

## Women and politics in post-Khomeini Iran

### Divorce, veiling and emerging feminist voices

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In September 1993, a lawyer friend in Tehran arranged for me to meet the new president of the Special Civil Courts. These are the post-revolutionary family courts which I studied between 1985 and 1988, when they were located in an old building near the Bazaar. They had recently moved to a modern building in affluent north Tehran. My friend could not remember the name of the street, but told me, 'Come to Vanak Square, you'll find it: the entrance will be packed with women waiting for the door to open at 8.30.' Near Vanak Square, I saw a woman in a *chador*, carrying freshly baked bread, one of those so-called 'traditional Iranian women'. I asked her for directions to the courts. She looked at me in horror, and said 'Oh no! why you?' Feeling defensive and somehow ashamed, I explained in an apologetic tone that I was just meeting a lawyer friend who would introduce me to the new court president. Disbelief showing on her face, she told me to come with her, as she lived in a nearby street. Taken aback by my own reaction, as we walked together, I tried to make a case for divorce, for women such as those whose court cases I had studied, women who shared my view that divorce is a lesser evil than staying in an unhappy and unfair marriage. My guide disagreed: 'What makes you think you'll find fairness in another marriage; divorce doesn't change anything, the next husband will be just as bad as the first one; it is up to a woman to make the best of her life.' I protested that there were surely standards and limits: 'What if he takes another wife?' I knew from my court attendance that this is where most women, and even judges, draw the line. She paused and said, 'Too bad; but if she leaves, the children will turn against her; if she stays, she will keep them for ever; they matter to a woman more than a husband.'

This encounter seems to me to reveal the basic similarities and differences between two major discourses on women in Iran today. My reactions were typical of the 'modernist' position – which has been discussed extensively in the growing literature on Iranian women; my guide's position, on the other hand, although that of perhaps the majority of Iranian women, has received little attention, and is little understood outside Iran. I begin with this encounter not only because it indicates what marriage, as defined and regulated by the

*Shari'a*, can entail for women in Iran, but also because it tells something of the ways in which women relate to and deal with its patriarchal rules. It is against the background of the opposed discourses implicit in the encounter that I examine in this chapter the working of the *Shari'a* as it concerns women in Iran today – where one version of the Islamist vision has been realised.

One unpredicted outcome of the Islamic revolution in Iran has been to raise the nation's gender consciousness. Since the revolution, whatever concerns women – from their most private to their most public activities, from what they should wear and what they should study to whether and where they should work – are issues that have been openly debated and fought over by different factions, always in highly charged and emotional language. The result has been a breakdown of all kinds of easy dichotomies, including that of public versus private. Consciously or not, everyone has been drawn into these debates and somehow forced to take a position. It is almost impossible not to, if you happen to be an Iranian woman, whether living inside or outside the boundaries of the Islamic Republic.

There is now a substantial literature on women in post-revolutionary Iran, largely produced by Iranian women educated in the West and living in exile.<sup>1</sup> Most of them, especially those writing in the 1980s, see the impact of the revolution as having been detrimental to women. Basing their case on the changes brought about in the law to ensure the rule of the *Shari'a* and on the restrictions imposed by compulsory veiling, they argue that women lost many rights they had before the revolution. More recent writers, especially since 1990, are less polemical and more willing to explore the complexity of the situation. Yet there has been little examination of the processes through which the changes in law have been implemented in practice, and the paradoxical ways in which the whole process has come to empower women.

To explore the actual field of operation of the *Shari'a*, I shall examine two of its features in today's Iran, namely divorce law and dress codes: not only are they among the most visible and debated Islamic mandates, but also they are the yardsticks by which women's emancipation or repression in Islam are measured. Both have been the subject of intense debates in Iran since the turn of the century; and in both areas the legislations of both the former and present regimes have aroused deep emotions and diverse reactions. However, as we shall see, whereas on divorce laws the Islamic Republic has gradually retreated from its early position and suppressed debates have now fully re-emerged, the same has not happened with the issue of dress.

I argue that, contrary to what the early literature contends, and what remains implicit in the later wave, the impact of the revolution on women has been emancipatory, in the sense that it has paved the way for the emergence of a popular feminist consciousness.<sup>2</sup> By feminism, here I mean a broad concern with women's issues and an awareness of their oppression at work, in the home and in society, as well as action aimed at improving their lives and changing the situation (Moore 1988: 10).<sup>3</sup> Such a consciousness, most

active in the private domain of the family, is now extending to the public domain. What facilitates such extension is the widening gap between the ideals and realities of the *Shari'a* as defined and enforced by a modern state.

### DIVORCE LAWS: A CHANGE OF HEART

In December 1992, the *Majlis* (Iranian parliament) ratified a law which represents a radical interpretation of *Shari'a* divorce provisions. Entitled 'Amendments to Divorce Regulations', this law outlaws the registration of a divorce without a court certificate, and allows the appointment of women as advisory judges to work in co-operation with the main judge. Above all it enables the court to place a monetary value on women's housework, and to force the husband to pay her *ujrat al-mithl* (literally, wages in kind) for the work she has done during marriage, provided that divorce is not initiated by her or is not caused by any fault of hers. The amendments further require every divorcing couple to go through a process of arbitration. If the arbiters, one chosen by each side, fail to reconcile the couple, the court allows a man to effect a divorce – which has to be of *ruj'i* type<sup>4</sup> – only after he has paid his wife all her dues: dower (*mahr*), waiting period (*'idda*) maintenance and *ujrat al-mithl* (domestic wages). The registration of a *ruj'i* divorce is also made contingent upon the production of another certificate confirming that the wife spent her *'idda* period (three menstrual cycles, or until delivery if she is pregnant) in the marital home and was provided for by the husband.

By introducing the concept of domestic wages and substantially restricting men's right to repudiation (*talaq*), the 1992 amendments not only break new ground in *Shari'a* divorce provisions but also amount to a complete reversal of an early ruling of the Revolutionary Council dismantling the Family Protection Law of 1967, which had introduced substantial reforms in *Shari'a* divorce provisions.

Before discussing how and why such a reversal came about, a brief note is needed on the history of the Family Protection Law (FPL) and how it was dismantled. There is a tendency to take the *Shari'a*-based rulings in Iran at face value and to overlook both the processes involved and the extent to which they are translated into practice.<sup>5</sup> As we shall see, although the FPL itself was denounced in rhetoric, after the revolution a large portion of its reforms was retained in practice.

The FPL, enacted in 1967 and amended in 1975, received international acclaim and was even described as the most radical reform in *Shari'a* laws of divorce (Bagley 1971; Hinchcliffe 1968). It was part of a series of legal reforms begun earlier in the twentieth century aimed at creation of a totally secular judicial system. The most radical step was in 1936 during the reign of Reza Shah, when all serving judges in the newly created Ministry of Justice were required to hold a degree from either Tehran Faculty of Law or a foreign university. The result was that, almost overnight, the remaining *Shari'a* judges

lost their positions. In the same year, the *Majlis* approved the final draft of the new Civil Code, based on Western judiciary models, namely, those of France and Belgium. Meanwhile, the Marriage Law of 1931 had made marriage subject to state provisions by requiring the registration of all marriages and divorces and denying legal recognition unless they were registered in civil bureaux. Otherwise in matters relating to marriage, family and inheritance, the Civil Code still deferred to the *Shari'a*; the only departure was those articles prohibiting marriage of girls under 13 (Banani 1961: 73–4).

In 1967 substantial reforms in the *Shari'a* provisions were attempted. This was done through a legislation entitled Family Protection Law, which restricted men's rights to divorce and polygamy, and more importantly gave women easier access to divorce. The reforms were achieved through procedural devices, that is by simply changing the regulations for registration of marriage and divorce, and leaving intact the provisions of the *Shari'a* as reflected in the Civil Code. New courts, headed by civil judges (some of them women), were established to deal with the whole range of marital disputes. The registration of divorce and polygamous marriage without a certificate issued by these courts became an offence, subject to a penalty of six months' to one year's imprisonment for all parties involved, including the registrar.<sup>6</sup> In 1975 a new version of FPL, which formally repealed all laws contrary to its mandate, in effect provided these courts with discretionary power to disregard all the provisions of the Civil Code on divorce and child custody with impunity.

In February 1979, soon after the victory of the revolution, a communiqué from the office of Ayatollah Khomeini declared the FPL to be non-Islamic, and demanded its suspension and the reinstatement of the *Shari'a*.<sup>7</sup> There followed a period of uncertainty during which FPL courts continued to function, until September 1979, when they were replaced by Special Civil Courts (*dadgahha-ye madani-ye khass*). Established by a legislation with the same name, the new courts are in effect *Shari'a* courts and they are presided over by a *hakem-e shar'* (a judge trained in *fiqh*, Islamic jurisprudence). 'Special' here denotes the freedom of these courts from the law of evidence and procedure contained in the Civil Procedure Code, investing them with the same degree of discretionary powers as the pre-revolutionary FPL courts.

The point that needs to be made is that in 1979 the return to the *Shari'a* was achieved exactly in the same way as it had been abandoned in 1967, that is by manipulating the procedural rules. In this way, neither the Pahlavi regime nor the Islamic Republic had to address the theory of the *Shari'a*, while both were able to achieve their objectives through changing its practice. Legally speaking, like the Civil Code articles on marriage and divorce under the Pahlavis, FPL was never formally repealed by the Islamic Republic. Some of its procedural rules continued to govern the registration of marriages and divorces, although to different degrees. For instance, in theory registering a polygamous marriage without a court order is still an offence, but in practice the penalty for doing so has been removed: in August 1984 a ruling of the

Council of Experts declared this penalty anti-*Shari'a*. Now it is left to the conscience and outlook of the marriage registrars whether or not they require a court order to register a polygamous marriage.

The same has not happened with respect to the registration of divorces, where only two changes were effected. First, whereas between 1967 and 1979 no divorce could be registered without first producing a Certificate of Impossibility of Reconciliation, issued by the FPL courts, between September 1979 and December 1992 a divorce could be registered if both parties reached a mutual agreement. The only cases that needed to appear in court were those where one party, either the husband or the wife, objected to the divorce or its terms. Second, in conformity with the *Shari'a* mandate of divorce, whereas men are not required to provide a ground, women can obtain a divorce only upon establishing one of the recognised grounds, which are basically the same as those available to them under the FPL. These grounds are much broader than those recognised by classical Shi'a law, which are only two: the husband's impotency and his insanity. Using the legal device of *tafiq*, that is adopting provisions from other schools of the *Shari'a*, the 1936 Civil Code had made three other divorce grounds available to women: husband's failure to maintain his wife, his failure to perform marital duties (sexual), his affliction by a disease endangering her life, and his maltreatment of her to the extent that continuation of marriage is deemed to cause her harm. To further broaden these grounds and yet not to break with the *Shari'a* provisions for divorce, the 1967 FPL resorted to another legal device, which could in theory put women on the same footing as men in terms of access to divorce. This was the insertion of stipulations into the marriage contract which give the wife the delegated right to divorce herself on behalf of her husband after recourse to the court, where she must establish one of the inserted conditions. In this way a divorce stipulation became an integral part of every marriage contract, whereas in the past it was up to the woman, and in effect her family, to negotiate such a right for her, which seldom happened and was confined to the property-holding middle classes.

This aspect of the reform not only was retained after the revolution, but also was further expanded to provide women with financial protection in the event of an unwanted divorce. In 1982 new marriage contracts were issued which carry, in addition to the divorce stipulation, another one which entitles the wife, upon divorce, to claim half the wealth that her husband acquired during marriage, provided that the divorce was not initiated or caused by any fault of hers. The only difference is that now the husband can refrain from signing any of these stipulations. This is in conformity with the *Shari'a* mandate of divorce: a man is free to divorce, to delegate or refrain from delegating this right. But in practice, as I saw in the courts, the presence or absence of his signature under each clause has no effect on the woman's right to obtain a court divorce, as the decision lies with the judge. The amended version of Article 1130 of the Civil Code provides him with discretionary power to issue

or withhold a divorce requested by a woman (Mir-Hosseini 1993: 65-71). However, I have not yet come across any case in which the wife has received any portion of the husband's wealth, so the new stipulation is in practice ineffective.

As evident even before the 1992 amendments, as far as divorce laws were concerned, there has been more continuity than break with the pre-revolutionary situation. In fact the 1992 amendments are but the completion of a U-turn from the direction indicated in the early rhetoric of the revolutionary regime on women, with parallels in other spheres of law. What is significant about the 1992 amendments is that they also mark a shift in rhetoric. To appreciate the importance of this U-turn, the amendments should be juxtaposed with a decree issued by Ayatollah Khomeini when the FPL came into effect in 1967, which reads:

the 'Family law' (FPL), which has as its purpose the destruction of the Muslim family unit, is contrary to the ordinances of Islam. Those who have imposed [this law] and those who have voted [for it] are criminals from the stand-point of both the *Shari'a* and the law. The divorce of women divorced by court order is invalid; they are still married women, and if they marry again, they become adulteresses. Likewise anyone who knowingly marries a woman so divorced becomes an adulterer, deserving the penalty laid down by the *Shari'a*. The issue of such unions will be illegitimate, unable to inherit, and subject to all other regulations concerning illegitimate offspring.

(Algar 1985: 411)

These are not simply strong words, they constitute a *fatwa*, bearing the same sanction as the one Khomeini issued when Salman Rushdie's *The Satanic Verses* came to his attention. Yet it has vanished into thin air. None of the thousands of divorces issued by the Family Protection courts was annulled when the Islamic Republic was created, and no one was charged with adultery or was declared illegitimate. This in itself is clear evidence of the error of taking *Shari'a* rhetoric at face value, and the futility of engaging in debates on theological grounds.<sup>8</sup>

To understand *Shari'a* as a lived experience, I believe we need to shift the focus from the ways in which *Shari'a*-based ideology is oppressive to women to the ways in which its embedded contradictions are empowering to women. In so doing we need to distinguish between what those armed with its discourse say when they are in opposition and what they end up doing when in power. Once in power in Iran, the custodians of the *Shari'a* found themselves caught by their own rhetoric. They had blamed the Pahlavi regime for denying women their full rights, disparaged Western models of gender relations as degrading to women and harmful to the family, and argued that only Islam can give women back their dignity and secure their rights by restoring morality and upholding the family unit within which they have a secure and valued place.

It was not until they assumed power that they were hit by the paradoxical nature of their agenda. There was no way to uphold the family and value women's position within it, and at the same time to uphold men's *Shari'a* rights to extra-judicial divorce and polygamy. Since men could not be deprived of their prerogatives, the only solution was to protect women in the face of them; hence the 'amendments' to the divorce laws.

There were also other factors at work, some of more political and others of more socio-economic import. As the coalition of forces that brought the revolution about rapidly broke down, the custodians of the *Shari'a* came to rely more and more on popular support, including large numbers of women.<sup>9</sup> This need was intensified with the onset of war with Iraq, and the coming of other internal and external challenges. Thus, not only could women not be excluded from the political arena, as happened for instance in Algeria after independence, but also the 'women's question' became even more central to the Islamic polity in Iran. This, I believe, has little to do with any specific Islamic position on women's role in politics, for instance Shi'ism versus Wahabism. Rather it has to do with the fact that Islamic discourses on women in Iran became an element in the opposition to the Pahlavis who had made women's rights and their unequal status in the *Shari'a* a major issue in order both to appease secular forces and to discredit any religiously based opposition. Once in power, the Islamic regime, like the Pahlavis, found that the 'women's question' would not go away but rather was appropriated by opposition factions and thus re-emerged in a different guise.<sup>10</sup> This time, whereas the Pahlavis had to deal with *Shari'a*-based opposition to its gender policies, the Islamic regime had to deal with secular and liberal types of argument invoked by the opposition – both inside and outside Iran – to criticise the regime for its gender policies. In this way, the Islamic regime unwillingly had to engage in a dialogue with secular discourses on gender, whose premises were radically different from their own. Such engagement naturally has meant both negation and adoption of some features of the pre-revolutionary discourses.

As far as women were concerned, this became a double-edged sword; while it prevented them from being marginalised in political discourse, they had to bear the burden of policies whose only rationale and justification were that they were opposite to those of the Pahlavis, and by extension anti-Western. In the process, many Islamic women who at the beginning genuinely, although naively, believed that under an Islamic state women's position would automatically improve, became increasingly disillusioned. These included intellectuals like Zahra Rahnavard, activists like Azam Taleqani, and later on establishment women like Monireh Gorji. These women strongly opposed the previous regime's gender policy because of its Western and non-Islamic orientation. They played an instrumental role in discrediting and destroying the existing women's press and organisations, and did this with the conviction that they were being replaced with better ones, free from the corruption that marked

them under the Shah. In reviewing a decade of activities of the Islamic Organisation of Iranian Women, Azam Taleqani gives a revealing account of the ways in which she and her associates took over the pre-revolutionary, state-sponsored Women's Organisation of Iran, how they carried out purges in the process of which she lost the support of some of her associates, and how at the end she and her own Islamically orientated organisation were let down by the provisional government which axed their budget (Taleqani 1991).<sup>11</sup>

On the socio-economic front, women did not lose their public persona after the revolution. It is true that women in government offices bore the brunt of early purges, but it is equally true that a larger number of women have found types of employment that were not available to them before.<sup>12</sup> Whereas a large majority of women working in ministries or the private sector before the revolution came from the 'Westernised' and highly educated middle and upper classes, now they come from the so-called 'traditional' middle and lower classes. These women were previously excluded from such jobs, because of their family values, which defined working outside the home as corrupting, and because of their not being part of the patronage system which has always been the main way of finding a job in Iran. The revolution removed both obstacles: its moralistic rhetoric and the new compulsory veiling made work outside the home respectable, and it created a new patronage system with a lower-middle-class bias.

Further, the long-drawn-out war with Iraq, and the subsequent economic crisis, have meant a wider participation for women in the outside economy. Women played an active role during the war; some joined the fronts as fighters, nurses and cooks. Those who lost their husbands as martyrs in the war received rewards and pensions, and became effective heads of household. Also, inflation has forced 'traditional' housewives into the labour market, as petty traders, cooks, dress-makers, hair-dressers and so forth. One income in the family is no longer enough to make ends meet. Contrary to prevailing assumptions, women today have a much wider presence and are economically more active outside the home than before the revolution.<sup>13</sup> They might be engaged in marginalised activities in comparison to their pre-revolutionary sisters, but this does not mean that they are politically marginalised. These women form a force that the Islamic Republic cannot afford to alienate: it is indebted to them. It is they who have come out to demonstrate, whenever needed. Some are wives and mothers of martyrs, some gave their dowries and jewellery to help pay the cost of the war. It is they who would pay the heaviest price if their husbands were given a free hand in divorce and polygamy; and it is their voice that has found a sympathetic ear among the authorities, as affirmed by Nateq Nuri, the *Majlis* Speaker. In a recent interview, he referred to the plight of women whose husbands had divorced them as the driving force for introducing deterrents such as entitling women to claim 'domestic wages' (*Zan-e Ruz*, 13/9/1372: 15).

A melange of three factors has made 'the plight of divorced women' a central issue in the *Majlis*, bringing about legislation which confronts the iniquity of men's *Shari'a* rights. The first is an unwritten gender code governing *Majlis* proceedings which assumes the constituencies of its female members to comprise solely women. Such an assumption not only has ensured that women's grievances are aired in the *Majlis* but also in time has become a strong lobbying force in defence of women's rights. The pattern appears to have been set from the start. In her analysis of the proceedings of the first *Majlis*, Esfandiari notes that, apart from Azam Taleqani (who was not elected in later rounds), other women deputies tended to confine their remarks to Bills relating to women's issues (Esfandiari 1994: 77). Given the quest to enhance the 'Islamic' aura and composition of the *Majlis* as the legislating body of the Islamic Republic, this early tendency became stronger in the subsequent *Majlis* where women parliamentarians came to devote all their energies to women's issues. This is also in line with the ethics of women deputies, who mostly came from established religious families where the segregation code is accepted.<sup>14</sup> In the present *Majlis* (convened summer 1992) not only are there more female deputies (nine as opposed to four in the first three), but also, as can be inferred from the interview with the *Majlis* Speaker, they are both more vocal and more active on all fronts.<sup>15</sup>

Second, what enables female deputies to argue for legislation to protect women is the contradictory terms of the early revolutionary discourse on women and the ways in which they continue to define the regime's gender policies. The discourse makes gender a central issue of an Islamic polity; makes the private public, the personal political and in this way politicises every aspect of women's life; it gives opportunity for political activity to some women, in particular the so-called traditional women who saw politics as outside their realm. Yet it remains adamant in adhering to the *Shari'a* and in treating women differently, and it denies them some rights that they used to take for granted. These contradictions not only marked the early post-revolutionary rulings, but also found their way into the Constitution of the Islamic Republic. For instance, on the one hand, the Constitution places men and women on the same footing in matters such as protection in law, rights to vote and be elected, access to education and employment (Articles 3, 20), on the other, it subordinates these rights to the supreme rule of the *Shari'a* which restricts women and treats them as second-class citizens (Articles 4, 91, 93).<sup>16</sup> The family, as the basic unit of Islamic society, soon became the arena where all these contradictions came to the surface. The discourse promotes domesticity and motherhood for women as ideal roles; the constitution promises to guard the sanctity of the family (Article 10);<sup>17</sup> yet the return to the *Shari'a*, as embodied in the Civil Code, which gives men a free hand in divorce and polygamy (Article 1133),<sup>18</sup> in effect subverts the very sanctity of the family as understood by women, thus going against the Constitution's promise.<sup>19</sup>

Such a patent contradiction prompts female deputies to argue that the family must be protected by containing men's *Shari'a* prerogatives. In so doing, they were in effect articulating the anxieties of their constituents – assumed to consist largely of 'traditional' housewives, who are most affected by the gap between the ideals and practices of the *Shari'a* under the Islamic Republic. They did not have to look far, since the same rhetoric which advocated domesticity and motherhood as primary roles of a woman could be invoked to give them protection in marriage.

The third factor making divorce a central issue in the *Majlis* is a legacy of the FPL, which established a legal frame of reference in which women could be treated on equal grounds with men in matters of divorce and child custody. This frame of reference was well known and welcomed by women – at least in urban areas – from all walks of life, even religiously-orientated women, some of whom later became part of the establishment.<sup>20</sup> As Esfandiari found in the *Majlis* transcripts, women parliamentarians 'complained bitterly about the operations of the Special Civil courts'; they objected to the ease with which men could obtain divorce; and challenged the assertion that 'God's command is such that any time a man wants to divorce his wife, she has to accept his wish and leave' (1994: 77).

In the early 1980s, when I first started attending Tehran branches of the Special Civil Courts, women who came to court because of their husbands' request to register a divorce were astonished to learn that their husbands now could divorce them without first securing their consent. Some remained incredulous and would ask more than one authority: 'Can he really divorce me, just like this?' In 1985, when I resumed my court attendance, although no longer incredulous, women were insistent on voicing their discontent; some used every occasion to remind the Islamic judge of the injustice of a system which could afford them no protection. On this they often had the judge on their side, especially when a man would insist on exercising his right to divorce and the wife was entirely dependent on him, with no source of income or nowhere to go. It was common to hear women asking the judge: 'Is this how women are honoured in the Islamic Republic? Is this how Islam rewards motherhood? Is this the justice of 'Ali that he can throw me out just because he has found a younger wife? Where do I go now? Who is going to take care of me? What will become of my children?' To these questions, the judges had nothing to reply, apart from assuring the women that the court would make sure that they received all their dues. Some judges would employ every available legal device to protect these women against what they deemed an unfair and unjustified divorce. But no judge could prevent a man from exercising his prerogative: they had to uphold the *Shari'a* mandate of divorce, as reflected in Article 1133 of the Iranian Civil Code, enabling a man to divorce whenever he wishes.<sup>21</sup> Many judges – certainly not all – felt that they were in a moral dilemma. Not only did they have to witness the plight of women on a daily basis but also they could not help but feel implicated, as women constantly

reminded them of their own role as custodians of the *Shari'a*. In this way, the dismantling of the FPL became not only one of the most tangible evidences of the violation of women's rights in Iran, but also a measure of the Islamic Republic's failure to deliver its promise to honour and protect women.

Although it is too early to draw conclusions about the actual working of the 1992 divorce amendments, one can point to ways in which they differ from the FPL, in terms of the rationale of the law, its intentions and its probable impact. Whereas the spirit of the FPL was that of according women the same right as men in matters of divorce and child custody, the spirit of the 1992 amendments is to protect the family by making divorce less accessible to men. A central objection to the FPL – voiced only by the clergy but felt by many men – was that by making divorce easy for women, it harmed the institution of the family. In a 1993 seminar on Family Laws and Women, held to coincide with the Birthday of the Prophet's daughter Fatima, which is also Women's Day in Iran, this objection was phrased by an eminent lawyer, Dr Safa'i: 'many felt that the FPL, instead of protecting the family, simply served to protect women' (*Zan-e Ruz* 27/9/1372: 27).

Despite its different intention and rhetoric, the 1992 law, in practice, is bound to have a very similar impact to the FPL. By making divorce contingent upon the husband's payment of marital dues, the new amendments place the wife in a better bargaining position to negotiate the terms of her divorce than under FPL. If she is the party who seeks the dissolution of the marriage, by forgoing her *mahr* – which as practised in Iran is not only substantial but also legally payable upon her request – she is in a better position to obtain a *khul'* divorce. If he is the one who wants to terminate the marriage, by demanding her *ujrat al-mithl*, she can make her husband change his mind or even force him to provide her with a kind of alimony. However, by requiring every divorcing couple to go through the process of arbitration, these amendments are further complicating the whole process of negotiation that precedes any divorce, as well as creating a great deal of work for already overworked judges.

No study has been published (and probably none was ever done) of the actual working of the dismantled FPL in pre-revolutionary Iran, and we do not know how its courts operated, and to what extent men were prevented from exercising their right to divorce. What we do know is that its main beneficiaries were working middle-class women, who were seeking divorce and wanted to keep their children. In the Special Civil Courts (prior to the new amendments), by contrast, as my own work suggests, the beneficiaries are non-working women, entirely dependent on their husbands for support, and women who present no overt challenge to the patriarchal structure of the family. It remains to be seen to what extent these women can use the amendments, and the courts as an arena, to renegotiate the terms of their *Shari'a* marriage contracts. What is clear at this stage is that, at least in theory, the 1992 amendments do offer a better deal than the FPL did to women who enjoy little

economic independence. It does make it impossible for men to exercise their *Shari'a* prerogatives with impunity. This sanction, I believe, can serve women such as my guide in Vanak better than equal rights in matters of divorce and child custody.

### HEJAB: THE LAST DITCH

Let me now turn to a second field of operation of the *Shari'a* mandates in Iran, that of veiling or *hejab*. Unlike in the issue of divorce, here the early discourse rules supreme and there is no dissent, at least overtly. To understand why no debate is tolerated on *hejab*, we need to place it in context of the former regime's policies.

In 1936 Reza Shah banned the veil as part of his modernising crusade. Veiled women were arrested and had their veils forcibly removed. This not only outraged clerics but some ordinary women to whom appearing in public without their cover was tantamount to nakedness. Yet it was welcomed by others, both men and women, who saw it as a first step in granting women their rights. Since then, the *hejab* issue has become a deep wound in Iranian politics, arousing strong emotions on all sides. It also became a major arena of conflict between the forces of modernity and Islamic authenticity, where each side has projected its own vision of morality.<sup>22</sup>

Later the rules were relaxed, and after Reza Shah's abdication in 1941 the compulsory element in the policy of unveiling was abandoned, though the policy remained intact throughout the Pahlavi era. Between 1941 and 1979 wearing *hejab* was no longer an offence, but it was a real hindrance to climbing the social ladder, a badge of backwardness and a marker of class. A headscarf, let alone the *chador* (see p. 155), prejudiced the chances of advancement in work and society not only of working women but also of men, who were increasingly expected to appear with their wives at social functions. Fashionable hotels and restaurants refused to admit women with *chador*, schools and universities actively discouraged the *chador*, although the headscarf was tolerated. It was common to see girls from traditional families, who had to leave home with the *chador*, arriving at school without it and then putting it on again on the way home.

Just as the rules and meanings of *hejab* became more subtle and nuanced, so did the ways of promoting and defying it. In the 1970s, *hejab* represented what the Pahlavis had rejected, a symbol of both vice and virtue.<sup>23</sup> Apart from Islamist students, many middle-class urban working women took up the scarf to show their own rejection of the Shah's regime, which had good reasons to count on them as allies. Few of these women imagined that veiling would become obligatory if the Shah went (Betteridge 1983; Tabari 1986). In March 1979, when the intentions of the new regime became clear, these women once again took to the streets, this time to protest against the veil; but it was too late, and gradually but surely *hejab* became compulsory. In 1983, appearing

in public unveiled became an offence, punishable by the 'Islamic' penalty of up to seventy-four lashes.<sup>24</sup> In 1994, there was not a single bare-headed woman to be seen in public anywhere in Iran. No woman could imagine venturing out without a head cover.

No one can doubt that the Islamic Republic has succeeded in veiling women (just as Reza Shah succeeded in unveiling them earlier), yet it is clear that it has failed to sell the ideal of *hejab* to many women, especially to the younger generation (just as the Pahlavis failed to obliterate it).<sup>25</sup> The *hejab* issue continues to dominate the political scene: the problem is now that of *bad-hejab*, that is 'incorrect veiling'. The phenomenon is not confined to the middle-class streets of northern Tehran, where the latest hair-styles and fashions constantly push back – literally – the edges of the veil. It is most prevalent among school-girls, who started their schooling in a fully 'Islamised' system, the post-revolutionary generation who have not been exposed to the corrupting influences of the past.

Alarmed by the spread of *bad-hejab*, in December 1987, the Women's Association of the Islamic Republic, whose general director is Zahra Mostafavi (Ayatollah Khomeini's daughter), took upon itself to establish a *Hejab* commission. After some deliberations, the commission – a number of women with close ties to the ruling elite – decided to tackle the problem in two 'moves', or operations. The first, designed to have an immediate and cutting impact, was accomplished by holding the rally of 'Vanguards of Chastity' (*tali'eh-daran-e 'efaf*). The second operation, intended to have a deep and long-term impact, entailed the creation of six subcommittees charged with conducting research in historical and contemporary aspects of the problem (*Neda* 1369, no. 3: 36–9).

The activities of one subcommittee, that responsible for Research on Ways to Combat the Banal Western Culture in Society, were outlined by its head in winter 1991. The research, which involved reviewing and indexing over 135 books, 32 radio programmes and 6 periodicals, focused on three major issues: factors leading to Western cultural penetration; people's disposition to them; and ways to counter Western cultural banality. The results on the first issue, as published in the form of three articles in consecutive numbers of the Association's journal *Neda* (1370/1, nos 8, 9 and 10), can be best described as a partial but orthodox version of the history and dynamics of Iran's relation with the West. The first article discusses the exploitative nature of these relations from the time of Shah 'Abbas, the Safavid King, to the present day; the second deals with the evolution of the clergy's opposition to Western culture; and the third explores the entry points through which Western culture penetrated into Iranian society, which include intellectuals, modern arts, media, and finally dress forms.<sup>26</sup>

In 1989, a more rigorous sociological investigation of the reasons for *bad-hejab* was commissioned by the Social Affairs division of the Tehran Governor's Office. This initiative is noteworthy, not only as a response to the increasing

defiance of *hejab* by young women in Tehran, but also in that it recognises the problem for the first time as socio-cultural rather than religious and contains some interesting insights. Until then the only strategies for confronting 'bad-veiling' were indoctrination (through schools, wall slogans and the media) and intimidation (by organised attacks on women in the street). The study is a revealing document in its own right, using the latest state-of-the-art sociological methodology to produce a totally non-sociological analysis.

Conducted by a team of university researchers, the study aims to uncover the underlying reasons behind the 'deviant behaviour of Tehrani women with respect to Islamic dress'. A random sample of 3,030 women are graded according to the degree of correctness of their *hejab*. The highest grade, that is the most correct form, goes to a black *chador* and *maqna'eh* worn together (*chador* is the traditional Persian veil, a loose sheet of cloth which covers the entire body except the face, and needs to be held by one hand under the chin; and the *maqna'eh* is a new kind of headgear which is secured under the chin and over the forehead). The second highest grade goes to *maqna'eh* on its own plus tunic and matching trousers; a non-black *chador*, that is a *chador* either slightly patterned or coloured, gets the same mark. The third grade goes to a plain scarf and tunic. The lowest grade goes to a coloured or patterned scarf or *chador*. Each of these four grades of dressing are further qualified by three other factors: the tightness of the outfit worn, together with the extent of hair shown; the heaviness of the make-up worn; and the thickness of stocking worn. On the basis of the above, the women in the sample are divided into categories in terms of the correctness of their *hejab*: extremely good *hejab*, good *hejab*, moderate *hejab*, bad *hejab*, and extremely bad *hejab*.

The findings were written up in a report of 361 pages, which includes 180 statistical tables, relating *hejab* to all conceivable socio-economic factors. Over 48 per cent of women are found to be 'bad-*hejab*', 23 per cent are 'good-*hejab*', and the rest moderate. (In the tables the categories of very good and good, or very bad and bad are respectively collapsed into good and bad *hejab*.) One of the major findings of the study is that 'in the category of moderate and good *hejab*, women follow an established model, thus they enjoy social cohesion, but *bad-hejab* women lack this cohesion and betray a great deal of diversity and individualism'. From this finding, the study concludes that *hejab* is now institutionalised, and that since *bad-hejab* is not, it is possible to contain and eventually to eradicate it. Altogether seventeen recommendations are made, such as:

- women's status in society should be raised in harmony with cultural traditions in order to prevent the sudden descent into *bad-hejab* which appears to coincide with the start of a woman's marital life
- there should be no further investment in trying to change the attitudes of older women who lived under the previous regime

- the consumerist habits of the middle and upper middle classes should be controlled by means of the redistribution of wealth
- there should be a return to traditional forms of urban planning, to narrow streets and culs-de-sac, as wide streets and apartment blocks are found to be correlated with *bad-hejab*.

The remaining thirteen recommendations are of the same genre, some of which, if taken seriously, would require another revolution on a much wider scale to ensure the full enforcement of *hejab*.

I have described these two initiatives in some detail so as to give an idea of the state of the debate over *hejab*, which, unlike that over divorce laws, not only lacks sophistication but also is detached from social reality.<sup>27</sup> This was not the case early in the revolution. A prominent woman physicist, who herself wore *hejab*, resigned in protest when it became compulsory in government offices. In her resignation statement she declared that the rule had no religious sanction and would ultimately negate the very purpose of *hejab*, whose observance must remain a personal decision, incumbent only on those who believe in it.<sup>28</sup> But today there is nothing of this scope and level in any of the women's papers, which choose not to bring the subject up.<sup>29</sup> Why?

*Hejab* is a powerful metaphor, capable of taking many shades of meaning and performing many functions. At an abstract level, some of the issues raised have been explored by others, notably Milani's (1992) study of the relationship between the veil and the literary silence of women in Iran. But at the tangible level of this chapter, I suggest that *hejab* has its own payoffs; and in the context of social life in Iran today it is an empowering tool for women.<sup>30</sup> What tends to be neglected here is that the enforcement of *hejab* can be as empowering as its ban, and that *hejab* is one of those issues where one group of women claims the right to speak for all women. As in other Muslim countries, in Iran the current orthodox form of *hejab* is largely an urban phenomenon, and an issue for educated and working women, marking the ascendancy of anti-Western and popular strands over those which prevailed a generation ago.

Also neglected is that, unlike on the issue of divorce, women in Iran have always been widely divided on the question of *hejab*. While it undoubtedly restricts some women, it emancipates others by giving them the permission, the very legitimacy for their presence in the public domain which has always been male-dominated in Iran. Many women today owe their jobs, their economic autonomy, their public persona, to compulsory *hejab*. There are women who have found in *hejab* a sense of worth, a moral high ground, especially those who could never fare well in certain elitist and Westernised sections of pre-revolutionary Iran, which was self-consciously obsessed with the display of wealth and beauty. This obsession goes a long way to explain the current regime's obsession with *hejab*, one of the aims of which is to keep beauty and wealth hidden. (It is a commonplace in current anti-*hejab* discourses in Iran that those women who support *hejab* are themselves either plain-looking or of

modest circumstances or both.) In fact, one of the pleas for wearing *hejab*, as made in a guide for the young bride, tells her, 'sister, have mercy on those unfortunate women who might not be endowed with your youth and beauty; by not displaying your beauty and attracting the admiring eyes of their husbands, you are also keeping their marriage intact' (Division for Struggle Against Social Corruptions nd: 3). In a convoluted way, this is a plea for solidarity, which, although made by men on behalf of women, appeals to many women.

In a bizarre way, *hejab* has even empowered those whom it was meant to restrain: Westernised middle-class women. The regime's obsession with its enforcement has given these women, now marginalised, the means for making a mockery of one of its most explicit platforms. It is precisely because of the power and potential threat in such mockery that the regime cannot afford to show flexibility. There is too much at stake. This has given the traditional expression of women's power of subversion in patriarchal systems a different lease of life, a political edge that it has never had before in Iran.<sup>31</sup> These women have resisted the rule of compulsory *hejab* in ways similar to those described by James Scott in his *Weapons of the Weak* (1985), which lack any kind of organisation and indeed need no co-ordination or planning. Such resistance, which can be nothing more than individual acts of footdragging and evasion, may in the end make an utter shambles of the policies dreamed up by the powerful. Events in Iran in 1993-4 indicate a serious questioning of the legitimacy of the harshness with which *hejab* has at times been imposed, and that its hegemony is breaking down.

In September 1993, a 17-year-old girl was shot dead in affluent north Tehran because of her *bad-hejab*. Although the shooting was not mentioned in the news bulletins of the day, by late afternoon everyone in north Tehran was talking about it. Two versions of the incident prevailed. In one, the girl was standing with her mother in a queue at the baker's, when a young officer from the newly created Vice Squad (*amr-e be-ma'ruf*, literally promoter of virtue) insulted her for her non-Islamic appearance: losing her temper, the girl tore her scarf off, and he shot her. In the second version, the girl was in a telephone booth when approached by the officer, who ordered her to adjust her scarf down. When she refused, he threatened her with the gun; she dared him to shoot, and he did. A crowd gathered; some took the girl to the hospital, where she died, while others attacked the officer, who barely escaped with his own life.

The rumours became so widespread that the Chief of Tehran Police (which now incorporates the revolutionary guards) had to issue a statement, aiming to set the record straight. He informed the public that the officer was not from the 'Vice Squad', whose members are not armed; he was an ordinary soldier, and it was his carelessness with his gun which led to the girl's death; it was an accident. The incident was also commented on by two women's papers, *Zan-e Ruz* (20/6/1372) and *Payam-e Hajar* (14/6/1372), the first



reflecting the official version, the second using the occasion to reprimand the authorities for the non-Islamic turn which the whole issue of *hejab* has taken.

In another incident, in the city of Yazd, a Vice Squad officer, while carrying out his duty to correct a *bad-hejab* women, was beaten up by her angry husband and his friends. The incident was condemned by the Friday Prayer Leader of Yazd, and an official demonstration was held during which the safety and protection of the officers was demanded. The offender was tried and sentenced to a *diya* (compensation money) of 15,000 toman and 45 lashes for the injuries that he caused the officer. As the officer waived the *diya*, the offender received only the lashes (*Jumhuri-ye Islami* 23/9/1372).

It is thus no exaggeration to say that what women should wear in public has become a dilemma not only for women themselves, but also for the Islamic Republic.

### DEBATING WOMEN: AN EMERGING FEMINIST VOICE

Apart from the *hejab* issue, other early rulings of the Islamic Republic with regard to women have also been modified, which suggests that the early debates that were so harshly stifled a decade ago have now resurfaced (Ramazani 1993). The establishment women's press, namely *Zan-e Ruz*, has played an instrumental role in bringing about the recent *Majlis* rulings to remove the prohibitions which came into existence in 1980 barring women from studying certain subjects such as agriculture and mining. The only educational restriction that now remains is that barring female students from taking up scholarships to study abroad unless they are accompanied by either husbands or fathers/brothers.

Although limited and confined within the parameters of Islam, the current gender debates reveal a growing dissent from the earlier discourse of the Republic. In some ways one can say that recent *Majlis* rulings represent the establishment side of the debates. However, there is another side, which aligns itself with a new trend of thought in post-war and post-Khomeini Iran, grounded in a Shi'a discourse which is radically different from the official one.<sup>32</sup> This trend espouses a brand of 'feminism' which has the potential to change the very terms of post-revolutionary discourses on women. This is so because it is starting not only to challenge the hegemony of orthodox interpretations but also to question the very *Shari'a* legitimacy of the laws enforced by the Islamic Republic. These views are aired in *Zanan* (literally, Women), a women's magazine launched in 1992.

There are at least three significant facts about *Zanan's* feminism and its line of argument which are novel whether in the Iranian or in the wider Muslim context. First, unlike pre-revolutionary discourses on women in Iran (both Islamic and secular), *Zanan's* does not subordinate the women's issue to a wider political project, but advocates it in its own right. It appears to be an

independent voice, not dictated by the state or a political party, advocated by women who are neither related by marriage or blood to the political elite, nor closely toeing the line of any political faction.<sup>33</sup>

Second, in line with feminist writings within the context of Islam,<sup>34</sup> and in contrast to other *Shari'a*-based writings on women,<sup>35</sup> *Zanan* holds that there is no inherent and logical link between patriarchy and Islamic ideals. It sees no contradiction between fighting for women's rights and remaining good Muslims, and makes no apologies for drawing on feminist sources to argue for women's rights and a new reading of *Shari'a* texts. Unlike other journals in Iran and a mass of Islamic apologetic literature elsewhere,<sup>36</sup> *Zanan* neither attempts to cover up nor to rationalise the gender inequalities that are embedded in many aspects of *Shari'a* law, but argues that they can all be addressed within the context of the *Shari'a* itself. However, unlike Muslim feminists elsewhere, *Zanan* discourse does not simply locate its feminist position within Islam but operates within the parameters of the political discourses and structures of an Islamic Republic. Such a position not only enables *Zanan* to break the old and tired dichotomy between Islam and feminism but also ensures that its arguments cannot be dismissed by the Islamists merely as 'corrupt and Western'.

Finally, this is made possible by the twin facts that in Iran Islam is no longer part of the discourse of opposition to the state and that those espousing *Zanan's* brand of feminism enjoy legitimacy and argue from inside the Islamic discourse. These are women/men who not only subscribed to the *Shari'a* discourse on women as developed by Ayatollah Motahhari when it was still part of the Islamic opposition to the Pahlavis, but also helped to translate it from rhetoric to policy after the establishment of the Islamic Republic. It was during the process of this translation that some of them came to confront its inherent contradictions, a confrontation which brought about the awareness that they can find support in feminism, regardless of its Western baggage, but they can only meet resistance in patriarchy, regardless of its Islamic credentials.

*Zanan's* editor, Shahla Sherkat, and her colleagues were among those who helped to Islamise *Zan-e Ruz*, the glossy women's magazine of the pre-revolutionary period with the highest circulation. Sherkat was invited to join *Zan-e Ruz* in 1982 and remained its chief editor until 1991 when she was dismissed because of unresolved disagreement over the ways in which gender issues were being addressed. The first issue of *Zanan* appeared in February 1992, seven months later, to coincide with the thirteenth anniversary of the revolution. Its editorial imparts something of the nature of these disagreements which finally led to its birth. Referring to a decade of fighting against the centuries-old oppression of women in Iran, Sherkat writes:

our experiences repeatedly tell us that awareness is a torch with which today's woman can step onto the dark paths of her destiny, without fearing the deep chasms that cross her every step. Women's awareness, without

doubt, is society's awareness, but access to this torch is impossible without the existence of freedom. The backbone of freedom is independence and the right to choose. But no independence is possible without knowledge and maturity.

(*Zanan*: 1991: 2)

Apart from consciousness-raising, *Zanan* assumes an advocacy role through addressing the disadvantages that women face in the realms of religion, culture, law and education. In culture, law and education, it argues for the urgent need for concentrated efforts to offset deep and age-old prejudices and inequalities. In religion, it argues for the urgency of progressive *ijtihad* (new rulings derived from Islamic law). Some of the articles related to *Shari'a* debates are written by a cleric in Qom, who until a year ago used a female pseudonym, Yadgar-e Azadi, which has also a symbolic meaning, 'the souvenir of freedom'. He takes issue with the very premises on which current Shi'a debates on the position of women are based, laying bare their inherent gender bias. His mastery of the Shi'a art of argumentation, coupled with his command of the sacred sources, give a different edge to his writings. Incidentally, the seminal text of this discourse, that is Ayatollah Motahhari's *Women's Rights in Islam* (1981), has its origins in a number of articles in *Zan-e Ruz* in the 1960s. Whereas then Motahhari used Western scholarship to explain the reasons and the necessity for the different treatment of women in Islam, the *Zanan* writer uses Shi'a scholarship to argue for the necessity of a new, feminist, reading of old texts.<sup>37</sup>

This new trend of thought appears to be having repercussions well beyond its small political base. It is even inducing its own counter-discourse, articulated by those women with close links with the political elite who have launched the first ever women's studies journal in Iran, *Farzaneh* (literally, wise or sage). As Najmabadi has observed,<sup>38</sup> the appearance of *Farzaneh* in autumn 1993 must be seen in connection with Sherkat's dismissal and the growing dissent within *Zan-e Ruz*, which led to the birth of *Zanan*.

In winter 1991, immediately after Sherkat's dismissal, Mahbubeh Ommi, who later became the editor of *Farzaneh*, wrote a series of articles in *Zan-e Ruz*, entitled 'Feminism from the beginning until now'. In these articles, Ommi contended that 'feminism' as a concept is alien to Islam and unnecessary to Muslim societies, although it is needed in the Western world where Judaeo-Christianity left little choice for women but to organise themselves to redress their disadvantages. In this way Ommi not only disparaged the stance taken by Sherkat and her allies, but also rejected 'feminism' as irrelevant for women in Iran. However, in an editorial to introduce the new journal, 'Why *Farzaneh*', her stance is rather different. While still rejecting organised and independent feminism, she argues for establishing the field of women's studies in Iran. Ommi writes that the 'women's question' is a universal one that stems from the 'characteristics of feminine nature' which manifests itself differently in

different contexts. This makes it futile to address women's disadvantages in ways similar to those which stemmed from class, race and other differentiation. Instead she argues that the 'women's question' must be brought into the academic domain where it can be analysed and understood and where suitable strategies can be planned to redress it. Then the solutions found can be filtered into society at large, when 'experts' give their informed advice to policy-makers: in short a 'top-down' approach and prescription for feminism (*Farzaneh* 1370, 1: 4-5).

One can also detect a change of tone in *Zanan*'s rival, *Zan-e Ruz*, which has been highlighting the problems that women in Iran have to grapple with, drawing attention to gender inequalities in areas of education, health and employment, and exposing the deep-rooted misogyny evident in popular culture. Its December 1993 editorial, to mark Iranian Women's Week, was entitled 'The Presence of Women, Guarantee for the Sustainability of Development', and argued that there can be no sustainable development without women's active participation on all fronts. Similar concerns are expressed in all other journals, even in the national daily newspapers, the exception being *Payam-e Zan* (Women's Message), which is a women's monthly published in Qom. This journal, whose entire editorial board are men, is the only one which is still holding the early torch, and seems to be unaffected by these recent currents which have even caught the attention of some secular Iranian feminists who live in exile.<sup>39</sup>

## CONCLUSION

How are these 'liberal' tendencies in Iran being viewed by the media and by women in Iran and outside, and how are they likely to develop in the years to come? Events are still unfolding and it is too early to draw firm conclusions, yet some preliminary observations can be made. First, the 1992 divorce amendments seem so far to have escaped the attention of the foreign press, which gave such acclaim in the late 1960s to the Shah's Family Protection Law. Why?

One reason must be that these developments do not fit with the image of Iran maintained in current discourses in the West. In Iran itself the recent amendments have not been met with unqualified euphoria but simply have been welcomed as a 'first step' in the right direction. In an article which appeared in *Zanan* in February 1993, Mehrangiz Kar, a woman lawyer, discusses the new amendments from a legal perspective, listing problems and legal tangles in terms of both substantive law and implementation. She contends that these amendments as they stand are not going to improve women's lot but should be viewed as a 'test'. A similar point was raised by the Women's Affairs division of the Tehran Governor's Office, two of whose members attended court sessions for a week in autumn 1993 to find out how the law was being implemented, and whether divorced women were receiving

the 'domestic wages' to which the new law entitles them. In their report, they state that as long as men and women have unequal access to divorce, as long as the husband has the means to coerce his wife into giving her consent to a divorce desired by him, and as long as a woman has to compromise all her *Shari'a* rights to obtain her husband's consent to a divorce, the right to claim 'domestic wages' would offer women little protection. In another magazine article, a judge is interviewed on the implementation of the new law. Both the questions asked and the judge's response are indicative of their critical stance (*Navid-e Fazilat* no. 15, Shahrivar 1372: 10–13). The judge raises similar points to those raised by the lawyer in *Zanan*, and says that, as the law stands, the legislator's intention, which is to provide better protection for women, can easily be bypassed. He complains that the *Majlis* passed the law in haste without proper consultation with practising judges. In short, the 1992 law is seen as insufficient on its own, and more constructive changes are demanded.

When I eventually arrived at court on that day in September 1993, I learned that since the enactment of the 1992 divorce amendments there had been over a hundred cases of women demanding the *uqrat al-mithl*, 'domestic wages'. Yet the courts had not yet issued any judgement; the judges do not know what to make of the whole concept and find it legally irrelevant and inapplicable. And women coming to seek divorce are also not that happy with it; as my lawyer friend put it, 'what women need is something that puts them in the same negotiating position as their husbands'. I also learned that the new law is bound to be revised, since it is creating real legal problems for the courts. When we left the court, I told my lawyer friend what my guide had said about how children sometimes matter more than a husband to a woman. Her response was: 'Then we must suffer; we will never get anywhere unless we are prepared to leave our children behind; I promise you, it will be he who then comes begging for a compromise.'

By bringing home to women from all walks of life the harsh reality of what marriage can entail under the *Shari'a* when enforced by the modern state machinery, the Islamic Republic has acted as a catalyst for the emergence of what can be described as an indigenous – locally produced – feminist consciousness.<sup>40</sup> Such a consciousness has always been part of the experience of women in Iran, but, in Ardener's words (1975) in a 'muted' form, which is now slowly but surely finding its own voice, a mode of expression, and even a kind of legitimacy. More importantly, it is no longer confined to the private domain of the family, but has extended into the public arena. Today, concepts such as 'male dominance' and 'patriarchy' are increasingly used by ordinary women to make sense of their everyday experience. Interestingly, both concepts are collapsed into *mardsalari* (rule by men), which in subtle ways does not implicate all men: not a woman's father or brother, who are seen as her natural allies, but her husband whose power over her is officially encouraged, and more importantly the male political elite, who have endorsed it.<sup>41</sup> This

term is familiar to all, debated on radio and television, and yet its meanings and connotations are different from what they used to be in pre-revolutionary Iran when the concept was taken by intellectuals from Western feminist discourses.<sup>42</sup>

What has facilitated this is the state's ideological understanding of Islam which, by demolishing the *de facto* divide between the personal and political, not only opens the way to challenge the hegemony of the orthodox interpretations of the *Shari'a* but also gives a new dimension to the tension inherent in its practice in the twentieth century. And it is this tension which has brought about the changes in divorce laws whose provisions, in theory, surpass those of pre-revolutionary laws in benefiting ordinary women. The tension is nowhere more evident than in the dispute between the *Majlis* and the Council of the Guardians over these changes. In March 1991 the Council, whose task is that of upholding the *Shari'a*, objected to the concept of 'household wages', as formulated by the law passed by the *Majlis*. The dispute between these two bodies was not resolved until November 1992, and then only through the intervention of the highest constitutional authority, the Assembly for Ascertainning the Regime's Interest (*Majma'-e Tashkhis-e Maslehat-e Nezam*). In December the new law came into effect, in an emasculated form, to the extent that it failed to achieve its objective, and became irrelevant in practice; hence there came another wave of protests, by the women's press and organisations, and even the judges, who objected that they had not been consulted. The divorce laws are once again due to be debated in the *Majlis*. It remains to be seen to what extent they will be grounded this time in court practices and the realities of marital disputes.

Meanwhile women in the courts and outside are making their voices heard and their presence felt; and the changed economic system, which has made it increasingly difficult for their husbands to be the only providers, is shaking the very foundation on which men's *Shari'a* rights rest. The changes in the divorce laws and the absence of changes in the *hejab* laws are but a moment in a process set into motion when the Islamic Republic was born. This process has inadvertently been nurturing an indigenous 'feminism' which is as much rooted in Iranian family structures as it is in the interaction of Islamic and Western ideals of womanhood. It could emerge only after challenging and rejecting the state-sponsored and Western-inspired 'feminism' of the Pahlavis, as well as the liberal-leftist feminism of 1970s women's liberation, and yet in the process assimilating some of the features of both.

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## NOTES

1 E.g. Afshar (1982; 1987; 1989; 1994); Sanasarian (1982; 1992); Azari (1983); Mahdavi (1985); Nashat (1983); Tabari (1986); Tabari and Yeganeh (1982); Reeves (1989); Adelkhan (1991); Ramazani (1993); V. Moghadam (1988, 1993); Haeri (1989, 1994); Omid (1994); Najmabadi (1991; 1994); Alkhami and Friedl (1994).

Interestingly, a large portion of this literature is produced by the same authors, some of them under different names (some originally wrote under pseudonyms, others are now adopting them). This literature, I believe, should be treated as a particular discourse about Iranian women, namely that of the secular feminists, some with leftist inclinations, who left Iran shortly after the revolution. Some of these women, mainly those active in or sympathetic to leftist organisations, never returned to Iran but retained a keen interest in post-revolutionary developments as they affect women. The Persian-language feminist journal, *Nimeh-ye Digar*, published in North America, has been a forum for some of them. Elsewhere, I examine this literature and its discourse in a larger project of which this chapter is a part.

Another genre of literature on women in post-revolutionary Iran is produced by some Western women anthropologists, such as Higgins (1985); Betteridge (1983); Hegland (1983); Friedl (1983; 1989; 1994); Bauer (1993).

- 2 For an insightful discussion of the inappropriateness of Western ideologies of emancipation to the Iranian situation, see Moore (1988: 173–8).
- 3 It is with great reservation that I use the term feminism, even in Moore's minimalist definition. There is no equivalent term for it in Persian, although as a consciousness it has always existed. This consciousness in its indigenous forms remains largely unexplored in the Muslim context. Studies of feminism in the Muslim world predominantly deal with its expression among the Westernised and educated elite and align it with its Western counterpart.
- 4 *Talaq-e ruj'i* is a suspended form of divorce which becomes final only when the wife completes three menstrual cycles. All divorces are *ruj'i* unless they are initiated by the wife, who secures her husband's consent by offering him an inducement to release her (*khul'* or *mubarat*); or they meet one of the following conditions: if the marriage has not been consummated; if the woman is past her menopause; if she has not reached the age of menstruation; or if it is the third successive divorce. On forms and procedures of divorce in the *Shari'a* as practised in Iran, see Mir-Hosseini (1991: 36–41, 54–83).
- 5 There is also a tendency to divorce the *Shari'a* from the wider context within which it is meaningful, for instance as in Afshar's (1987) and Najmabadi's (1994: 374) evaluation of return to *Shari'a* after the revolution. As I have argued elsewhere, no understanding of Islamic law and what it entails for women is complete without examining its practice, i.e. how it is applied in courts, and how individuals use it to settle their marital disputes. For example, despite overt inequalities between the rights of men and women within Muslim marriage, there are mechanisms both in Islamic law and in social practice which can balance the situation. In Iran, one cannot examine divorce and women's access to it without considering the central role of *mahr* (dower, an integral part of every Muslim marriage contract), and the ways that women use this Islamic institution in order to determine the terms of continuation or dissolution of their marriages (Mir-Hosseini 1993: 72–83).
- 6 For an English translation of the FPL, see Naqavi (1967).
- 7 The letter was issued 26 February 1979; see Tabari and Yeganeh (1982: 232).
- 8 For instance, see Al-Hirbi (1982); Mernissi (1991).
- 9 For popularist bases of the revolution, see Abrahamian (1993).

- 10 On this, see Najmabadi (1994); Sanasarian (1992); Ramazani (1993); Haeri (1994); Moghadam (1993).
- 11 For an account of the Women's Organisation of Iran, see Sanasarian (1982) and for an early account of Taleqani's organisation, see Tabari and Yeganeh (1982: 223–7).
- 12 Those who were purged from the offices were women who were seen as following a Western model of womanhood. Some left the country, and many of those who stayed resigned or took early retirement as they found the new working conditions intolerable.
- 13 There are contrasting views on this; while some argue that women's higher participation in the labour force is reflected in official statistics (V. Moghadam 1988), others refute this (Omid 1994; F. E. Moghadam 1994).
- 14 Otherwise these women would not have qualified to stand in the first place; every candidate is screened by a pre-electoral committee which examines their 'Islamic' credentials. There is also an extended interview with two of these women in which they talk of their achievements and frustrations in the *Majlis*, confirming that they see their role as promoting women's rights on Islamic lines. For instance, Mrs Dabagh states: 'out of 270 deputies in the *Majlis* only 4 are women. No matter how hard these four try, they cannot discuss a high percentage of women's Islamic needs and rights in the *Majlis* and have them legislated' (*Neda*, 1370, no. 6: 16–30).
- 15 The interview is indeed a revealing account of the *Majlis's* perception of its female members. For instance, Nateq Nuri states: 'the sisters that we have in this *Majlis* are all educated, enlightened and cultured; of course this is not to say that the sisters in the previous *Majlis* were not ... the other day I was astonished to hear a sister saying really sensible things and expressing 'expert' opinions in a debate on ... which was indeed a specialized topic; we have even one sister who is in our legal committee ... sisters now take part in many debates, but they are most active with regards to matters concerning sisters and women' (*Zan-e Ruz*, 13/9/1372, nos 1437 and 1438: 15).
- 16 For women in the constitution, see Nashat (1983: 195–216), Sanasarian (1982: 138–9); for women's debates in the Assembly of Experts at the time of the constitution, see Esfandiari (1994: 63–9); and for how these contradictions in practice provide room for manoeuvre, see Sanasarian (1992), V. Moghadam (1993: 171–82) and Ramazani (1993).
- 17 Which reads: 'since the family is the fundamental unit of an Islamic society, all relevant laws, regulations and policies must facilitate its formation, guard its sanctity and ensure its relations according to Islamic rules and morals'.
- 18 Which reads 'a man can divorce his wife whenever he wants'.
- 19 Polygamy is an area of Islamic law where the conflict between law and social practice is most acute. For a discussion of the tensions involved, see Mir-Hosseini (1993: 127–8).
- 20 It has been suggested that the FPL 'represents a brief interlude in the otherwise continuous application of the *Shari'a*' (Higgins 1985: 479), and had no bearing on the lives of women from the popular classes. But as I have argued elsewhere, the impact of these reforms should not be sought merely in the extent to which they reach all sectors of the society, but in their power to provide a frame of reference which can be used in justifying demands and expressing grievances in the course of a marital dispute (Mir-Hosseini 1993: 191–4).
- 21 On the evolution and procedures of Family courts in post-revolutionary Iran, see (Mir-Hosseini 1993, especially chs 1 and 2).
- 22 For a discussion on this, see Najmabadi (1991; 1994); Haeri (1994).
- 23 For a fuller treatment of this, see the above sources.

- 24 Article 102 of Islamic Punishments (*ta'zirat*) passed in 1983.
- 25 Highly religious women, who have always worn the traditional form of *chador*, dismiss the new form of veiling, which they call *bi-hejabi* (without *hejab*). They appear to have their own definition of *hejab*, which is not the same as that promoted by the authorities. I am indebted to Azam Torab for this point.
- 26 The subcommittee's findings on the other two issues have not yet been made available.
- 27 Another study, this time by a psychologist, Shahriar Ruhani (1369/1990), purports to demonstrate why and how the observance of *hejab* can enable women to attain independence and psychological well-being, given that their psychological makeup is radically different from that of men.
- 28 See also speeches made by Azam Taleqani and others in 1979 (Tabari and Yeganeh 1982: 171-200).
- 29 There is, however, a passing reference to *hejab* in *Adineh* (a cultural and social journal) whose special 1373 *Nowruz* (Iranian New Year, 21 March 1994) issue is devoted to 'Women of Iran' (*Adineh*, no. 90-1: 73).
- 30 For instance, on Iran see Adelhah (1991: 198-215); V. Moghadam (1993: 179-80); Haeri (1994: 107-14). On Egypt see El-Guindi (1981) and on Turkey, Delaney (1994).
- 31 Women's power to subvert the patriarchal order is well documented. For some examples, see Hatem (1986); Kandiyoti (1988).
- 32 This trend of thought has its clerical core in Qom, on which little has been reported; and its intellectual core in Tehran, gathered around Dr Abdul Karim Sorush. He was one of the masterminds of the so-called 'Cultural Revolution' of 1980-2. Whereas then he engaged in debates with those who were then labelled as liberals, now he is engaging a debate with those who are defined as 'hard-liners'. For a journalistic account, see R. Wright's article in the *Guardian* (1 February 1995).
- 33 For women in pre-revolutionary resistance movements in Iran, see S. Afshar (1983); Moghissi (1993); Shahshahani (1984); and emerging feminist voices in the wake of the revolution, see Tabari (1986).
- 34 For instance, secular Muslim feminists such as Mernissi (1991) and Ahmed (1992).
- 35 In the Shi'a context, the writings of Ayatollah Motahhari are most prominent, reproduced almost verbatim in numerous publications after the revolution. A new version of Motahhari's thesis, put forward in a book by Ayatollah Javadi-Armlu in 1992, was critically reviewed by Zanan (cf. Mir-Hosseini 1995). For a review of similar literature in the Sunni context, see Stowasser (1993).
- 36 This literature is characterised by opposition to feminism (as it is seen to advocate both secularism and Westernisation) and a defensive or apologetic tone (justifying the *Shari'a* treatment of women).
- 37 For an analysis of the legal articles of *Zanan*, see Mir-Hosseini (1995).
- 38 In a lecture delivered February 1994 at the School of Oriental and African Studies, University of London, sponsored by the Iranian Community Centre of London.
- 39 For instance, Najmabadi (*ibid.*) gave an interesting discussion of *Zanan*, in which she stated that she could enter a dialogue with the journal since she considered that it was prepared to question the 'foundationalism' of the Islamic discourse on women.
- 40 It is puzzling that this consciousness is either ignored in the literature, or, if it receives attention, appears to be quite misunderstood, as in Friedl's interesting but flawed discussion (1994). Friedl starts by arguing that 'women not only can be both oppressed and powerful simultaneously, but ... they can derive power to effect changes in their own and others' affairs from the very relations of inequality that define their position' (1994: 151), yet she ends up concluding that in doing

- so women not only fail to challenge 'the existing hierarchy of domination' but help to cement 'the gendered system of super- and subordination' (1994: 167). Her conclusions are largely shaped by the assumption that 'legitimate sources of power for women become increasingly scarce in an androcentric, male-dominated society such as the Islamic Republic of Iran' (1994: 166). Not only does she ignore the paradoxical ways in which, as we have seen, the Islamic Republic has empowered women, but also she negates the very basis of her own argument by devaluing women's strategies and seeing them as doomed.
- 41 For the ways in which pious women are now separating their faith from the ideology of the state, see Kamalkhani (1993); Torab (1994).
- 42 In summer 1994, in a village near Arak, I found myself discussing *mard-salari* with a 17-year-old girl who spends winters in Qom and summers in the village. She first heard the term in a discussion broadcast by the Voice of America on gender biases in Islam, and heard its refutation on the national radio. In her words, '*mard-salari* is when women are imposed on; and it is done in many families and in many situations, but not always, and not on every issue.' She was clearly defining the term in the light of her own experiences. Research needs to be done on how this gender concept, and others that are now gaining currency, are being constructed by ordinary women, by the press, media and the law.

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