Theorizing the Politics of 'Islamic Feminism'

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Abstract

This article examines developments in 'Islamic feminism', and offers a critique of feminist theories, which construct it as an authentic and indigenous emancipatory alternative to secular feminisms. Focusing on Iranian theocracy, I argue that the Islamization of gender relations has created an oppressive patriarchy that cannot be replaced through legal reforms. While many women in Iran resist this religious and patriarchal regime, and an increasing number of Iranian intellectuals and activists, including Islamists, call for the separation of state and religion, feminists of a cultural relativist and postmodernist persuasion do not acknowledge the failure of the Islamic project. I argue that western feminist theory, in spite of its advances, is in a state of crisis since (a) it is challenged by the continuation of patriarchal domination in the West in the wake of legal equality between genders, (b) suspicious of the universality of patriarchy, it overlooks oppressive gender relations in non-western societies and (c) rejecting Eurocentrism and racism, it endorses the fragmentation of women of the world into religious, national, ethnic, racial and cultural entities with particularist agendas.

Keywords

Islamic feminism; legalism; universalism and particularism; theocracy and feminism; western feminist theory

The concept 'Islamic feminism' is of recent origins, used for the first time in the 1990s in the growing western literature on 'women and Islam'. However, Islamic intellectual encounters with feminism date back to the early twentieth century. Beginning with a historical sketch of Islamic responses to feminism, this article provides an outline of 'Islamic feminist' claims, and a critique of the theory and politics of feminisms based on Islamic approaches to gender relations.

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'Feminine' versus 'feminist' consciousness

Consciousness about unequal gender relations in 'Islamic societies' pre-dates contacts with western feminism.[1] Based on the limited evidence available, we see, in the works of a number of women of the upper classes, varying degrees of resentment against the oppressive domination of males, as well as a demand for fairness in the treatment of women. This dissent was expressed individually, recorded in a few obscure writings and targeted the male members of their class only. In other words, it did not seek a redistribution of gender power or, far less, the democratization of the patriarchal social and economic system within which gender relations were reproduced. Neither was this protest theorized, widely debated or given an organizational form. Thus, it never turned into a social movement. In this sense, we may call it a feminine, rather than feminist, consciousness. Recently, however, there is a tendency to treat early expressions of feminine identity as a form of indigenous feminism.

The articulation of feminine identities took numerous forms, ranging from women's own circles and gatherings to revolt. It is impossible to provide here an adequate picture of these developments in the vast Islamic territories extending from southeast Asia to Western Africa. The following stories from Iran are exemplary. One case was Mah Sharaf Khanum Kurdistani (1805–47), a member of the landed aristocracy in the court of the Ardalan principality centred in Sanandaj, Kurdistan. She was a poet and, according to one account, the only woman historiographer of the Middle East until the end of the nineteenth century (Vasil'eva, 1990). In a gathering with her 'close women relatives and co-religious women [nesván-e homkishān]', Mah Sharaf was asked to write a brief account of the Islamic doctrine, 'Aqāyedā (Kurdistani, 1998). Apparently written for women, the brief work does not demonstrate any reinterpretation of the doctrine from a gender perspective.

A sharp contrast with the aristocratic Mah Sharaf Khanum was her contemporary, the revolutionary poet and political activist Qurrat al-'Ayn born in Qazvin, Iran in 1814. Qurrat al-'Ayn was from a family of clerics (ulema), and joined the religious reformist movement led by Sayyid 'Ali Muhammad known as the Bab. The movement has been interpreted as a revolt against the Shi'ism of the time, and advocated social reforms such as 'the elimination of corruption in high places, purging of immoral clerics, legal protection for merchants, legalization of money lending, and improvement in the status of women' (Abrahamian, 1982: 17). Bab was supported by low-ranking clerics, merchants, artisans, women and peasants; fearing the spread of the movement, the government executed him in 1850, and violently suppressed his followers. Qurrat al-'Ayn was more

radical than Bab in her break with the dominant religious tradition. She is known to have appeared unveiled among male followers. According to a recent study, although she is often portrayed as a 'champion of women's rights', there was no reference in her works to the position of women in society, and it is unlikely that she knew anything about women's movements in Europe. Indeed, 'her entire world view differed fundamentally from the Western notion of women's emancipation as it first appeared in Iran after the Constitutional Revolution' of 1906–11 (Amanat, 1989: 330). Although she revolted against the establishment Shi'i religion of Iran, her 'outlook and motivations were primarily religious and remained so' (Amanat, 1989: 330). She was arrested and killed on the orders of the monarch in 1852.

A gender-centred confrontation of aristocratic women with men or, rather, their husbands is recorded in a recently published manuscript written by Bibi Khanum Astarabadi in 1894 in Iran (Najmabadi, 1992). She wrote the *Vices of Men* (*Ma'āyeb al-rejāl*) in response to *Disciplining Women* (*Ta'dib al-nisvān*), a work in the genre of satirical books of advice to men about teaching women to be good wives (Najmabadi, 1992, 1993). Astarabadi wrote the work under pressure from female friends, who complained about their husbands, and wanted to see a written indictment of *Disciplining Women*. Addressed to a female audience, the language of *Vices of Men* was 'so openly sexual that today it would be considered sexually pornographic' (1992: 16). While *Disciplining Women* reminded Iranian women how backward they were compared with western women, Astarabadi invited men to learn from western men how to treat their wives (Najmabadi, 1992: 21). Still, Astarabadi's gender politics demanded nothing more than a fair treatment of women by their husbands.

The three cases from the Iranian society of the latter part of the nineteenth century demonstrate the pre-modern historical context of feminine identity formation. The two works of Astarabadi and Kurdistani, cited above, were not published until the 1990s while Qurrat al-'Ayn's work was suppressed. What clearly distinguishes these pre-modern identities from the modern ones is the absence, in the non-western world, of a discourse of rights and citizenship. In other words, western feminism involved much more than a consciousness of womanhood or feminine identity. In clear contrast with the East, western feminism was a product of the rise of capitalism, and its modernist culture and politics. Women demanded equality not only in the private sphere of the household, but more visibly in the public realm of the state. This was firmly expressed in the struggle for suffrage rights, which was essential for becoming a citizen of the nation-states established in the late eighteenth and nineteenth centuries. The struggle for rights was itself a response to the exclusion of women from

the male-centred democratic political systems of Europe and North America. The rise of feminism in the West was, therefore, not an accident of history.

Feminism, as the western, liberal idea and politics of gender equality, reached 'Islamic societies' in the late nineteenth century. Responses were diverse, ranging from advocacy of women's emancipation to its outright rejection. Islam was visibly present in much of the early confrontations between feminism and the religious and secular forces that reacted to the challenge. In this conflict, the Qur'an, the *Shari'a* (Islamic law) and Hadith were all used by contending forces, ranging from secular modernists to the religious guardians of patriarchy. From the very beginning, the debate was centred on the compatibility of the idea of women's emancipation with the principles of Islam. One tendency emphasized that Islam was compatible with demands for equality between men and women. For instance, rein-terpreting the Qur'an, some early reformist women in Egypt claimed that the seclusion, segregation and veiling imposed on urban women were not sanctioned by Islam (Badran and Cooke, 1990: xxiv). Similar positions were formulated in many Islamic countries. Others argued that the demand for gender equality was western and anti-Islamic.

The first woman to offer a detailed reinterpretation of the texts in favour of women's rights was probably Nazira Zain al-Din. She was born in Lebanon in 1905 and her father was a scholar of Islamic jurisprudence. Her first book, *Unveiling and Veiling: Lectures and Views on the Liberation of the Woman and Social Renewal in the Arab World*, was an indictment of patriarchal oppression, which she declared to be against the principles of Islam. She said: 'The veil is an insult to men and women' (Zain al-Din in Badran and Cooke, 1990: 275). When the book was published in 1928:

> men of religion announced their stand against Zain al-Din and started distributing pamphlets against her; they incited demonstrations against the book and threatened the owners of book shops who carried it. They accused her of atheism and treason. Her answers were sober, based on logic and clear evidence.
> (Shaaban, 1995: 64)

Nazira's second book, *The Young Woman and the Shaikhs (Al-Fatah wa al-Shuyukh)*, published in 1929 was a response to the conservatives, especially to Shaikh Mustafa al-Ghalaini's *Islam, the Spirit of Civilization (Al-Islam Ruh al-Madaniyya)*. The Shaikh had accused her of sectarian and colonial persuasions, and alleged that her book had been written by Christian missionaries (Badran and Cooke, 1990: 270–1).

The conflict over women's rights involved, however, more than discursive engagements among contending interpreters of the scriptures. During the

first half of the twentieth century, Islamic societies were changing both internally and externally through the impact of colonialism, modernism, nationalism and socialism. Upper- and middle-class urban women, long confined to the private domain of the household, were demanding participation in public life. Some rural women, too, had been drawn into the anti-colonial struggles and land reform movements. Thus, women constituted a new social force, and their demand for rights, if granted and exercised, would have required a redistribution of power both in private and public spheres. The spectre of feminism was haunting not only the Islamic religious establishments but also secular forces and states. A women's movement emerged during the Constitutional Revolution of Iran (1906–11), which was the first major bourgeois democratic revolution of the developing world (Afary, 1995: 177–208). In 1911, one of the male delegates to the second session of the newly established parliament, submitted a petition, and demanded women's suffrage. An American financial advisor to the Iranian government was impressed by women's activism, and wrote: 'The Persian women since 1907 had become almost at a bound the most progressive, not to say radical, in the world. That this statement upsets the ideas of centuries makes no difference. It is the fact' (Morgan Shuster quoted in Afary, 1995: 176).

Under these conditions, a scramble for the control of women's movements was already under way in predominantly Muslim countries. Social forces – nationalists, Islamists and communists – could not envision the assumption of power without an agenda for the mobilization and organization of women. Equally interested in the control of the nascent feminist movements was the institution of the state. Some of the newly established 'nation-states' such as Turkey and Iran appropriated the feminist movements by dissolving independent organizations and their press, and granting women certain rights. The colonial powers, which ruled over many new countries created in the wake of World War I, were equally interested in checking the feminist movements. Thus, Islamists faced not only the 'western' phenomenon of feminism, but also indigenous feminist movements, nationalists, communists and other political forces interested in this struggle. Although theocracies such as Saudi Arabia and the Persian Gulf emirates coexisted peacefully with the colonial powers, nationalist regimes came to power in many Islamic countries after World War II. Islamic forces either shared power with the nationalists or remained in opposition.

One expects, under the conditions, significant changes in Islamic approaches to the feminist project. Today, women's movements and feminist theories are much more diverse, and a body of scholarship is being produced by secular and religious feminists. Contemporary scholars such as Leila Ahmed (1992), Aziza al-Hibri (1982), Riffat Hassan (1996) and

Fatima Mernissi (1991) have produced refined research, and initiated new efforts to reconcile feminism with Islam. However, it is remarkable that the early debates on Islam and feminism continue to resurface in much of the current controversy over Islam and feminism. This is so in spite of the new historical context of the early twenty-first century, the diversity of experiences and political positions, the sophistication of the debates and their increasing theorization.

Among the most significant developments in late twentieth century was the coming to power of a new theocratic state, the Islamic Republic of Iran, which has impacted the direction of the struggle for women's rights especially in Islamic countries. It has also left its mark on the secular feminist scholarship of the West. This is, in part, because the Islamic Republic is distinguished from traditional theocracies such as Saudi Arabia by its formation as a state which replaced a western style, secular and tyrannical regime in the wake of a popular revolution. Deriving legitimacy from a mass-based revolution and a form of Shi'ism advocated by Ayatollah Khomeini, the Islamic state declared the existing gender relations un-Islamic and western.

The Islamization of gender relations was extensive. In many ways, it was an undoing of some eighty years of spontaneous and planned transformation in the status of women. If Reza Shah used state violence in order to unveil women, the Islamic Republic, too, unleashed extensive repression to reimpose the veil on all Iranian women, Muslim or non-Muslim, rural and urban. Although the preamble of the constitution declared the ideal Muslim woman as a mother, the Islamic regime was not in a position to confine women to the household. While Khomeini repeatedly declared that women must remain 'on the stage' (of struggle), a nation-wide regime of sexual apartheid was imposed largely through coercion.

The Islamization of gender relations met strong resistance from the very beginning. By the mid-1990s, the Islamic regime was experiencing a serious crisis; it had failed to control women, workers, dissident nationalities, students, the print media, artists and secular intellectuals. The Government consisted of two major rival factions, 'reformist' and 'conservative'. In the presidential elections of 1997, women voted in mass in favour of a candidate who was more favourable to their concerns. The victory of the candidate contributed to the further polarization of the moderate and conservative factions in and outside the state. Women's spontaneous resistance was widespread. In 1997, for instance, a group of young women went on the offensive in Tehran when they broke into a stadium which security forces had assigned for men only.

The crisis of the Islamic state (see, for example, Rahnema and Behdad, 129

1996) in general and the crisis in state control over women in particular have invited diverse responses from the ruling factions, non-state actors and feminists studying the situation. I will examine here the academic feminist response, which is sharply divided.

A group of feminists, mostly secular academics living in the West, has in recent years used the term 'Islamic feminism' to refer to Islamic alternatives to western feminisms. They treat Islam as the only authentic, indigenous road to gender equality and justice. Like their predecessors, Nazira Zain al-Din and others, they advocate the compatibility of Islam and feminism.

The term 'Islamic feminism' is used more specifically to refer to the activism of a relatively small number of Iranian women who seek the amelioration of the Islamized gender relations, mainly through lobbying for legal reform within the framework of the Islamic Republic. However, these Muslim activists themselves do not use the term. The Islamic women's press, as an example, is generally hostile to western feminism. For instance, the semi-official, popular weekly *Zan-e Ruz* (Today's Woman) rejects feminism as a western, anti-Islamic phenomenon while the more moderate quarterly, *Farzaneh: Journal of Women's Studies and Research*, is less anti-feminist but avoids any identification with it.

Some supporters of 'Islamic feminism' equate it with liberation theology in the West. Tohidi, for example, argues that Christian feminists such as Elizabeth Cady Stanton in the USA, undertook a struggle which was similar to 'Islamic feminism' (Tohidi, 1997: 135). Janet Afary notes that:

> . . . careful distinctions need to be made between conservative discourses – both Sunni and Shi'ite – that praise women's roles as mothers and guardians of the heritage yet deny them personal autonomy, and progressive discourses on Islam that argue for a more tolerant and egalitarian view of gender roles.
>
> (Afary, 1997: 89)

She further invites the 'Western readers to become more attentive to the progressive Islamic discourses that are gradually developing in the region. . .' (1997: 90).

Other academics and feminist activists reject the compatibility thesis. For instance, in response to a questionnaire about 'personal definitions' of feminism and 'Islamic feminism', most of the respondents treated the latter as an oxymoron coined by Iranian academics living in the West. Shahidian has argued that 'Islamic feminism' is an oxymoron, a contradiction in terms:

> If by feminism is meant easing patriarchal pressures on women, making patriarchy less appalling, 'Islamic feminism' is certainly a feminist trend. But if

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feminism is a movement to abolish patriarchy, to protect human beings from being prisoners of fixed identities, to contribute towards a society in which individuals can fashion their lives free from economic, political, social, and cultural constraints, then 'Islamic feminism' proves considerably inadequate. I define feminism in these latter terms, and for that reason, I consider 'Islamic feminism' an oxymoron.

(Shahidian, 1998: 51)

In earlier writing, I have argued along the same lines, treating 'Islamic feminism' as a contradiction in terms (Mojab, 1995).[2] I mentioned that 'Islamic feminism' and its various forms, ranging from fundamentalists to reformists, do not have the potential to be a serious challenge to patriarchy. The experience of the Islamic Republic has shown, as a matter of fact, that Islamic theocracy reinforces the traditional patriarchal system. Thus, far from being an alternative to secular, radical and socialist feminisms, 'Islamic feminism' justifies unequal gender relations. Kandiyoti points out that 'the debates concerning the compatibility of Islam and feminism are based on a fundamental fallacy. This fallacy resides in addressing Islam qua religion and interrogating its central texts in search for an answer to the question of women's rights' (Kandiyoti, 1996: 10).

Academic feminists who authorize 'Islamic feminism' tend to treat Islam, though not other religions, as the engine of history, the builder of identity, and a constant presence in history, which is permanently inscribed in the mind and body of every Muslim. I contend that arguments based on compatibility considerations do not enhance critical feminist approaches to the topic. While treating Islam as the agent of history is problematic, the main problem is the underlying assumptions of academic feminists about patriarchy, the women's movement and feminism. We usually do not see patriarchy as a system of the exercise of male power that is nurtured by the state, religion, class, law, culture, language, media and other social forces. Related to this underestimation of patriarchy is an underestimation of the role of consciousness, i.e. feminism, in the struggle against patriarchy. I will elaborate my critique after briefly examining the politics of Islamic feminism on the basis of its approach to the Islamization of gender relations in Iran. Focus will be on the reform of the legal system. This is an important case in so far as it demonstrates how Islamization is conducted through the western or 'modern' means of constitutions, parliamentary legislation, judicial structures and administrative measures.

Legal reform as a contested arena

This section deals with the Islamic Republic's use of law as a major means of Islamization of gender relations. Focus will be on two cases of openly

misogynist legislation, and the way they were modified in response to pressures and lobbying. The politics of this reform and its limitations will be discussed.

The Islamic state's first open conflict with the people of the country occurred when Khomeini, in early March 1979, invited female employees of the Government to observe the veil, called for the suspension of the Family Protection Law of the previous regime and ordered the dismissal of women judges. Secular women and men, both liberal and leftist, reacted immediately by, among other things, demonstrations on the occasion of 8 March, International Women's Day. This event proved that Islamization in Iran would by no means be an easy task. For one thing, Iranian society had, since the Constitutional Revolution of 1906–11, undergone considerable transformation. Women constituted a vital political force, now organized into numerous leftist, socialist, nationalist and Islamic organizations. This was a sharp contrast with Afghanistan of the 1990s where religious leaders found it expedient to Islamize gender relations by decree and sheer use of force only. The Iranian state felt constrained by a vibrant public sphere, which had emerged as a result of the demise of the monarchical state in late 1978. It consisted of numerous sites of debate and dissent including newspapers, magazines, pamphlets, leaflets, cassette tapes, xerox literature, street debates, wall newspapers, etc. Another limitation was the legal legacy of the huge state machinery that the Islamic leadership inherited from the Pahlavi dynasty. Although the two Pahlavi monarchs ruled primarily through coercion, they had developed extensive legal codes for regulating gender relations. Under these conditions, law was an indispensable tool for implementing Islamic gender policies.

Resistance against conservative legal reforms was mounting in early 1979. Secular forces, both radical and reformist, criticized the draft of the Islamic Constitution; they also challenged the gradual Islamization of law, for instance the introduction of *qesās*, 'retribution'. However, the suppression of the independent press in the summer of 1979, and the violent crackdown on the opposition in 1981 closed the public spheres, and forced the secular and religious opposition underground. The Government was, then, able to continue the Islamization of the legal codes of the previous regime without an organized opposition. No doubt, the ruling circles were divided over the scope of the Islamization of gender relations, but these conflicts were not made public.[3]

The criticism of the juridico-legal structure resumed in the 1990s. The extremely disabling legislation together with the violence of the coercive forces against women in public spaces was resented even by some pro-government women. Since the opposition had been eliminated or silenced,

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the expression of dissidence over the legal system was limited primarily to those who accepted the Islamic regime. Journals such as *Payām-e Hājar*, *Zanān* and *Farzāneh* promoted women's rights within the framework of the Islamic constitution. Two laws received considerable criticism in the media. They deal with the custody rights of women, and their right to judge, both of which are based on Islamic *Shari'a*.

The law on custody makes a clear distinction between guardianship (*velāyat*) and fostering (*hezānat*). This distinction serves the purpose of inscribing into the law an unambiguous discrimination against mothers. According to the law, guardianship of the child is the natural (*qahri*) and automatic right of the father or, in his absence, the paternal grandfather. Fostering, i.e. caring for the children, is the natural, though not automatic, right of the mother for up to two years for sons and seven years for daughters. Meanwhile, the father and paternal grandfather remain the guardians of the children, and exercise power over finances, marriage and other important aspects of their lives (Kar and Hoodfar, 1996). Once the mother remarries, custody is returned to the father. Enjoying equal rights as guardians, the father and grandfather can make decisions, individually or together, about the children without consulting them. As 'natural guardians' they are given, according to Kar and Hoodfar (1996), 'extreme power' over all aspects of the male child until the age of maturity and much beyond that for the female child. This is because virgin women cannot marry without their guardian's permission. Even when the father and grandfather die, guardianship is not automatically given to the mother. These laws prevent the mother from providing a decent life for her children in so far as custody is, legally, not the same as guardianship. For instance, banks do not allow mothers to open bank accounts and withdraw money on behalf of their under-age children. Even if a man confers custody and guardianship on his wife, the parental grandfather is not obliged to respect it (Kar and Hoodfar, 1996: 26–7).

The custody laws, together with other legislation affecting gender relations, reveal a world view, which does not treat women as normal, rational human beings capable of leading a decent life by themselves or with their children. In the state and juridical discourses, single women, widows and divorcées are referred to as 'unprotected' or 'deprived'; they were perhaps the most problematic category of people, a source of evil in society and a symbol of the breakdown of the Islamic way of life (Paidar, 1995: 297). The main problem was the lack of male guardians, which made women open to temptation. In the absence of male control, the state felt obliged to check unprotected women through financial support and encouragement of marriage. None of these programmes worked, however (Paidar, 1995: 301–2).

The discriminatory nature of custody laws created problems, and the lower ranks of the judiciary and some women members of the parliament demanded legal reform. However, all the proposed changes were rejected by the Council of Guardians, which ensures the conformity of laws to *Shari'a*. Finally, protests including demonstrations by the widows of the 'martyrs' of the Iraq–Iran war forced the Government to respond (Paidar, 1995). According to Kar and Hoodfar, the 'need for more volunteers to go to the war front was a source of pressure on the religious leaders to resolve the problem' (1996: 26). Thus, the Islamic Assembly passed, in 1988, a 'single article' stating that:

> The fostering of children whose fathers have reached the high status of mar-tyrdom or have died [from other causes] is with their mother and their custom-ary living expenses should be paid by the legal guardian. If these are paid out of the government budget or by the Martyrs Foundation, the money should go to the mother unless the unsuitability of the mother is established by the court.
> (quoted in Paidar, 1995: 297)

As is clear from the text, the Council of Guardians did not extend the right of fostering to legal guardianship (Paidar, 1995). Thus the Government has not addressed, according to Kar and Hoodfar, 'the fundamental problem of custody and guardianship – the denial of mother's rights'. It has, instead, 'introduced an exception to the rule which remains discriminatory and biased' (1996: 26). It would be appropriate to conclude that this case of reform did not change the law in any significant way. In practice, numer-ous cases of excessive abuse of children by paternal guardians were covered in the press. One case, the death of a young girl, Ariyan, in the custody of her father resulted in widespread reaction against the law.[4]

Another case of legal reform relates to the right of women to judge. Denying the ability and right to judge is one of the well-known Islamic dis-criminations against women. It is an Islamic principle that women, because of their special physical and psychological state, are not able to be rational, cautious and neutral – qualities necessary for judging (Kar, 1997: 19). Thus, in less than a month after coming to power and without waiting for legislation, the Islamic Republic dismissed all women judges, who num-bered about 100. Women judges and trainees and their supporters engaged in demonstrations and weeks of sit-in in the Ministry of Justice. They were, however, reassigned to administrative positions within the judiciary (Paidar, 1995: 236)

The position on women and judging questions the claim that this religion confers on women a status and respect unmatched in other religious or political orders. It has been the target of protests from inside and outside the country, and has made it difficult for the Islamic regime to justify its

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policy on women. Apparently responding to these pressures and needing a positive image, the parliament passed a Single Article in 1995, which allowed the hiring of women at the rank of judiciary, albeit without the power of judging. According to a study of the law by lawyer Kar (1997), women can engage in judicial duties only in the limited sphere of *qāzi-ye tahqiq* (research judge), can work under the supervision of the all-male heads of the courts (*ra'is-e dādgāh*), but cannot have access to higher judicial positions such as *hakim*, judge (*dādres*) and head of the court (Kar, 1997). In short, Kar demonstrates that the 1982 law has explicitly stipulated that 'judges should be selected from among qualified men . . .'; the 1995 Single Article does not change the clerics' view on women and judging; it assigns women, within the judiciary, to a special position called *qāzi-ye tahqiq*, which under no conditions gives women any opportunity of access to a higher judicial position (Kar, 1997: 20). Women are, thus, denied the right to pass a verdict (*sodur-e hokm*) (Hashemi, 1997: 33, 37).

Critique of the politics of Islamic feminism

The two stories of legal reform briefly retold here may be interpreted in different ways. I will first discuss Islamic feminist perspectives and then evaluate it from a critical feminist position. I argue that all interventions in gender relations, religious or secular, are primarily political undertakings in the sense that they deal with the question of power. In other words, gender is a site of the exercise of power, which is unequally distributed and hierarchically organized. The main struggle is over the control of women in both private and public spheres of life. The institution of religion, in this case Islam, plays a significant role in the struggle over gender power. Hence, the conflict cannot be reduced to individual, cultural or religious identities.

The Islamic feminist perspective

Accepting the juridico-legal framework of the Islamic state, legal experts or academics such as Hashemi or Hoodfar are optimistic about prospects for women's rights in Iran. They believe that a reinterpretation of Islam, together with lobbying, will eventually pave the way for granting women equal rights with men. Some of the women's journals such as *Farzāneh* and *Zanān* act as lobbying organs. They demonstrate inconsistencies in the law, and argue that the present legal system conflicts with Islam's 'affectionate spirit' and its respect for women.[5] Moreover, they remind the legislators and theologians that Shi'i Islam believes in *ijtehād*, i.e. the powers of a high-ranking cleric to express binding opinions, which in turn set new precedents. This is a mechanism that ensures flexibility in dealing with new issues, such as equal gender relations.

Lobbying for legal reform is clearly framed in Islamic terms. Kar, for instance, exposes the many ways the penal law allows criminals a free hand in killing women, and asks, 'Isn't it time for engaging in *ijtehād*?' (1997: 43). Another way of convincing the clerics and the legislative establishment about the equality of women and men is to argue that laws which discriminate on the basis of gender are not rooted in Islamic *feqh* but rather in tradition and history. As such, they can readily be changed. Sa'idzadeh (1997), for instance, exposes the highly discriminatory law on blood money (*diyeh*), dates its principles back to pre-Islamic times, calls for its reform and reminds the legislators that, according to the Constitution, they are required to engage in *ijtehād* and to be informed by science, technology and experience. These critics uncover the misogynist or, in their cautious words, male-biased nature of the law, but do not question its religious roots. Instead, they deny the religious, Islamic, sources of the legislation. Thus, Sa'idzadeh protests the discrimination against women in the law of blood money (women's blood is worth less than men's), but instead of calling for abolishing the law, he demands the extension of its full benefits to women. He argues that 'the blood money of women and men in the loss of life or a body part is equal' (Sa'idzadeh, 1997: 37).

The two cases of reforming the law do not challenge the exercise of male power. Even if 'feminist' interpretations of religious texts and traditions are allowed to play a role in the reform process, their incorporation into the law would entail a political process, i.e. one of conflicts and compromises on the redistribution and exercise of gender power. Since the laws were guided by an overtly religious patriarchal agenda, their reform would require either the radical revision or discarding of its theological bases. However, none of the two factions sharing state power would consent, in the absence of a powerful political movement, to go that far, although the 'moderates' would be more prone to give concessions to an Islamic feminist opposition.

Supporters of Islamic feminism separate law from the exercise of religious and political power. For example, the variation in 'the marriage and divorce laws in Muslim communities', according to Hoodfar, 'reveals the interpretive characteristic of personal status laws – crafted by men and not through divine revelation – despite their justification through selective use and misuse of hadith and Quranic verse' (Hoodfar, 1996: 4). Although it is irrelevant here to raise the question of 'divine revelation' (it does not make any difference whether the authority or origin of the Islamic text is located in new revelations or in recorded ones such as the Qur'an), it is well known that Ayatollah Khomeini was elevated to the rank of an Imam and, according to some observers, to the status of prophethood and God (Paya, 1988). It is understandable, however, why Hoodfar tries to locate

the patriarchy of Islamic law not in religion but outside it. Muslim societies are diverse in terms of their personal status laws, she argues, but share 'patriarchal structures supported by a male monopoly over both religious interpretation and formal jurisprudence' (Hoodfar, 1996). It is true that patriarchy cannot be reduced to religion, but it is equally true that Islam cannot be degenderized into a neutral observer of gender relations. Hoodfar tries, here, to secularize the patriarchy of Islamic law, but declares religion, elsewhere, as the engine of identity formation among Muslim women. In both cases, the defence of Islam rather than the rights of women seems to be the primary concern.

Feminists do not reject reform, which is a means of democratization of gender and social relations. The Iranian 'Islamic feminist' agenda for reform is, however, patriarchal. Its boundaries are drawn by a state, which in spite of its internal cleavages, is not willing to move in the direction of democratization of gender relation, a process which depends, to a large extent, on the separation of law and religion as well as state and religion. This separation is all the more significant in the Iranian case in so far as the building of the Islamic state depended on the negation of the very idea of gender equality. The connection between the control of women and state building was frequently stressed by Khomeini and other leaders – women and law constituted both the targets and instruments of building the abso- lutist Islamic state. As one observer has noted, the architects of the Islamic state prioritized the Islamization of gender relations because 'women were the markers of the boundaries of the Islamic community and the markers of Islamic identity' (Paidar, 1995: 232).

A critical feminist perspective

Islamic feminists insist on the specificity or, even, uniqueness of the Muslim woman and her status in society. They argue that Islam treats women with dignity and respects and grants them equal rights. However, the regime of rights in general and women's rights in particular are products of the democratization struggles in western societies. The question of rights is inseparable from citizenship, the democratic state and civil society, all of which are western concepts and realities. It would be appropriate, there- fore, to examine the 'Islamic feminist' project in light of the western experi- ence which has, despite claims to the contrary, shaped all the discourses of rights among the Muslims.

Historically, in the West only men had access to the public sphere of work, politics and civil society, while women were restricted to the private sphere of home and family with little potential for intervening in the public world. Dating back to the late eighteenth century, women struggled for numerous

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rights, which once recognized and *granted* by the state, allowed them certain freedoms from confinement to the private spheres of domestic work, and entry into the public sites of power. However, even in liberal democratic systems such as the United States, formal equality, inscribed in rights granted by the state, has not guaranteed women's full participation in society. Today, although 'women have legal access to the public realm, they remain subordinate to men' (Weisberg, 1993: 3).

Islamic feminists and their cultural relativist supporters demand equality in law much in the same way that liberalism has advocated formal equality. Like their liberal counterparts, they institute a separation between law and the exercise of political power. In other words, they look at law as a neutral instrument, which can serve diverse or conflicting interests equally. This is a 'legal positivism', which understands law as an 'autonomous, self-contained system' uninvolved in the production and reproduction of power relations (Weisberg, 1993: 403). However, several trends of critical legal thought argue that law, far from being a neutral means serving everyone's interests, 'legitimates, maintains, and serves the distribution and retention of power in society'. Feminist legal theorists view 'rights analysis and "liberal legalism" as patriarchal forms which may serve to mask patriarchal bias in law' (Wishik, 1993). The positivist tradition in jurisprudence is rooted in classical liberalism (Stubbs, 1993), and 'liberalism's ideology of rights' is 'a vehicle for the legal system's maintenance of the status quo' (Weisberg, 1993: 404).

Some critics not only question the value of rights theory but also the value of law itself as a means for achieving gains for women. They argue that law is fundamentally patriarchal, and articulating women's struggles in legal terms would inevitably reinforce patriarchy (Weisberg, 1993: 405). Even when social movements win rights victories, it is the state that reinterprets their radical social goals in terms of rights; thus, by locating social power in the state rather than the people, the struggle for rights eventually leads to passivity, reinforces alienation and powerlessness and co-opts them into maintaining the status quo. Other critics, e.g. Schneider (1993: 507), challenge the claim that rights claims and rights consciousness are distinct and opposed to politics; she posits, instead, a dialectical relationship between political and legal struggles, one which locates rights in the middle not the end of political movements (from political to legal to political). She sees both the possibility of rights and 'the limits of political strategy focused on rights' (Weisberg, 1993: 407–8). In other words, while women's rights claims should not be seen as the total answer, they should not be abandoned either (Weisberg, 1993: 407–8).

While activists can incorporate legal struggles into social movements, the

outcome is shaped to a large extent by the direction and policies adopted. Do these movements challenge, in the words of Rifkin (1993: 417), the 'paradigm of law as a symbol of male authority?' Do they see the struggle against patriarchy as inseparable from the struggle against capitalism (Hennessy and Ingraham, 1997)? Feminist critics such as Rifkin (1993) argue that modern law emerged as the primary and powerful tool of the bourgeoisie and its patriarchy. Law in capitalist society became 'a crucial, substantial and ideological mechanism which updated a pre-existing patriarchal social order to meet the needs of emerging capitalist interests . . . As long as the male-dominant power paradigm of law remains un-challenged, the basic social hierarchy will not change' (Rifkin, 1993: 416–17).

Compared with the feminist struggles of the West, the project of Islamic feminists is extremely limited in both theory and practice. However, while it lacks a theoretical framework of rights and law, its discourses and prac-tices appear like another copy of liberalism and legal positivism. Unlike western liberalism, which has succeeded in instituting an extensive regime of rights guaranteeing legal equality, 'Islamic feminism' is not even am-bitious enough to demand universal formal equality. This feminism has not, for instance, challenged the extremely oppressive laws which treat non-Muslim women and men pejoratively as *ahl-e zammeh*, i.e. 'non-Muslims who paid tribute to the Moslems'.[6] Even in penal laws, the Muslim and non-Muslim women are not treated equally, the latter being punished more brutally just because of their religion.

The theory and practice of rights in the West entails the notion of citizen-ship. Although citizenship was in early capitalism limited only to the male members of the bourgeoisie, it is today extended to all individuals (except minors, prisoners and some immigrants) 'to guarantee not only the right to vote, but also the rights to participate fully in the polity and to benefit fully from the entitlements to the state' (Staeheli and Cope, 1994: 444). While access to citizenship is formally granted to men and women, many social, economic, cultural and other inequalities restrict an individual or group's inclusion in the polity (Staeheli and Cope, 1994: 446). Feminists critique the idea of citizenship as a formal inclusion of all members of society and the informal obstacles which maintain exclusion. Pateman, for instance, argues that:

> For feminists, democracy has never existed; women have never been and still are not admitted as full and equal members and citizens in any country known as a 'democracy' . . . The objection that will be brought against the feminists is that after a century or more of legal reforms and the introduction of universal suffrage women are now the civil and political equals of men, so that feminism today has little or nothing to contribute to democratic theory and practice . . .

The objection is based on the liberal argument that social inequalities are irrelevant to political equality.

(quoted in Staeheli and Cope, 1994: 446)

Thus, rather than perceiving citizenship as the realization of the liberation of women and men, feminists in the West emphasize the conflict between the formality of equality and the actuality of inequality. By contrast, Islamic feminists either do not raise the question of citizenship or subject it to the demands of Islamic theocracy.

The Constitution of the Islamic Republic uses many western concepts such as 'nation', and 'human rights'. Article 3 of the document is about 'securing the comprehensive rights of all citizens, both women and men, and the establishment of judicial security for all, as well as the equality of all before the law'; according to Article 20, all members of 'the nation, both women and men, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria' (Paidar, 1995: 257, 259). In spite of many similar declarations, women as citizens and political beings were subjugated to their status as mothers. They 'were granted social and political rights because they were mothers or potential mothers'. Moreover, these rights were subjected to the extra-constitutional criteria of 'conformity with Islamic law'. Thus, outside the realm of Constitution, the state would grant rights on the basis of what it would deem 'Islamic law'. The document itself, according to Paidar, constructed the Muslim woman 'as a mother; the mother as creator of the Islamic family; and the family as the foundation of the Islamic nation. Women were granted rights and obligations as the creators and nurturers of the Islamic family and nation' (Paidar, 1995: 262). The state was then responsible for creating these mothers and making sure they would serve the Islamic nation (Paidar, 1995: 260-2).[7]

The union of state and religion clearly shapes the status of women not as citizens but as subjects of Islamic patriarchy in Iran. The 'imperfect nature of women's citizenship', according to Kandiyoti, is due to a 'built-in contradiction between constitutions which award equal rights to men and women and shar'ia-derived personal codes which undermine this equality, and more insidiously from secular codes which define women as wards of men and their families' (1996: 10-11). Thus, whether in Iran or in the 'secularist' regimes, the separation of religion and politics continues to be a requirement for radical legal reform. In the case of Iran, such separation would entail not a reform but the dismantling of the Islamic state, which was consciously built on the unity of religion and state.

The contrast between women's citizenship status in the West and Iran is outstanding. Since formal equality has been achieved in several western

societies, the job of feminist activists there is primarily to conduct the more difficult struggle for equality in the extra-legal contexts of economy, culture and society where inequalities generate new forms of domination. In Iran, however, the struggle for formal equality is primarily centred in the juridico-political arena. In both contexts, however, reformist movements rooted in liberalism and legal positivism act within the boundaries set by the status quo.

In her study of the state of 'legal security' of Iranian women, Kar noted that the legal system did not guarantee the security of women. She concluded that 'legislation is gender based and inequality of women and men is accepted as a principle, and has acquired legal form'. Unintimidated by the conditions of state repression in Iran, she warned that the disregarding of women's rights has the proportions of a 'catastrophe' (*fāje'e*): 'The catastrophe is so serious that only an extensive revolution in legislation can raise the legal status of women to the level of their human dignity' (Kar, 1997: 421). This assessment by a practising lawyer in Iran is a far cry from the scholarship that celebrates the Islamization of gender relations as a genuine and indigenous achievement of women in the Islamic Republic.

Conclusions

While many academic feminists continue to celebrate the birth of Islamic feminism, its uniqueness and authenticity, the widespread resistance of Iranians has questioned not only its system of gender apartheid but also the very foundations of the theocratic regime. If in the early stages of the founding of the Islamic state the secular left and nationalists were the main opponents of theocracy, by the late 1990s, Islamic intellectuals and leaders who had played a role in the construction of this theocracy questioned the claim that the Islamic Republic represents Allah on earth. As early as 1989, the Iran Liberation Movement, a political organization whose leader became the first prime minister of the Islamic state in 1979, rejected Khomeini's claim that his theocracy was part and parcel of the absolute rule of Allah and his prophet Mohammad. The organization argued that human beings could not represent Allah, and even prophet Mohammad had no mandate to rule on behalf of Allah (Iran Liberation Movement, 1989: 140–5). This rejection of the claim to the divinity of the Islamic state was more widespread at the turn of the century. University students, pro-reform print media, dissident activists and some clergymen have argued in favour of the separation of state and religion (see, among a vast literature, Kadivar, 1999; Ganji, 2000).

While the reformists in and outside the Government failed to displace the

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conservatives, the economic and political crisis of the country continued to fan the flames of dissent. Workers and salaried people have suffered most from economic hardships, and women, students and youth are subjected to social and cultural pressures that they no longer tolerate. In unprecedented ways, young girls and boys leave their homes, and live in the streets to the extent that the Government has had to admit it as a serious problem, and has opened shelters in Tehran. Prostitution and drug addiction are rampant. Although gender apartheid is still official policy, women have gone on the offensive, and refuse strictly to follow Islamic dress codes.

That the legitimacy of Iranian theocracy has been questioned and women's resistance against gender apartheid is continuing amounts, in my view, to a serious crisis of the Islamic state and its gender politics. I argue that western and Iranian feminists who have worked hard to construct 'Muslim woman identities' and 'Islamic feminisms' lag behind developments in the gender conflict in Iran. While Islamic theocracy in Iran is falling apart, they continue to essentialize the women of Islamic countries into religious beings. Indeed, although they reject Eurocentrism, these feminists work within an orientalist world view, which treats Islam as the engine of history. While they distance themselves from western constructions of Muslim women as 'passive', 'ignorant' and 'illiterate', they do so by encouraging women to break the male monopoly of theocratic governance, and to become *mojtaheds* and *ayatollahs*.

I have argued that Islamic theocracy and Islamic feminism in Iran have reached a dead-end. There is another, even more serious, dead-end in feminist theory. I will briefly elaborate on the second deadlock.

Since the launching of women's studies programmes in the 1970s, academic feminism has made great strides in both theory and methodology. Feminism has seriously challenged androcentric (social) sciences and humanities (see Kramarae and Spender, 1992). Equally significant is the success of women's movements in many western countries to force the male-centred state into granting *legal equality* between the two genders. We know, however, that legal equality does not lead to equality in the extra-legal world (for instance gender inequalities based on class, religion, race or nationality). In fact, the latter seriously constraints whatever may be gained from the former. Here lies, I believe, the crisis of feminist theory. In the West, liberal feminism has realized its centuries-long project of legal reform. What is next?

I argue that the various turns in social and feminist theory that are prefixed 'post-' and identified as 'ludic feminism' by Ebert (1996) do not move beyond the claims of liberal feminism. No doubt, focusing on identity, culture, language, discourse, desire and body, these theoretical positions

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have made enormous contributions to our understanding of patriarchy. Politically, however, they lag behind liberal feminism. If liberal feminism generally advocates legal equality and a regime of rights as universal conditions of gender justice, ludic feminism denies the universality of demands/rights such as equal pay, equal opportunity, child care and birth control (Mojab, 1998). In this theorization, the women of the world are fragmented into religions, ethnicities, tribes, cultures, nations and traditions, which determine the agenda of women's and feminist movements. The political ramifications of this cultural relativism are clear.

The cultural relativist fragmentation of women into religious entities and the particularization of women's demands according to the interests of religious patriarchy have helped the formation of alliances between the Holy See and Islamic states such as Iran and Saudi Arabia. By 1998, only eleven of the twenty-two members of the League of Arab States had ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the rest had approved it with reservations. In all such reservations, Islam was the obstacle to the elimination of one or another form of discrimination (see, for example, Anonymous, 1998; Mayer, 1998). According to a detailed study, the laws of Iran are mostly in conflict with the articles of CEDAW (Kar, 1999).

The particularization of women, patriarchy and oppression in ludic or postmodernist feminist theory is also in conflict with the internationalization of women's and feminist movements. The globalization of capitalist economy has increased class and gender conflicts throughout the world, especially in developing countries. Violence against women is rampant throughout the Islamic world. 'Which side are you on?' is the question all feminists and feminist theories have to address.

Notes

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1 I use, reluctantly, the terms 'Islamic society', 'Islamic country' or 'Muslim woman'. It would be inappropriate to characterize individuals, societies, cultures or countries by their religion or, rather, the dominant religion practised. For a similar objection to the term 'Muslim society' see Zubaida (1995).

2 Sue Jackson (1997) is using the same idea, though not arriving at the same conclusion, in her article 'God of our fathers: feminism and Judaism – a contradiction in terms?'

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3 For instance, the group that drafted article 115 of the Constitution was divided over the question of excluding women from the position of the presidency of the Republic. One side demanded the inclusion of maleness as a requirement for the position, while the other was against an explicit omission. The latter argued that women could in future attain a stage of 'completion' which would entitle them to take executive power; since this power is distinct from *velāyat*, i.e. governance, reserved only for men, the Leader of the Islamic Republic might confirm their election to the position. A compromise was later reached by using the ambiguous word *rejāl* which means 'men', although it could be interpreted as inclusive of women, too. The reason for the compromise was 'consideration of the expediency of the nation at that moment'; the exclusion of women from presidency would have excluded them from the parliament, too (Hashemi, 1997: 28).

4 See, for instance, Ro'ya Karimi Mohammad, 'Ariyān, kudak-e bipanāh cherā be in ruz oftād?' (Why did Ariyan, the unsheltered child, end up in this situation?) *Zanān*, Vol. 6, No. 37, Shahrivar-Mehr (September–October) 1997, pp. 10–15. For more information on mothers' rights, see Ebadi (1997).

5 See, among a vast literature, Kar (1997: 41) and Sa'idzadeh (1997).

6 Translation of the term is from Abbas Aryanpur-Kashani and Manoochehr Aryanpur-Kashani, *The Concise Persian–English Dictionary*, Tehran, Amir Kabir Publication Organization, 1983, p. 550.

7 Yuval-Davis (1997) discuss this issue in detail in the chapter on 'Women and the biological reproduction of the nation', pp. 26–38.

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