtailed by the government.\textsuperscript{607} Unmarried men and women were not allowed to be alone together, so dating couples often “borrow[ed] a young niece or nephew on their evenings out, to appear as a family and pass through checkpoints unmolested.”\textsuperscript{608} “Young people risked being intercepted by the morality police simply for venturing into the mountains together for a hike.”\textsuperscript{609} Nafisi herself was forced to cut short her meetings with her “magician” during police raids of a public café.\textsuperscript{610} Even Nafisi’s class with her girls had to remain a secret.\textsuperscript{611}

Article 23 of the ICCPR refers to marriage and family rights, declaring that “no marriage shall be entered into without the free and full consent of the intending spouses.”\textsuperscript{612} Once the Islamic Regime took power, Khomeini lowered the acceptable age of marriage from eighteen to nine,\textsuperscript{613} which increased the number of forced marriages in postrevolutionary Iran. While women of Nafisi’s age had been able to choose a spouse for love, the women students in her class now had little choice, and their younger sisters would have even less.\textsuperscript{614} Fathers often selected a husband for their daughters, confining them to perpetual domestic life rather than letting them pursue their education.\textsuperscript{615} Marriage became more of a family agreement with the parents making the important decisions, rather than a decision of the intended bride and groom. Women can also not easily obtain a divorce by initiating the procedures in a family law court. One woman was so miserable in her marriage that when her husband would not grant her a divorce, she “doused herself with gasoline and lit herself ablaze.”\textsuperscript{616} Self-immolation by women in Iran is a much too common occurrence, a sign of the hopelessness of women in search of basic human rights that are provided by international treaties, but unavailable to them because of failed enforcement by the Iranian State.

\textsuperscript{605} Nafisi, supra note 11, at 136.
\textsuperscript{606} ICCPR, supra note 540, at art. 21.
\textsuperscript{607} Nafisi, supra note 11, at 309; Ebadi, supra note 24, at 130.
\textsuperscript{608} Ebadi, supra note 24, at 96.
\textsuperscript{609} See id. at 180.
\textsuperscript{610} Nafisi, supra note 11, at 312–13.
\textsuperscript{611} Id. at 3.
\textsuperscript{612} ICCPR, supra note 540, at art. 23.
\textsuperscript{613} Nafisi, supra note 11, at 261.
\textsuperscript{614} Id. at 259.
\textsuperscript{615} Ebadi, supra note 24, at 106–07.
\textsuperscript{616} Id. at 108–09.
Finally, according to Article 26 of the ICCPR, “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.”617 As noted above, women “under law, [a]re considered to have half the worth of men,”618 and they are often treated unfairly by family court judges.619 Women, including Shirin Ebadi, were removed from their positions of power as judges620 and from ministerial positions merely because they are women.621 Women are also treated far more harshly by the criminal system than are men accused of committing the same crimes.622 After the Revolution, as women became more aware of their rights and also of their oppression, the suicide rate of women rose, “commonly taking the form of self-immolation.”623

C. International Covenant of Economic, Social, and Cultural Rights (ICESCR)
The International Covenant on Economic, Social and Cultural Rights624 (ICESCR) is the second of the two major international human rights treaties that embodies many of the principles found in the Universal Declaration of Human Rights.625 The ICESCR sets forth the second-generation economic, social, and cultural rights, such as the right to work, the right to social welfare programs, and the right to take part in the cultural life of the country.626 Iran signed the ICESCR in 1968 and ratified it without reservations in 1975. Thus, Iran may not take any actions inconsistent with the object and purpose of the ICESCR.627

State parties to the ICESCR must “guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”628 In Iran, preferential treatment of men begins at an early age. Men and boys “enjoy an exalted status” in the household and they

617. ICCPR, supra note 540, at art. 26.
618. Nafisi, supra note 11, at 261.
619. Id. at 273.
620. Ebadi, supra note 24, at 48.
622. Id. at 261.
625. See, e.g., UDHR, supra note 541.
628. ICESCR, supra note 624, at art. 2 (emphasis added).
remain at “the center of the family’s orbit.”629 As children grow older, the rights of boys expand “while the girls' contract[ed].”630 Men have relative autonomy in Iranian society while women are given fewer rights than men,631 and women are considered inferior to men in the workplace.632 Women in Iran may only travel with their husband's permission.633 Judges often treat men with preference in domestic matters, even if the men have a past record of domestic violence.634 In addition, women are punished more severely than men in criminal matters and crimes such as “adultery and prostitution [which are] punished by stoning to death.”635

Article 3 of the ICESCR requires that “States . . . undertake to ensure the equal right of men and women to the enjoyment of all . . . social and cultural rights. . . .”636 After the Revolution, women's participation in the arts was severely restricted.637 In a country where the people love Persian poetry and music, it is amazing that dancing and singing were gradually eliminated altogether.638 Women now are still unable to participate in sports or even to be spectators at men's events.639 At a music concert, the management admonished the crowd that “if anyone acted in an un-Islamic manner, he or she would be kicked out. He went on to instruct women to observe the proper rules and regulations regarding the use of the veil.”640 Women may not socialize with men in public, and they are not permitted to sit in the same classrooms with men;641 “even the lunch tables in the [university] cafeteria were segregated.”642 Article 7 of the ICESCR addresses “the right of everyone to the enjoyment of just and favorable conditions of work.”643 ICESCR Section (a)(i) of Article 7 further provides that all workers are entitled to “[f]air wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men.”644 ICESCR Section (c) of Article 7 guarantees “equal opportunity for everyone to be promoted in his employment

629. Ebadi, supra note 24, at 11.
630. Id. at 11.
632. Id. at 261; Ebadi, supra note 24, at 75.
633. See Nafisi, supra note 11, at 286.
634. Id. at 273; Ebadi, supra note 24, at 123.
635. Nafisi, supra note 11, at 261.
636. ICESCR, supra note 624, at art. 3 (emphasis added).
637. See, e.g., Nafisi, supra note 11, at 108.
638. Id.; Ebadi, supra note 24, at 181.
639. Iran Women, supra note 521.
640. Nafisi, supra note 11, at 300.
641. Ebadi, supra note 24, at 106.
642. Id.
643. ICESCR, supra note 624, at art. 7.
644. Id. at art. 7(a)(i).
to an appropriate higher level, subject to no considerations other than those of seniority and competence.”645 During the Iran–Iraq War, women worked for free, but now women in Iran are demanding pay to cover the rising cost of living.646 After the Revolution, women were forced out of positions of prominence within the government, such as judges647 and cabinet ministers,648 and they were reduced to accepting only administrative and clerical positions.649 Women were then and are now still denied “promotion[s] and permanence” at work because of their past political affiliations650 or simply because they are women.651 “[M]ale superiors will not look [women] in the eye,”652 and they “reward . . . [women’s] exceptional work with something akin to envy.”653

VII. CONCLUSION

There is no doubt that without the popular support of the women in Iran, Ayatollah Khomeini would never have succeeded in leading the Revolution.654 Disgusted by the Shah’s excesses, repression, compromises, and conformity to the ideals of the West (all of which seemed contrary to the moral values of Islam), various political forces in Iran struggled to bring about a revolution that would bring the Iranian society back to its traditional values.655 In the early days of the Revolution, it was not clear whether the leftist movement or the Islamic movement would take control, but the Islamists (with the support of the U.S. government) gradually eliminated any opposition from the left, the intellectuals, or secular voices within the government structures.656

Khomeini continued to listen to the demands of his women constituents whose rights were being paradoxically expanded on certain levels and drastically reduced on other levels. The state of women’s human rights in Iran is represented effectively in the humanities. Women writers such as Azar Nafisi and Shirin Ebadi both fight for women’s rights, one from outside and the other from inside Iran. This is true as well for the filmmakers Ziba Mir-Hosseini and

645. Id. at art. 7(c).
647. Ebadi, supra note 24, at 48.
649. See Ebadi, supra note 24, at 48.
650. Nafisi, supra note 11, at 270.
651. See Ebadi, supra note 24, at 75.
652. Nafisi, supra note 11, at 328.
653. Id. at 288.
654. Halper, supra note 17, at 105.
655. Id. at 104.
656. Id. at 109.
Tahmineh Milani, both of whom directed and produced feminist films that shed light on the deplorable conditions of women in Iran today.

In her book, Shirin Ebadi engages in active and public protest while Azar Nafisi’s memoir uses a more passive, private form of resistance. Ebadi writes in a direct, legal, personal, and even passionate style that persuades and excites the reader to respond. Nafisi transmits messages through a more indirect, highly imaginative, learned, and poetic prose that transports the reader into a state of heightened awareness. Through the power of the written word and the persuasion of visual images on screen, these four Iranian women depict changes developing in the life of Iranian women both after the Revolution and now. These changes are reflected in and caused by domestic and international laws and their enforcement. These four women’s artistic representations similarly reflect the paradoxes in Iran’s totalitarian theocracy that claims to be a democracy.

The status of women’s human rights in Iranian society is conditioned by contradictions in the legal and political system of this totalitarian theocracy. Paradoxically, women’s rights in Iran today are simultaneously both expanding and diminishing. These two faces of Iranian society are represented brilliantly by the feminist cinematographer Tahmineh Milani in her film, Two Women, that portrays a modern woman in Iran who may be more symbolic than actual. Ziba Mir-Hosseini’s documentary film, Divorce Iranian Style, reveals the weaknesses in the Iranian family court system and its domestic laws and procedures that discriminate against women. Only a dynamic interpretation of the Koran together with radical transformations of the Iranian legal system and its procedures—and a systematic attempt to enforce the international treaties to which Iran is bound by ratification or by customary international law—can provide hope for women’s equality.

If justice and equality are intrinsic values in Islam and the Shari’a, why are justice and equality not reflected in the Iranian family laws that treat women as second-class citizens, put women under men’s domination, strictly regulate gender relations, and treat the rights of men and women unfairly? Despite the movement backwards since 1979 particularly with regard to the enactment of family laws that discriminate against women in Iran, there is intense social pressure in Iran to change these laws and customs. Demographic developments in Iran constitute hope for the protection of human rights for women. Seventy percent of the population in Iran is below the age of thirty, and the young people in Iran want more freedom. There are twenty-two million students in Iran, and 70 percent of university students are women. Educated Iranian women who cannot find expression for their learning and young Iranian people who are

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657. “... Shari’a is not inherently inimical to women’s rights... the question of who gets to interpret Shari’a is critical.” Isobel Coleman, Women, Islam, and the New Iraq, 85 FOREIGN AFF. 24, 26 (2006).

frustrated by oppression make a volatile combination poised for transformation, if not revolution! In 2009, the Iranian people’s opposition to the fraudulent re-election of Ahmadinejad and the murder of a high profile woman (who symbolized emancipation in a repressive regime) fell short of developing into a revolution.

The burgeoning feminist movement in Iran wants more rights for women and more protective laws. Ideally, this feminist movement should be engaged more systematically in demanding the enforcement of the international human rights treaties to which Iran is a signatory. The populist movement in Iran wants to separate religion and the State, which could result in a diminution of the appreciation of Shari’a law and its application in private family matters directly affecting women. The development of a new gender discourse and the rise of a popular reformist movement in Iran are positive signs of the emergence of more equality for women within an Islamic framework.

In the 1990s, feminist readings of Islam were tolerated as the process of the Islamization of Iran continued to take place. Although the ruling clerics continue to validate a patriarchal interpretation of the Koran and its translation into the laws of the Iranian courts, there is movement in Iran to consider the legitimacy of a more dynamic interpretation of the Koran that would extend more protection to women and expand their rights through the laws. While Khomeini’s office restored the Shari’a in order to “protect the family” and to realize women’s “high status” in Islam, women are treated as second-class citizens in the law, in the society, and in the family structure that is decidedly patriarchal in Iran. Women cannot understand why husbands can divorce them automatically without even first securing their consent. Iranian women are justified in asking, “Is this what the Shari’a says? . . . Is this how Islam honors women? Is this the justice of Islam?”

Rather than “producing the intended . . . marital harmony or a generation of docile wives,” the return to Shari’a in 1979 “further exposed and accentuated the gap between the patriarchal assumptions [about] marriage . . . [and the kind of] egalitarian marriage lived and experienced by most people today.”

There is hope for women’s human rights in Iran. Change will likely happen because of the emergence of a “sustained, indigenous feminism.” The rise of an activist feminist movement in Iran has been delayed for many reasons other than the obvious fear of repression and reprisals. Women in Islam and in Iran are the symbols of cultural authenticity, the carriers of a religious tradition and a way of life. Thus, any form of dissent by women could be construed as a betrayal of their Muslim and/or Iranian identity, and protest could, by extension, be construed as treasonous and pro-Western. Because of compulsory hejab and the

659. Id. at 635.
660. Id. at 636.
661. Id. at 639.
multiplicity of meanings underlying women’s dress, women in Iran have to choose between their Muslim identity and their new gender awareness. This is a hard and dangerous choice that is unfairly imposed on women alone.

Islamic feminists are now engaged in finding the sources for so-called Islamic traditions that discriminate against them and force women to wear clothing that is cumbersome and renders them all the more dependent on men. Many studies show that men’s unilateral rights to divorce and polygamy were not textually granted to them by the Koran or by God, but were instead given to men by Muslim male jurists. Iranian feminists who are now focusing attention on Koranic interpretation (tafsîr) have successfully uncovered the Koran’s egalitarian message. If continued, this belief in the power of interpretation is the clearest sign of hope for equality of women in Iran. The work of the Islamic feminists should be examined in this light. By both uncovering a hidden history and rereading textual sources, women will come to see that there are two opposing views of Islam. One view is absolutist and legally inflexible with regard to the acceptance of modernity. The other view is pluralistic and tolerant, especially of equality between men and women. The new emphasis on interpretation of the original sacred texts will reveal that the inequalities embedded in Iranian law are not the manifestations of a divine will written into the Koran. Iranian jurisprudence is not the product of an inseparable bond between religion and the State. Iranian jurisprudence is not the product of a primitive, backward social system. The law and its system are human constructions that

662. Id.
663. Id. at 642.
667. See Mir-Hosseini, supra note 359, at 642.
reflect political and ideological agendas of the controlling class. When Khomeini called back Shari’a law in Iran, this came with a forceful attempt “to impose anachronistic jurisprudential constructions of gender relations” upon Iranian society whose women, unfortunately, suffer the most in the name of the preservation of tradition and national identity.

Why should women’s equality depend upon ideological influences and patriarchal beliefs that filter people’s personal and politically charged interpretations of sacred texts? Rigid originalist interpretations put Islam and women’s rights into a closed, static, and inflexible legal system that breeds unfairness to women, gender inequality, and unhealthy social relationships between men and women. To open this closure and liberate women in Iran, the feminists must overcome specious dichotomies (established for self-serving reasons by men) between Islam and feminism, tradition and modernity, the quest for protection of Iranian national/religious identity and the fear of equality that comes from integration and exposure to cultural difference in the course of international relations. Women’s liberation from human rights abuse in Iran is an issue deeply entrenched in semiotics and a serious matter of interpretation.

668. Id. at 644.
