

Challenges of Implementing Women's Rights in Iran by Dr. Fatemeh Haghghatjoo

Abstract

Achieving international women's rights and standards in a theocratic state is a formidable task due to structural obstacles based on Iran's constitution, patriarchal culture and norms, and national security assumptions. However, women's rights activists in Iran have tried to find ways to legislate and implement some of the standards for women's rights. Building relations with open-minded members of the clergy, expanding and strengthening the NGOs that deal with women's issues, networking among diverse women's rights groups and individuals, raising the public's awareness and bottom-up pressure campaigns are some of the tactics that women have used to achieve their goals while facing challenges including expulsion, prosecution and imprisonment, as well as closure of their organisations, newspapers and magazines.

Biography

Dr. Fatemeh Haghghatjoo, a former member of the Iranian Parliament during Khatami's era, holds a Ph.D. in Counselling. Prior to her career as a politician, she taught at Tehran and Shahid Beheshti universities in Iran. After her resignation following a losing struggle for reform in 2004, she became a Visiting Scholar at the Centre for Women in Politics and Public Policy at University of Massachusetts in Boston, USA. She was then a fellow at the Centre for International Studies at MIT and later the Women and Public Policy Program at Harvard University. She is currently a Lecturer & Global Initiative Coordinator for the Centre for Women in Politics and Public Policy at McCormack Graduate School of Policy Studies at University of Massachusetts.

Challenges of implementing women's rights in Iran

There is a vibrant and daring women's movement that is striving for equal rights in law and society in Iran. This movement is quite powerful and in recent years Iranian women have had many achievements. As a result of support provided by President Khatami during his tenure (1997-2005), the number of women's rights NGOs, magazines and websites has risen. For example, in 1997, the number of women NGOs was 67. That figure rose to 480 in 2004.

During the first municipal election in 1997, women received only a third of all main seats. But as the special budget for women's participation increased and the centre for women's participation funded NGOs, the debate over women's issues became more popular and that in turn led to a more vibrant women's movement. After this period, some of women's rights activists launched several campaigns against discriminatory laws and practices, including the campaigns to "Stop Stoning Forever" and the "One Million Signatures to End Discriminatory Laws" campaign. By forming a large coalition, women's rights activists have protested the Family Protection Bill to prevent it from passing through the Parliament for a final vote. The bill has two disputed articles. One is with regards to taking a second wife by a man without permission of his first wife and another is tax collection based on dowry at the time of marriage registration. This combination has spawned other widespread protests to the bill, including disagreement by many clergymen, political parties, and the judiciary system, resulting in a decision by the 8th Parliament to step back and reconsider the bill.

Concurrently, women's rights activists began to voice their demands in response to opposition promises and proposed plans during the presidential election campaigns. Now, after the fraudulent elections in 2009, women have emerged as the most prominent players in the protest movement known as the Green Movement. Despite innumerable barriers and challenges Iranian women have become agents of change and peaceful resistance. However, achieving gender equality has three main obstacles that I wish to address.

Structural obstacles based on the constitution

Iran's Constitution clearly identifies and articulates the responsibilities of the government regarding women's rights. Articles 20 and 21 read:

Article 20

All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.

Article 21

The government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following goals:

- 1. Create a favourable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual;*
- 2. The protection of mothers, particularly during pregnancy and childbearing, and the protection of children without guardians;*
- 3. Establishing competent courts to protect and preserve the family;*
- 4. The provision of special insurance for widows, and aged women and women without support;*
- 5. The awarding of guardianship of children to worthy mothers, in order to protect the interests of the children, in the absence of a legal guardian.*

However, the Constitution also emphasises that all laws must be based on Islamic criteria. According to Article 4 "All laws and regulations including civil, criminal, financial, economic, administrative, cultural, military, political, or otherwise, must be issued according to Islamic principles." Although traditionally it was the community of the ulama who defined Islamic criteria, the Iranian Constitution restricts this power to the Guardian Council (GC). According to Article 91 of the Constitution, that responsibility is the domain of six clerics of the twelve-member Guardian Council, all of whom are appointed by the Supreme Leader.

Women's rights activists have set many goals to improve the lives of Iranian women. The One Million Signatures Campaign and the reformist Women's Forums endeavours are two examples aimed at these goals. All of them face insurmountable obstacles when confronted with the Constitution, but not necessarily the teachings of Islam. For instance, taking a second wife without the permission of the first wife, as proposed in the current bill, is interpreted as acceptable by some grand ayatollahs but as *haram* (prohibited by Islam) by others. Moreover, the diversity of opinions among ayatollahs in Iran is not represented in the views expressed by the twelve-member Guardian Council. Historically, the members of the Guardian Council have shown little or no interest in considering the opinions of more open-minded ayatollahs.

So the critical question is can women's rights activists find a way to change discriminatory laws within the framework of Iran's Islamic Constitution? This answer is far from simple because there are many contradictions in the Constitution. Some argue that there is no way to achieve equal rights for women in accordance with the Constitution, and that Islam is not compatible with women's rights. Others, including Islamic feminists, look for new interpretations of Islam in order to eradicate discriminatory laws and bring about gender equality within an Islamic framework. Historically speaking, other religions have faced this same challenge. Burn (2006) states that some theological feminists are also looking for new interpretations of Christianity that are compatible with women's rights.

In Iran the struggle over women's rights has become a part of a larger contention between the conservative and the reformist fronts and their interpretations of Islam. The conservatives promote

an absolutist and legalistic interpretation of Islam, premised on the notion of duty not rights, and tolerate little dissent, while making few concessions to the will of the people and contemporary realities. The reformists, on the other hand, try to uphold a pluralistic and tolerant reading of Islam, based on human rights and democratic values.¹⁰

Many reformist women who pursue women's engagement in politics and public policy established the Majma'-e Zanan-e Eslahtalab" [Reformist Women's Forum]. The Forum requested legal reform based on an open-minded reading of Shari'a at their plan of action for the 8th Parliamentary election campaign. The introduction to the plan of action states that:

"The reformist women's forum believes that if the interpretation of the condition of "conformity with Islamic criteria" of the Article twenty proves to be an open-minded interpretation, one that works in women's favour, and is based upon the spirit of the Quran, morality, the pillars of belief, and jurisprudence, the forum's programs would be passed at the legislative body. However, if a closed-minded interpretation is given of "Islamic criteria" and Shari'a, and is based upon conformity with the well-known fuqaha (jurists), not only will it not give the human rights of Article 20, but it would also act to deprive women of their human rights. If the interpretation of religious texts were to be based upon reality, time, and location, it would set a precedent in jurisprudence that is contrary to some ongoing traditions that are wrong. Some of these traditions are even considered to be religious traditions. Alternatively, such jurisprudence would be able to reread traditions in favour women, to intend making legislation humanistic, and to grant greater justice on women's issues. That will not happen unless the parliament asks the new religious thinkers to re-interpret women's issues based on a religious framework. "

The eminent Islamic authority, the Grand Ayatollah Saanei, has articulated an interpretation of Islam that is friendly to human and women's rights. He states, "The foundation of Islam is based on humanitarian values, restoring justice and protecting of human rights." He bases this statement on his own understating of Shiite jurisprudence and interpretations, and of the religious opinions that Iranian women's rights activists have articulated. Subsequently, Ayatollah Saanei's views are most conducive to affirming women's rights and gender equality. For instance, he disagrees with polygamy without permission of a man's first wife. In reference to the proposed parliamentary bill, he states: "I hope such a bill will not be ratified by the respected members of Parliament, and I always pray that such injustice and tyranny to women's rights does not become law".

The 6th Parliament (2000-2004), at which I had the honour of representing the people of Tehran, was a unique parliament. It passed many bills based on human rights, not only those favouring women but also political and economic rights. It also voted for the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). However, all of these reforms were vetoed by the Guardian Council and most of them remained unanswered by the Expediency Council (an upper council) when referred for arbitration. In the end, some of the bills that the 6th Parliament had ratified did not become law, and for this reason, the Majlis deputies were not satisfied with the number and scope of ratifications related to gender equality. In fact, there is little hope for passing laws that favour women unless the majority of the Guardian Council is replaced with open-minded clerics such as Ayatollah Saneei – a remote possibility.

Patriarchal culture and norms

It is also necessary to consider how the government views women's issues and what stereotypes they hold regarding women, in light of the patriarchal culture and norms in that country. A prime example indicative of cultural norms concerning women is a popular terminology referring to one's

¹⁰ Mir-Husseini, 2002.

wife as *zaifeh* or the weakling. Although this term is losing its popularity, the concept continues to support the perception of woman as the weaker gender. Likewise, in many social circles there is a belief that if a woman is not watched over, she will succumb to immorality and perversion.

These examples have been reflected in Iran's laws and regulations. The compulsory dress code, requirements of a husband's permission for travel and employment, the setting of the age for marriage, citizenship, and, most recently, the effort by the Parliament to pass a law requiring girls to obtain permission to pursue their educations at universities out of their home cities or towns help to demonstrate this cultural influence.

At this point, I would like to share my personal experience as a former member of parliament in Iran. I was on the Judicial Commission when a member of the Guardian Council, Ayatollah Yazdi, appeared to explain the reasons for rejecting the Parliament's bill concerning the conditions of hardship required for a woman to obtain a divorce. As Ayatollah Yazdi was explaining the Council's reasoning, he degraded women by saying that some women would obtain a divorce in the morning but by the evening change their mind, withdraw their objections and instead express their desire to remarry. He went on to state that because women are so naïve, emotional, unstable, uncertain and weak-willed, we (clerics who are all male and in positions of legal authority) could not allow them to seek divorce. He was against the bill until I explained the importance of the bill in terms of previously unexamined psychological data showing the problems experienced by couples who are forced to continue living together while they wait to get legally divorced and the harmful impact of conflict and unhappiness on their children. After hearing these facts – which he had failed to consider – he and members of the Commission were convinced of the validity of the bill. He then said that the bill was still un-Islamic (a typical and patriarchal interpretation of Shari'a law, which places said law above considerations of human comfort or well-being). However, he went on to say that when I return to the Expediency Council, I would vote in favour of the bill on the grounds that it safeguards society's best interests. Several months later, the Expediency Council approved the bill with few changes.

At the beginning of my term during the 6th Parliament in 2000, immediately attending to the demands of female constituents, my colleagues and I drafted a bill that would allow the government to allocate graduate scholarships for single women wishing to study abroad. There was a great deal of dispute and deliberation over this bill, and some of the grand ayatollahs, such as Makarem Shirazi, stated that their main disagreement over the bill was the likelihood that education abroad would lead to the immorality and perversion of single women. One of my tactics in pushing this bill through to enactment was to seek the support of an influential and respected mullahs and MPs. This man was the representative of the Supreme Leader at Tehran University, and he was in favour of the bill. I warned him that if he did not make an effort to stop such arguments, I would deliver a speech on the statistics of mullahs who had been imprisoned on account of their own acts of immorality and perversion. After being sent back and forth (much like a game of ping pong) between the Parliament and the Guardian Council, the bill was finally approved by the Council.

Another example of patriarchal norms influencing legislation is that the Supreme Leader urges policymakers, and the paramilitary [the Basij] to fight against "cultural invasion by the West." The assumption is that Iranian women are victims of an invasion by foreign ideas and cultures and that as such they are unwittingly influenced by the fashions of the Western, non-Islamic world. The practical consequence of this assumption is that women are at the receiving end of heavy attacks by the authorities. The cultural assumption has resulted in government policies regarding compulsory hijab laws for women, as well as the use of violence against women who do not observe these restrictive codes.

Harsh treatment for nonconformity with the dress code by police is in line with this attitude. As a result, the 7th Parliament passed a bill called the “Settlement of Fashion and Dress Affairs Law” in order to protect and strengthen the Iranian-Islamic identity and culture, forbidding advertisements showing models, as a practice against the Iranian-Islamic culture.

In 2007, Ali Khamenei, the Supreme Leader criticised the endeavours of the reformists to align Islam law with women-related foreign conventions and/or treaties. He stated “the attempt of some women’s rights activists and men to add to or cut part of the Islamic statutes or align them with some of the international conventions is absolutely wrong.” He then asked researchers at universities and jurisprudential schools to offer quality arguments against feminist views and propaganda.

As these examples demonstrate, patriarchal interpretations of the Shari’a law subject Iranian women to suffer from discriminatory laws.

National security assumptions

The Iranian officials view women’s rights activists and the goals of the Iranian women’s movement as a threat to national security. They express the need to preserve Iranian culture through controlling women’s appearance and the content and flow of information regarding women’s rights, and hostility towards women’s rights activists. Security officials see such a threat, while in fact none is intended. Women’s rights activists simply want women to be treated equally before law when dealing with a divorce, settling inheritance, or seeking child custody. These are not against the country’s security and were part of the lives of Iranian citizens long before the inception of the Islamic Republic. However, in response to this perceived threat, security officials expend an enormous amount of time and resources briefing policymakers, while the ulama (grand ayatollahs) and Friday prayer leaders speak against the movement.

On another front, security officials use the media, to influence citizens and their point of view. They claim that women’s rights movement is imposed and manipulated by the American CIA and several other US-based organisations, alleging that they are plotting a regime change in Iran by spreading the discourse of “the dark ideology of fornication” in Iran.

Payam Fazlinejad (2008), a researcher at the state-run Keyhan Newspaper, has alleged that “the United States invests in women’s movement financially and politically to cause a velvet revolution. The USA looks for a feminist battle against the regime, which boundaries are not hard to imagine”.

The Iranian Security Ministry’s control and restriction of women’s rights activists is based on a plan. The Ministry uses many tactics, including threatening phone calls or SMS (text messages), distributing rumours and propaganda against the activists, spreading discord, initiating judicial proceedings against the activists, as well as prosecution, interrogation, detention and imprisonment. In addition they have suspended, summoned, and imprisoned activists, flogged them in public, banned them from universities, stopped their gatherings and rallies, imposed travel bans, and confiscated their passports and personal property – all based on the allegation of acting against national security and disrupting public order. However, despite these harsh challenges, women’s rights activists have not stopped their effort to raise public awareness and in fact have played a vital role in the Green Movement.

Women’s rights activists in Iran are alive and active but they continue to face challenges in redressing discriminatory laws. The Constitution, Iran’s patriarchal culture and norms, and national security are three main obstacles challenging this movement and its aims. In the long-term their

efforts will result in eliminating prejudiced laws that discriminate on the basis of gender. However, for the short term, it is difficult to change laws unless activists are capable of mobilising Iranian society, most particularly its female members, in this battle for equality.