

PERSPECTIVE OF IRANIAN RELIGIOUS LEADERS **TOWARDS WOMEN**

Pooja KoTwal

Abstract

Religion has an undeniable importance in the political aspect of Iran. Thus, it becomes crucial to understand the role played by the clergy in a country which runs by the ideology of *velayat-e faqih*. This paper will see how the clergy have been divided on their stand towards women's participation in the public sphere. Women have been amongst the major participants in the historical 1979 Revolution, however, their role was marginalised after the victory of the revolution. The Clergy led state adopted an approach due to which the women were succumbed to the domestic sphere. So, this paper looks into the dominant approach of the clergy towards the Iranian women.

Keywords: Iranian women, *Ulema*, Religion, State.

Introduction

The religious authorities have always been quintessentially influential in mobilizing the Iranian masses. With the Shah's ouster in the 1979 Revolution, the position of *ulema* became more dominant as the new Islamic regime projected its legitimacy conferred by its call to Islam. The Iranian Revolution of 1979 was termed Islamic by combining religion and politics based on the concept of *velayat- e-faqih* (the mandate of the jurist). This concept implies that the highest authority of the Islamic Revolution must be a higher religious authority as well as a major political leader who can lead a mass movement.

The role of the religious leaders in determining the legal principles has not been new in Iran. In the pre-Revolutionary Iran, the support of Shiite clerics has been the source of political legitimacy. However, during the Constitutional Revolution of 1906-1911, the clerical control was taken away in the matters of education and judicial systems. In the early 20th century under the Pahlavi regime, Iran saw forced secularization and modernization programmes which further reduced the role of conservative religious leaders in Iran. Later, they had been very vocal in opposing Mohammad Reza Shah's modernisation efforts like the compulsory unveiling, voting rights for women, etc.

Under Khomeini's leadership, Iran followed the idea of *velayat- e-faqih*. According to the political philosophy of *velayat -e- faqih*, a state is Islamic only if it is established on Islamic principles and laws and only those who have attained training in Islamic laws (*Sharia*) are the only legitimate heirs to govern. Ayatollah Ruhollah Khomeini believed that religion was under attack by secular rulers in Iran. He came to the political front in the early 1960s when he emerged as the chief opponent of various policies of the Shah regime. After the return of Ayatollah Khomeini on 1st February 1979, he got the opportunity to translate his doctrine of *velayat-e-faqih* or the custodianship of the jurist into practice. The idea of *velayat-e-faqih* was not unfamiliar in Shii thought, though traditionally this concept signified traditional moral custodianship, not political sovereignty. Khomeini extended the concept to include political sovereignty as well.

Clergy in Pre-Revolutionary Iran

In the pre-Revolutionary period, the Shia *ulema* in Iran were financially autonomous and received its legitimacy from the public support. It is an undisputed fact that the Iranian religious leaders were always dominant in every stage of people's life. The clergy's dominance is evident from the following

Matters of personal law were decided by them, title deeds were written by them and attested before them; disputes were often settled by them; commercial affairs which required the witnessing of documents were referred to them; and education was largely in their hands. Functions connected with birth, marriage, and death all required the assistance of the *ulema* (Omid 1994: 8).

As Homa Omid (1994) articulates, beyond such duties, the religious leaders had to bequeath obligations like deposits, the estates of minors, guardianship of orphans and the administration of private and religious endowments. The religious section received a huge amount of wealth as the followers had to pay the religious dues in the form of *zakat* (amounting to about one-fourth of his or her surplus material goods) and religious tax called *khoms* (one-fifth of the yearly income).

However, Omid (1994) argues that these religious taxes had to be paid half by the religious leaders to the descendant of the Prophet's family and the other half was at their circumspection that increases the wealth of the religious leaders. The religious leaders used to enjoy special privileges from the states such as stipends, government funds and endowments known as *vaqf*.

During the nineteenth century, Britain and Russia gained some of the commercial and political concessions by signing treaties with the rulers of the Qajar dynasty in Iran. The closeness of the Qajar rulers with the imperialist powers created resentment among the masses which formed an opposition against the state. The movement against the Qajar dynasty formed an alliance of influential people such as clergy, business committees, and the non religious intelligentsia (Yeganeh 1993:4).

The role of the *ulema* was important because of their dominant base within Iran. The Constitutional Revolution during the early part of the 20th century in Iran created a perception of modern society that could challenge the western intervention and their control.

Women were among the major participants in the Constitutional Revolution which helped them to gain political experience. In 1906, various meetings were held in which women activists decided that girls' school would be established and there should be the abolishing of the troublesome dowries. During this period, Women's Freedom Society (*Anjuman-i Azadi-yi Zan*) held meetings in which both men and women participated to discuss political and social issues (IHRDC 2010:3).

As soon as the news of its activities reached to the conservative clerics, students and teachers of girls' schools were publicly harassed. They also shut down the new girls' school within few days of their opening. Ayatollah Sheikh Fazlullah Nuri issued a fatwa stating that girls' school were against *Sharia*' (Hoodfar 1999). Thus, the Constitutional Revolution failed in ceasing the influence of religious leaders on the state (Tohid 1994:111).

Despite the women's participation in large numbers, women's suffrage was not raised as an issue during the Constitutional movement. However, the Constitutional movement was useful for women as it raised awareness among the common masses about women's rights. The participation of women in the Constitutional movement resulted in the initiation of consciousness raising associations and women's publications (Tohid 1994:111). In 1922, a woman activist, Mohtaram Eskandari, founded the Patriotic Women League with the intention of spreading women's literacy and criticising those authorities that targeted women's schools (IHRDC 2010:3). The League was condemned by the clerics leading to the arrest of Eskandari by the authorities (IHRDC 2010:3).

With the overthrow of Qajar dynasty in 1925 by Reza Shah, the new regime introduced modern civil and penal codes in 1928 by replacing religious judges and lawyers with secular ones which eventually diminished the role of the *ulema* in the courts. However, the influence of clergy on marriage, divorce and child custody continued (Girgis 1996).

Though the civil codes approved in 1928 were mostly taken from *Sharia*' law, the only difference lies in the registration of marriages, setting the minimum age of marriage at fifteen and inclusion of divorce regulations in the women's marriage contract.

Another measure introduced by Shah in 1960s was to educate the rural children and illiterates. For that, the Shah allowed young men and women to travel to rural areas so that the wisdom of knowledge can be distributed among them. Under Reza Shah, Iran was an agricultural society in which majority of the population (65 per cent) lived in rural areas among which 85 per cent of women and 65 per cent of men were unable to read and write (Kian 2014:183).

This idea of co- education under Shah led to enormous disappointment among the *ulema*. Ayatollah Khomeini affirmed that "the Shah is fooling the people by announcing women's participation in the elections," granting of voting rights to women or bringing half of population into the mainstream of the society. In addition to this, he further asserted that "imposing military service to young 18- year -old girls is like forcing good Muslims to go to places where prostitution is being practised" (Kian 2014:183). Khomeini held divergent views regarding men and women. He identified the public domain with men whereas the private sphere was identified with women. Khomeini held the view that women were suited for housekeeping jobs and their role as mothers and wives. The efforts of the Shah in removing the veil of women and focus on modern education etc. were criticised by the clergy. The traditionalists regarded unveiling as heresy and modern education for women a passage towards prostitution (Afkhami and Friedl 1994:10).

In 1963, the clergy in Iran protested against the decision by the Council of Ministers that allowed women to vote in provincial council elections and it resulted in protests by the clergy. Since Khomeini was against women's voting rights, his fierce opposition to this decision defeated the well intentioned move by the government.

Reza Shah was succeeded by his son Mohammad Reza Shah. During Mohammad Reza Shah's period, the hegemony of the clergy declined as major reforms introduced by him including the voting rights and the Family Protection Law of 1967 (modified in women's favour in 1975) challenged such hegemony. He codified Islamic laws in matters of marriage and divorce. As Keddie (2000) observes, such provisions limited polygamy where husbands can't divorce their wives with thrice repeated statements, and instead both husbands and wives had to go to court for a divorce.

The Family Courts for Adjudication were formed to handle the child custody cases. Under Shii law, the husband gets the custody of the child, with the exception that the mother could keep the boys till they reach two years of age while for the girls it was seven. The religious leaders were highly critical of the Family Protection Laws, especially Ayatollah Khomeini because he considered it as an imperialist action meant for bringing down the size of Muslim population and ultimately the enslavement of Muslim countries (Hoodfar and Assadpour 2000:20). In his *Tozih Masael* (1947), he has raised certain points related to Family Protection Law

A woman who has entered into a permanent marriage is not allowed to leave the house without her husband's permission. She must submit herself to any pleasure he desires. She may not refuse herself on any grounds other than religiously accepted ones...If a woman does not obey her husband according to the manner set out in the previous problems, she is then sinful and is not entitled to food, clothes, housing or intercourse. But she is entitled to her Mehr. (Mahdavi 1983: 23)

Khomeini has dedicated ten sections in his *Tozih Masael* to the *hejab* prescribing rules on which part of a woman's body can be seen by woman's male relative and has specified that which male (whether a family member or a stranger man) can look at a female in what manner. As Mahdavi further argues "The only parts to be seen are the oval of women's face and her hands. Even for seeing these parts, permission was required as the onlooker must not observe them with sexual appetite" (Mahdavi 1983:23).

He has also discussed divorce in his *Tozih Masael*, in which he gives autonomous powers to husband to divorce his wife if he desired to do so. "The only endowments are related to the last date of sexual intercourse and the woman's period. However, there are no endowments related for divorcing menopausal women and nine-year-old girls" (Mahdavi 1983:23).

Ayatollah Khomeini continued protesting against the voting rights of women provided by Mohammad Reza Shah, which led to his house arrest in 1963. Khomeini sent a telegram to the Shah on October 9, 1962, criticising women's participation in political matters as an anti-Islamic measure. "By granting voting rights to women," Khomeini argued, "the government has disregarded Islam and has caused anxiety among the *ulema* and the Muslims" as cited in Kian (2014). In order to prove his point, the clergy brought up both Islamic law and the Constitutional Law of 1906:

Women's entrance in the two majlis (chamber of representatives and the senate), the municipal and local councils, is against Islamic law ... The granting of voting rights to women and their election is ... against the second article of the amendment to the constitutional law ... and abrogates the conditions Islam has set on voters and the elect (Kian 1997:76)

His continued agitation in 1963 led to his exile from Iran in 1964. He criticised the Family Protection Laws even from his exile. He attacked the new practices introduced by the Shah by considering the marriages or divorces held under the Family Protection Law as un-Islamic.

In a press conference in 1971, the Shah expressed his willingness to separate religion from politics. As Akhavi (1980) explains that Shah planned that the state would create its religious framework to oppose the traditional religious institution.

The following statement made by him justified the planning

It is not improbable that we may create a religious corps in the future so that if some of the students of the religious sciences have to perform their service, they can do it [within the framework of this corps]. Just as we say religion must be separated from politics (and a few years ago we saw the results of mixing the two), and just as we are insistent in that respect...so, too, we encourage the people to piety and religion. No society is truly stable without religion (Akhavi 1980:23).

Despite the constraints, religious leaders were quite influential, and therefore the principal purpose of Reza Shah's reforms was to centralise state power which implied keeping the clergy and religious institutions under strict control (Povey and Rostami-Povey 2012:19).

Despite the steps taken by Mohammad Reza Shah, the reforms initiated for women and in family sphere continued to be uncertain because these reforms were in parity with the *Sharia*' law. For instance, the age of marriage was dependent upon the interpretation of the age of puberty, a wife was given the right to raise an objection to her husband's second marriage, and the man had to inform his wife if he intends to do so. However, there were certain limitations to these reforms as there were not enough civil courts in Iran and the local *ulema* had to deal with such matters. The conservatives took measures according to their interpretation of the law, regarding men as superior while providing the men authority to marry more than one wife and to divorce them at their will. Various women's organisations became determined to campaign for voting rights of women. A female suffrage law was drafted, but under pressure from conservative clergy, its implementation was rejected. However, with the efforts of women, they were able

to put pressure on the state and thus got the right to vote on 27 February 1963. Other gendered biased practices such as polygamy was extended to women and the provision of temporary marriage (*sigeh*) continued (Povey and Rostami-Povey 2012:23).

Clergy in Post-Revolutionary Iran

The women participated in the 1979 Revolution did not expect that it will bring strict laws against them. After the triumphant return of Ayatollah Khomeini following the 1979 Revolution, Khomeini asserted the doctrine of *velayat- e-faqih* which made Ayatollah Khomeini as the supreme leader, thus, giving him the power to legislate on various issues. At first, Khomeini did not give much importance to the framing of the constitution as he was in favour of assigning this task to the *Sura-ye enqelab –e-Islami* (Council of the Islamic Revolution) whose formation was declared on 12 January 1979.

The cabinet of Prime Minister Mahdi Bazargan and the *Sura* prepared a draft in the spring of 1979 which was identical with the constitution of 1907. Khomeini was almost prepared to accept this draft with some minor changes when a debate arose among secular parties, journals and organizations, owing to which he changed his mind. Thus, he emphasised that clerics should revise the draft from an Islamic perspective. The principal clergy among them were Ayatollah Hosayn Ali Montazeri and Mohamad Beheshti who were inspired by the ideology of Ayatollah Mohammad Baqr Sadr.

The first signs of the ideology of the Islamic government appeared with the announcement of compulsory veiling for women just after twenty-four days of the victory of the Islamic Revolution. The Islamic government contemplated the idea that veiled women are powerful Revolutionaries and it depreciated secular women's role as westernised, monarchical and indecent (Sedghi 2002:200). Ayatollah Ruhollah Khomeini referred unveiled woman as "naked" and stipulated that they should observe Islamic *hejab* at offices and place of work (Farzaneh 2014).

Reveiling became apparent with the new slogan; "Woman Represents the Chastity of the Society" (*Zan Namous-e Jame'ehast*) which echoed the intentions of the new Islamic Republic government" (Farzaneh 2014:201).

During his speech at the Refah School, Khomeini mentioned, " at Islamic ministries, women should not appear naked. Women can be present so long as they are with *hejab*. They face no barrier to work as long as they observe Islamic *hejab*" (Farzaneh 2014: 218).

In 1983, the *Majlis* (Iranian Parliament) passed *Ta'zirat* (punishment) which imposed seventy-four lashes for violation of the *hejab*. However, this penalty was revoked and this issue was addressed by Article 638 of the Islamic Penal Code. As per Article 638 of the Islamic Penal Code, "[w]omen who appear in public places and roads without wearing an Islamic *hejab*, shall be sentenced to ten days to two months imprisonment or a fine of fifty thousand to five hundred thousand Rials" (Farzaneh 2014:219).

Despite women's continued opposition to veiling, this was made obligatory for all women. In order to enforce it, in 1995, "a note to Article 139 of the Islamic Criminal Code reaffirmed the punishment by obliging ten to sixty days of imprisonment against those who publicly resisted the *hejab*" (Sedghi 2002:201).

Kian (1995) argues that on 8 March 1979, on the eve of International Women's Day, many educated women actively participated in demonstrations against obligatory veiling. These women protestors were thrashed by the Hizbollah mobs who were backed by the clerics. Thus, "the very action by the *ulema* showed that they were ardent in sending women back to domesticity" (Kian 1995:409).

The Professional women who did not abide by the stipulations of the Islamic Republic were held for imitating Western values. After becoming Supreme Leader, Ayatollah Khomeini changed his earlier stand on women's voting rights with his seal of approval on women's political rights as a religious duty by

claiming that: “Women have the right to intervene in politics, it is their duty ... Islam is a political religion. In Islam, everything, even prayer is political” (Kian 1997: 409).

The above statement showed Khomeini’s duplicity because, during the Shah’s regime, he was the most vocal critic of women’s voting rights. In spite of Khomeini’s support for voting rights for women, the new laws framed by the Shii religious leaders were rigorous for the women. With the framing of new legislation by the clergy, the women felt deceived for supporting the 1979 Revolution which led to their worst status. Several discriminatory laws like the abrogation of Family Protection Laws, compulsory *veiling*, limitations on women in the matters of divorce and child custody, lowering of marriage age for girls upto nine years and prohibition of judgeship to women, etc. were introduced.

The conservatives reformulated all laws which were undertaken by the Shah in favour of women. To quote one scholar on the annulment of the previous laws: “Following the Revolution, everything which remained from the pre-Revolutionary time was rejected, under the pretext that the West and its model is evil, women were dismissed from the administrative system, and the home was considered the best and the most suitable place for them” (Kian 1997:77).

The Family Protection Laws were annulled on February 26, 1979, followed by the abrogation of women’s rights to serve as judges on March 3, 1979. It was mentioned in Article 163 of the Iranian Constitution, that women could not become judges. Shirin Ebadi, one of the women judges, went into despair as she was shocked by the fact that the Revolution which she had supported would strip her of her judgeship. On March 29, 1979, Ayatollah Khomeini declared gender isolation of all beaches and sports activities publicly.

Kian (1995) observes that as a result of the segregational policies, the rate of unemployment of women in the urban areas hit 30 percent in 1986, compared with 11 percent in 1976.

However, “the educational level of women in urban areas was larger than men. In the urban areas, women holding high school diploma were 46 percent compared to men as 26 percent whereas women holding university degrees were 18 percent compared to men as 6 percent” (Kian 1995:410).

On 21 May 1979, the Ministry of Education banned co-education. Even the married women were prohibited from entering ordinary high schools on 3 June 1979. They were required to regulate their studies on their own and take part in special examinations to attain their degrees (Poya 1999:64). Women were bound in occupations which were either reserved for them in the traditional sphere like a school teacher, nurse, secretary or in those occupations which were recognised as natural extensions of their housework task like dressmaker, housekeeper, etc. Such occupations resulted in the longevity of their lower status compared to men (Kian 1995:410).

The focus of the new regime shifted towards the family. The state as a result of promoting its domesticity programme began to implement early retirement programs for women with full salary etc. “They justified their stand on domesticity by the explanation that women like Zaynab (the granddaughter of Prophet Muhammad), had completed their liabilities in public political life by participating in the Revolution against the Shah and in bringing an Islamic society” (Poya 1999:64).

As the women have completed their responsibilities, the women should return to their homes and fulfil their obligation like Fatima (the daughter of Prophet Muhammad). This image of women maintained by the clergy was upheld by television, cinema, and even media. As Kian finds that “Women were either absent from the films and even if they were present, then their role was confined to that of mother and wife reserved to housework, child-bearing and child-rearing” (Kian 1995: 410). The Islamic doctrine encouraged by the religious leaders and scholars upheld that women were biologically and psychologically different from men, so, the women had to be adjusted to life individually.

“Article 30 of the Constitution of the Islamic Republic of Iran declared that the government was committed to providing free education to all but Article 21 highlighted that women’s rights to free education have been guaranteed on Islamic criteria” (Poya 1999:71). Thus, the state did not want to prepare women for employment but for child-rearing and stability of family relationships.

Poya (1999) argues that women have been deprived of many rights by *Sharia*’ because Ayatollah Khomeini legitimised men for the exclusive right to divorce as well as allowed to keep four permanent and unlimited number of temporary wives (*sighe*) without the permission of the first wife. “According to Article 941,077 and 1,113 of the Islamic constitution, the man entering into *sighe* has no obligation to take care of his temporary wife” (Poya 1999:68). Though the Iranian constitution (framed by the clergy) has made *sighe* legal but the woman who becomes a *sighe* was tagged with a bad name.

In April 1979, Ghale Shahre Noe (the Tehran Prostitution Quarter) was burned by the Hezbollah which resulted in the death of many women. This incident was followed by another episode, in which three prostitutes were executed on 12 July 1979. The execution of prostitutes was after Khomeini’s speech when he said, ‘if you flog four prostitutes, prostitution will end’(Poya 1999:68).

In 1979, Ghale Shahre Noe was officially closed down by the *Kanone Hemayte Eslami* (the Centre for Islamic Protection) which instructed all prostitutes to acquaint themselves with *Daftare Ezdevaje Bonyade Eslami* (the Islamic Foundation Marriage Bureau), so that these women can become *sighe*.

The Islamic laws of retribution (*Qassas*) were passed in which a woman’s testimony was counted as half in comparison to a man’s testimony as a witness to a crime in a court, a woman’s testimony unless substantiated by man was no longer accepted by the courts. Under Article 92 of the Qasas law, a woman who repeatedly gives uncorroborated evidence was judged to be lying and punished for slander (Afshar 1996:128). Under Article 1 of the *Qassas* law, the murderer can opt to pay blood money (*dayeh*) in place of punishment. In addition to this, the murderer can be punished only when the victim’s family pay blood money to the killer’s family.

Should a Muslim man wilfully murder a Muslim man, he must be killed, the murderer can be punished only after the woman’s guardian has paid half of his dayeh (bloodmoney) – Article 5 of the qassas law (Afshar 1996:128).

The blood money to be paid for a woman was half as that of a man. The blood money aspect shows that the life of a woman was less valued as under Article 60 of the *qassas* law, if a man attacks a woman and severely injures her, he can be punished only if the injured woman or her family pays retribution money so that the assaulter can be mutilated in similar manner (Afshar 1996:128). This money is paid to the man’s family to safeguard his family members dependent on the assaulter. However, under Article 60 of the Iranian Constitution, no such provision has been enacted for the women assailants.

As Mir-Hosseini explains,

In 1967, the Family Protection Laws were established under the Pahlavi regime which restrained man’s right to divorce and polygamy and thus provided women easier access to divorce. For the fulfilment of the enactment of the provisions of the Family Protection Laws, new courts were constituted in which female judges were also appointed for resolving marriage disputes (Mir-Hosseini 1996:148).

It became compulsory to register divorce and marriages within these courts, failing the directives of which resulted in a penalty of six months to one-year imprisonment. In 1975, the Family Protection Laws were repealed, and the civil courts were provided with the discretionary power to disregard all the provisions of the Civil Code on divorce and child custody with impunity (Mir-Hosseini 1996:148). After the ouster of Reza Shah Pahlavi, Ayatollah Khomeini discarded the Family Protection Laws as against Islamic values and established Special Civil Courts (*dadgahaa-ye madani-ye khass*) which were

administered by a *hakeem-e shar* (a judge trained in *fiqh*, Islamic jurisprudence). These courts were supervised according to the *Sharia*' law. Thus, the abrogation of Family Protection Laws meant that there would be no restriction on men's right to unilateral divorce, no restriction on polygamy and women's easier access to divorce would be a distant possibility (Halper 2005:94).

For Mir -Hosseini (1996), in the institution of marriage, the provision of *Mahr* was the only support for a woman if her husband dies or divorces her. The husband is the head of the household and was given the right to all property of the marriage under *Sharia*'. However, this right was amended in 1982, according to which a wife could be entitled to half of the wealth of his husband.

On 2 October 1979, the Council of Islamic Revolution approved a new statute which included a husband's right to forbid his wife to take employment. The woman was required to take permission from her husband if she is married and from her father to work, to travel, to study and to change her place of residence. If the woman is a divorcee, then the custodianship of children will pertain to the husband. However, the mother could keep her girl child upto the age of seven and male child upto the age of two years. In case if there is a threat to the child's health or morals in his custody, then the custody belongs to the mother.

On 2 December 1979, the Constitution of the Islamic Republic was approved which explained women's position as followed

In the creation of Islamic social institutions, all elements of humanity that hitherto served the multifaceted foreign exploitation of our country are to regain their true identity and human rights. As a part of this process, it is only natural that women should benefit from a particularly large augmentation of their rights because of the greater oppression that they suffered under the despotic regime. The family is the fundamental unit of society and the major centre for the growth and advancement of humanity. Compatibility with respect to belief and ideal is the main consideration in the establishment of a family, for the family provides the primary basis for humanity's development and growth. It is the duty of Islamic government to provide the necessary facilities for the attainment of this goal. This view of the family unit delivers woman from being regarded as an object or as an instrument in the service of consumerism and exploitation. Not only does woman recover thereby her momentous and precious function of motherhood, rearing alert and active human beings, she also becomes the fellow struggler of man in all the different areas of life. Given the weighty responsibilities that woman thus assumes, she is accorded in Islam great value and nobility (Constitution of the Islamic Republic of Iran 1991:13).

The Iran-Iraq war of 1980 changed the state's attitude towards women. During the war, the state needed the participation of women, as there was a scarcity of the workforce. Women were deployed by the state to cook, sew and prepare medicines for men at the warfronts. The state demanded that women needed to act like Zaynab (the granddaughter of Prophet Muhammad). The state ruled by the clergy demanded women's service when required and accordingly shunning women's employment when not required. Some states organisations were formed for the purpose of recruiting women like *Baseej Khaharan* (the women's organisation for the mobilisation of irregulars for the war). The women employed during the lack of adequate workforce were called *Khaharane Zaynab* (Zaynab's Sisters) (Poya 1999:78). Women were promoted to be active in public sphere as justified by Ayatollah Khomeini's statement of 1984, "Women can participate in economic, political and social affairs within the Islamic laws and regulations" (Poya 1999:80).

Najmabadi (1991) states that the state encouraged its co-operation for women by opening day carecentres for their children so that they can work without any strain. Further, "the increasing employment of women in the workforce did not mean that the Islamic regime removed restrictions on women. The Islamic regime imposed several restrictions so that the necessary moral code can be maintained in the

Islamic Republic by the mixing of men and women in the public sphere” (Najmabadi 1991:70). In 1984, on the instructions of Khomeini, the *basij* (paramilitary forces) started recruiting women. Even the staunch clergy in opposition to the women’s participation felt compelled to accept women’s assistance in the public sphere.

After the death of Ayatollah Khomeini in 1989, Ayatollah Khamenei became the supreme leader. In the aftermath of the Iran-Iraq war, the focus of the regime shifted towards creating a healthy economy which suffered a significant loss due to the Iran-Iraq war. In 1987, the government under Khamenei, created the Women’s Social and Cultural Council which provided recommendations to the executive branch on women’s issues (Halper 2005:118).

By mid-1989, the Women’s Social and Cultural Council was successful in convincing the regime in lifting restrictions on the enrollment of women in technical and scientific faculties (Halper 2005:118). Women were also allowed to practice law.

It was only with the efforts of women that women’s issues were taken at the forefront. The women continued fighting for their rights despite the tortures and arrests by the repressive regime.

Mir-Hosseini says

In 1982, an amendment regarding the divorce amendments was passed which needed the women to acquire half of the property of her husband provided that the divorce was not initiated or caused by any fault of the wife. Further in 1992, under the Presidentship of Akbar Hashemi Rafsanjani, another statute was passed according to which a court certificate was needed for the registration of a divorce. This amendment even allowed the appointment of a woman as an advisory judge. The most important provision was that women would be given *ujrat al-mithl* for their household work (Mir-Hosseini 1996:149).

In addition to the above provision, there was another requirement which needed the divorcing couples to go through a process of arbitration. The arbiters from both sides needed to sort out their differences, failing of which the Court allows the man to initiate a divorce which is of *ruj’i* type i.e. the couple will be only given divorce if the husband had paid his wife all her dues: dower (*mahr*), waiting period (*idda*), maintenance and *ujrat al-mithl* (domestic wages) (Mir-Hosseini 1996:147).

Under the Presidency of Rafsanjani, the High Council of Cultural Revolution and the Women’s Social and Cultural Council were started for finding the legal, social and economic problems of women. With the assistance of the Islamist women, the Council raised the limitations on women entering any fields of study in 1993 (Rezai-Rashti 2015:475).

In 1997, Mohammad Khatami won the elections which brought liberal laws for women. There were fewer restrictions imposed on women and gradually women’s enrolment in higher education increased during the 1990s. He even appointed several women to higher positions in administration which were not done earlier. During the Khatami’s presidency, Massoumeh Ebtekar became the first Vice-President and head of the organisation for the protection of the environment whereas Zahra Shojaie became the advisor for women’s affairs (Rezai-Rashti 2015:478).

Mohammad Ahmadinejad was elected as the President of Iran in 2005. He was one of the conservatives who made various efforts to stop the reform movement. Under his presidency, women’s rights became the source of tension in Iran. He discouraged the participation of women in political and other activities and emphasised on their role in the family (Rezai-Rashti 2015:479). During the 2009 elections in which Mohammad Ahmadinejad won, the Supreme Leader Khamenei showed his unconditional support. Despite Ahmadinejad's conservative attitude towards women, he had full backing from the Supreme Leader.

Hardline and Moderate Clergy in Iran

In the history of Iran, there have been both hardline and pragmatist clergy. The hardline religious leaders have justified their position on the status of women in the name of Islamic purity. Whereas the pragmatist *ulema* have backed moderate reformist laws, programs, and new institutions.

The establishment of an Islamic government in Iran with Ayatollah Khomeini as supreme leader resulted in the deterioration of the position of women. With the annulment of Family Protection Laws and the secular Family Courts, it became apparent that everything will be based on *Sharia* or Islamic law.

In Iran after the victory of the 1979 Revolution, most of the spheres of women's activity had remained under the purview of Ayatollah Khomeini's comments and interference. Due to women's opposition towards the newly imposed laws, Ayatollah Khomeini and hardline clergy had to change their attitude and make partial reforms in favour of women. However, the conservatives were influential in exercising their control on aspects like family, education, *hejab*, etc. On realising the importance of women in the nation-making, Khomeini has shifted from a rigid stand to a flexible position on women's issues. He wanted the women to act in accordance with the laws of the Islamic Republic while performing in the public sphere.

Ayatollah Morteza Mutahhari was among the Shii religious leaders who held jurisdiction on contemporary Shii jurisprudence concerning women. He proclaimed that Islam believes in the equality of men and women. However, by equality, he did not mean identicalness or exact similarity. Mutahhari pronounced that Islam does not believe in one kind of right, one kind of duty, and one kind of punishment for both men and women. He believed that the naturalness of the differences between both men and women was the reason behind Islam's different position towards men and women. Mutahhari firmly held the view that in order to maintain satisfaction, each gender had to remain within its distinct sphere. Mutahhari explained that the difference in men and women is not due to any discrimination between them but due to the innate and natural differences between them (Farook 2015).

He compared the differences among individuals with the geometrical shapes and maintained that presence of variation among individuals is as natural as in the attributes of a geometrical shape. He justified that the inequalities in the nature of men and women have been such because the men and women have been assigned different purposes. He explained on the phenomenon, "If the law of creation has designed every organ, the eyes, the ears, the legs, the hands and the spine in a particular form, it is not because it has given a preference to the two eyes, for example, and has unduly discriminated in their favour, showing cruelty to one part as compared with another" (Farook 2015:202).

Ayatollah Mutahhari was not in favour of giving right of divorce to women. He contended that the nature of marriage is a natural bond rather than a bilateral contractual relationship. The emotions of the man are based upon the full possession of the woman, but the woman believes in conquering his heart. The emotions of each partner have distinct effects on the marriage.

The natural mechanism of the marriage upon which Islam has based its laws is that the woman should be loved and respected within the family, that is if she is no longer desired and loved by the man then the foundation of the family is shaken...From the point of view of Islam, the greatest insult to a woman is for her husband to say I do not love you, I hate you and then legislation keeping her in that man's house (Mahdavi 1983: 19).

However, on the question of what will be the consequences if the woman has no emotions for her man and whether that situation will result in shaking the foundations of the marriage, he held that it is impossible for a woman to love a man who loves her.

Nature has given the key of the natural dissolution of the marriage to the man. It is the man who by being unloving and unfaithful makes her cold and unloving. Contrary to the woman whose indifference has no effect on the man and even increases his desire. Therefore, man's

lack of love results in both side not loving each other but woman's lack of love does not have any effect. The extinction of man's love results in the death and end of a marriage whereas extinction of a woman's love simply turns the marriage into a sick being who is curable (Mahdavi 1983:20).

On the institution of polygamy, he was of the view that men can marry more than one wife whereas the woman can have only one husband at a time, because of the diversities in the nature of their creation. He justified this on the ground that more number of women as compared to men exist and this is the reason behind polygamy (Farook 2015). On the issue of polyandry, he opined that a woman having more than one husband is unethical because it will lead to difficulty in identifying the parentage of such children. He stressed that Islam has put certain conditions for polygamy, like, the wives should be treated equally. However, he knew that it would be too difficult to maintain such equality. He has favoured monogamy over polygamy. He expressed the favour of monogamy in the following words:

Monogamy which earns an undisturbed, secure family life, in other words, that the body and soul of each, the husband and the wife, are one for each other. It is evident that the spirit of matrimonial life which is oneness and unity is attained better and with more perfection with a single spouse (cited in Farook 2015:205).

Ayatollah Hossein Ali Montazeri was one of the pioneers for the chair of Supreme Leader, but after his argument with the Supreme Leader over Iran's human rights (including women's rights) records, he became highly critical of the regime and held the regime responsible for imposing dictatorship on the basis of Islam (Venerdi 2011). Thus, he was replaced by Ayatollah Ali Khamenei as the Supreme Leader after the death of Ayatollah Khomeini on 3 June 1989. Montazeri was referred to as a moderate cleric.

He was happy that Shirin Ebadi received the Nobel Peace Prize on 10 October 2003 when most of the conservatives denounced the prize in their Friday prayers. Even Shirin Ebadi affirmed that

I call you father because I learned from you how to defend the oppressed without using the violence against the oppressor. I learned from you that being silent is helping the oppressor. Father, I learned much from you, although I never [got the chance to] show my appreciation for being your child and student. Father, forgive us' (Sahimi 2009).

The Islamic Penal Code framed by the religious leaders gives the judges (who all are men) the right to punish the woman found guilty of adultery. According to Article 105 of the Islamic Penal Code, the judges can punish the accused by stoning them to death. However, many Shia *ulema* have not been in favour of such punishment including Ayatollah Montazeri. He was of the view that adultery is impossible to prove unless witnessed by four people. He was also in favour of commuting the punishment if the accused has admitted the adultery. Ayatollah Montazeri even favoured the emancipation of the accused if it has the potential to damage the reputation of Islam (Hefner 2011:135-136).

Though he has encouraged the advocacy of male judges, he has not unquestionably prohibited the female judges. He maintained that the women having adequate knowledge in law are eligible to work as judges, and they should judge in such matters where their testimony is demanded (Povey and Rostami-Povey 2012). It can be justified from the following:

The role of Queen Sheba is a powerful evidence for women's role in leadership positions which is described in the holy Quran as well as in the Bible and the New Testament. Although some historians believe that there is no evidence of her existence outside these texts, similar powerful women in positions of leadership have existed in history who were respected by their communities. In my analysis, I find that the case of Queen Shiba enables me to argue that religion, in particular, Islam, can be compatible with women's gender rights. Thus arguments against women in positions of leadership are invalid (Povey and Rostami-Povey 2012:133).

In spite of his status as a reformist religious leader, Montazeri was not radical about gender equality. He held negative views concerning the rights of divorce for women. He maintained that the Iranian women are too moody to be given the rights of divorce. As soon as the husband will misbehave with his wives, they will divorce their husband (Venerdi 2011).

According to him, the men were more wise and careful in their decisions. Men knew that divorce would mean that they had to live and care for his children alone.

Ayatollah Sanei was also one of the reformists clergy who has been a member of both the Guardian Council and the Supreme Judicial Council. He has earned high reputation for his broad views about women's rights, raising the legal age of marriage of puberty for girls from nine to thirteen (Venerdi 2011). Like Ayatollah Montazeri, he has not supported stoning. He even issued a *fatwa* in 2007 in which he postulated that in the continuing absence of the Twelfth Imam, the stoning should not be carried out (Hefner 2011:136). He disagrees with those conservative Shia religious leaders who opined that women are weak and unable to perform high responsibilities because of their strong emotions. He argued that

Women's social, political and economic rights are equal to those of men, and therefore women can take up the position of president, supreme leader and other positions of authority such as cabinet ministers, judges, lawyers and other leadership and decision-making positions. In short, women are equal to men, and their rights are equal to each other (Povey and Rostami-Povey 2012:133).

As Sanam Vakil notes, "he was of the opinion that the bloodmoney for both men and women should be equal which led to widespread debate. He postulated that 'bloodmoney is the price for a human and the essence of life is driven from the soul. The soul that God gave women is no less than the soul God gave men'" (Vakil 2011:180).

He raised a very valid point that if Quran has not differentiated between men and women, how can the Iranian penal code justify half financial compensation for women. He was against the financial compensation to be paid for the execution of men. He asserted that such positive legal changes would be implemented slowly.

He was one of the most reputed liberal clergy who held progressive views on women's issues. In an interview Ziba Mir-Hosseini posed a question to Ayatollah Yusuf Sanei, Can there be an equal construction of the notion of divorce in Islamic Law, in the sense that a woman's wishes are taken into account in the same way as when the marriage is contracted? His answer was affirmative and he even cited Ayatollah Khomeini on the divorce issue having similar views as that of Ayatollah Sanei. When Guardian Council asked Khomeini for his opinion in case of the continuation of marriage causes the wife hardship, she can demand divorce by recourse to the religious judge who, after ascertaining the matter, will compel the husband to divorce, and if he refuses, whether the judge himself will conduct the divorce? There was a chaos concerning the divorce, whether the divorce could be granted by the judge or not? Mir-Hosseini (2009) says that Ayatollah Khomeini answered that the husband should be convinced or even forced to say *talaq* firstly and if the husband was not prepared to enunciate *talaq*, then the judge should be effective in divorce.

The role of *ulema* has dictated almost every aspect (public as well as private) of women in Iran. However, with the increasing consciousness among women, they have come out from their confined boundaries to a considerable extent. Opinions about women's participation in the public sphere have been swinging between the strict views of hardliner clergy and the practical views of pragmatist clergy. Various interpretations of the Islamic texts have made it possible to subordinate as well as dominate women. Some clergy has used the Islamic argument to undermine women's status as compared to men whereas some have proven to be flexible in acknowledging the importance of woman in the public sphere.