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The American University in Cairo
School of Global Affairs and Public Policy

**ON FABRIC, FEMINISM AND FAULTY LEGAL SYSTEMS:
IRAN'S 1979 REVOLUTION AND ITS POLITICS OF TOUCH**

A Thesis Submitted to the
Department of Law
in partial fulfillment of the requirements for the LL.M. Degree in
International and Comparative Law

By
Zeena Amin

December 2020

The American University in Cairo
School of Global Affairs and Public Policy

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in partial fulfillment of the requirements for the LL.M. Degree in International and
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To Professor Mai Taha, for her guidance, her patience and her persistence in getting me past the finish line, but most of all, for being the reason I believe in so many of the things that I believe in, today. I am grateful to have a mentor who is both brilliant and bold: may you continue to fascinate me with your capacity to learn, teach and shed light on the systems that oppress us, one fierce critique at a time!

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To every woman who has ever felt like their body is wrong; like their body needs covering or exposing or decoloring or buffing or skimming or conforming: this thesis goes out to you. Our bodies have far too long been battlefields for others; it's time we call them out on it, and remind them that our bodies are our own.

The American University in Cairo School of Global Affairs and Public Policy
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ON FABRIC, FEMINISM AND FAULTY LEGAL SYSTEMS: IRAN'S 1979
REVOLUTION AND ITS POLITICS OF TOUCH

Zeena Amin

Supervised by Professor Mai Taha

ABSTRACT

The intersection of body and state is a fascinating phenomenon of modern-day politics. We are continuously subjected to the ingeniousness with which the ruling classes monitor and regulate our bodies; and most times we are not even aware of it. Whether it is for control over resources or political power and authority, the state uses its institutions and various tools available to it for the purpose of maintaining disciplined, uniform populations that could otherwise threaten prevailing power structures. In particular, the patriarchy has perpetuated the notion that a woman's body is a specific threat to those prevailing power structures. This thesis engages with states' use of their legal institutions to subjugate women by controlling their bodies. To demonstrate, the thesis draws on the case of Iran in 1979, when the fall of one power structure led to the rise of another, and the control of revolutionary bodies that could potentially challenge the newly established status-quo became imperative to the state. The thesis takes the hijab law as a chief example to examine the ways in which the Iranian regime touched the bodies of its female subjects following the revolutionary moment in 1979, in order to consolidate its power and ensure methods of perpetuating that touch well into the present day. Against this backdrop of stringent biopolitical agendas, Iranian women continue to draw strength and solidarity in the lived experiences of everyday women, forming a resistance to inspire feminist movements everywhere.

TABLE OF CONTENTS

| | |
|--|----|
| I. Introduction..... | 1 |
| A. The Theoretical Evolution of the Iranian Woman | 12 |
| B. Post-Colonialism and The Woman Question: A Nationalist Struggle | 14 |
| C. The Modern Iranian Female Subject: On the Eve of Revolution..... | 16 |
| D. Women and The Pahlavi Dynasty: One Step Forward, Two Steps Back | 20 |
| III. The Body of Law | 24 |
| A. Can the State Touch? | 25 |
| B. Woman and Revolution..... | 27 |
| C. The Veil as a Symbol | 29 |
| D. Khomeini and the Iranian Woman: A Shift in Narrative | 31 |
| E. Life and Law in the Wake of Revolution | 33 |
| F. Laying the Groundwork: Legislation likes build-up, too | 37 |
| G. What's in a Law? | 38 |
| IV. The Fabric of Resistance | 42 |
| A. The Birth of a New Iranian Feminism | 44 |
| B. Violence Vs. Fashion | 45 |
| C. The Woman's Place is in the Public..... | 49 |
| D. Educa-SHE-on | 51 |
| E. Working Class (S)heroes | 52 |
| F. Bad Laws, Big Potential | 53 |
| V. Conclusion | 56 |

I. Introduction

It is the 8th of March, 2018. In an overcrowded women's compartment in the Tehran metro, three women are standing shoulder to shoulder taking up the width of the metro aisle. Three scarves, wrapped around three necks, carrying three uncovered heads. In the immediate background, a young woman stands looking at the ground; she is wearing a scarf on her head that is pushed so far back you can see almost all her hair. The young woman almost immediately looks out the corner of her eyes, and as though instinctively, upon noticing the camera, nervously turns her back. One of the three women in the foreground speaks to the other two quietly. With near orchestral precision, the three women hold hands and break out into chant-like song. They are singing a Farsi song called "I'm A Women," and though the words sound foreign to non-Persian ears, the passion with which they enunciate each word transcends semantics. Two of the three women are carrying black and white photos showing an iconic image of the Women's March on the same day 39 years earlier: the 8th of March, 1979.

The city is Qom, where Ayatullah Khomeini, the Iranian Republic's new leader, resided. Thousands of women are marching through streets, fists pumping in the air. Against a backdrop of barren winter trees, the crowds stretch far and wide. In the distance, men create human chains to surround the marching women from occasional anti-protest mobs trying to infiltrate the marches. 150 kilometers away, in Tehran, thousands upon thousands more women are marching, too, and they continue to do so for six days. It is barely two weeks after the revolution that brought about the downfall of the Shah, and brought Khomeini back to Iran and into power and the chanting has returned to the streets. "We didn't have a revolution to go backwards."¹ These are the chants shaking Tehran's buildings and the mosque walls of the religious city of Qom. The words come out with a sense of urgency and regret; the same women who were marching a few weeks earlier for the overthrow of the Shah, sparking the events that lead to Khomeini taking

¹ Masih Mohammadi, "نظاہرات زنان ایرانی بر ضد حجاب" ["Women's demonstration in Tehran"], YouTube (March 18, 2011), *available at* <https://youtu.be/VTqnRLxxhXo>.

rule and the establishment of the Islamic Republic, were now grappling to reinstate their presence in a moment in history. It had become clear, in those early post-revolution days, that there would be no room for revolutionary women in the Islamic Republic of Iran.

It is September, 2016. A mother and daughter are cycling through the island of Kish, off the southern coast of Iran, with wind in their faces and a sense of mutually agreed resolve in their pedaling. “It’s our absolute right, and we are not going to give up,” says the daughter, looking straight into the camera.² A day earlier, the Supreme Leader had issued a statement that women were to be prohibited from riding bikes in public.

In the 1990s, a live performance in Tehran’s Vahdat Hall takes place. Inside, the harmonious culmination of instruments and vocals sweep the audience up into a melodic trance. At first glance, it might seem like a musical scene anywhere in the world, but in reality, it is a concert in Iran, where the voice of a woman has been deemed by conservative clerics to have the ability to trigger arousal and female singing solos are deemed taboo. To maneuver the situation; the Iranian music scene developed a technique called co-singing (“hams-khani”),³ whereby female vocals are sung alongside one or two other male vocals. It is within these grey-zones and through these loopholes that the show goes on.

On the 8th of March 2018, an image goes viral. Standing straight under the arched branches of an ancient looking tree, on top of a utilities metal box in the middle of an overpacked sidewalk, is a girl carrying a stick. On the end of the stick, a white fabric hangs limply in the wind. Boldly contrasting with the white of the fabric, is the girl’s striking black hair hanging loose over her left shoulder. With flickers of her black hair blowing over her head, almost as if to tantalize the white cloth hanging at the end of the stick, Vida Movahed stands above a sea of men, many of whom are glancing up at her with expressions of confusion and awe.

² Andree Massiah UGC & Social News team, *Women in Iran defy fatwa by riding bikes in public*, BBC NEWS, (21 September 2016), available at <https://www.bbc.com/news/world-middle-east-37430493>.

³ Yara Elmjouie, *Alone again, naturally: women singing in Iran*, THE GUARDIAN, (29 August 2014), available at <https://www.theguardian.com/world/iran-blog/2014/aug/29/women-singing-islamic-republic-iran>.

And so, these scenes continue to reenact themselves, time and time again. In Iran, a vibrant history of women's resistance and struggle reincarnates itself in every Women's Day on the 8th of March, and every few years in grand gestures that take social media by storm, but also in the mundane, day-to-day actions of solidarity and defiance against a backdrop of an oppressive state that attempts to silence, cover and immobilize women. Iranian women find themselves in situations where making choices about how their bodies sound, or how their bodies transport, or how their bodies dress, have become the greatest form of dissent against the state. But how did that come to be?

The female body in Iran, much like everywhere else in the world (especially in post-colonial contexts) was a site of political struggle throughout its history. In this thesis, I attempt to capture a particular moment in Iranian history which I believe was a formative one for Iran's feminist movements and has continued to reproduce women's resistance since: the 1979 revolution. In the midst of revolution and political upheaval, there was an almost immediate, though not unique, obsession with what and how women appear in the public and the newly established regime wasted no time in regulating women's bodies in society. This is the moment that interests me; the moment in which the Islamic Republic of Iran, in its earliest stages of state-building, first engaged with the politics of touch.

My first introduction to the politics of touch was in the wake of Egypt's own revolution in 2011. I had learned for the first time what it meant for the state to practice its capacity to control the very bodies of its subjects in March of that year, when the Supreme Council of Armed Forces had detained protesters from Tahrir Square a few weeks after Mubarak had been ousted. The female detainees at the time were subjected to virginity tests conducted by a military doctor. I later understood this as a biopolitical act of gendered violence performed by the state to subjugate revolutionary forces, and to declare its authority over both the literal and figurative bodies within its domain. A moment of the state explicitly "touching" the female body. In his account of the Egyptian feminist movement and the history of the Egyptian state's experience with sexualized securitization, Paul Amar explains how the focus on female sexuality arises in moment of protests and to delegitimize political opposition. He writes, "women who protested were sexualized and had their respectability wiped out, not just by innuendo and accusation,

but literally, by being sexually assaulted in public and getting arrested for prostitution, being registered in court records and press accounts as sex criminals, and then getting raped and sexually tortured in jail.”⁴ By doing so, the state creates both a theoretical as well as juridical association between the female protestor, and the prostitute, or the sexually deviant woman. This consequently, as Amar explains, renders the figure of a respectable female protestor impossible.⁵ It is with this understanding of why a state would be interested in controlling bodies, that I attempt to capture the Iranian regime’s actions in the early days following the 1979 revolution.

In order to make sense of the way in which the state “touches” bodies, I first illustrate what I am referring to by this “state” that touches. To do so, I draw on Foucault’s theories. He says:

I don’t want to say that the State isn’t important; what I want to say is that relations of power, and hence the analysis that must be made of them, necessarily extend beyond the limits of the State.... [T]he state can only operate on the basis of other, already existing power relations. The State is superstructural in relation to a whole series of power networks that invest the body, sexuality, the family, kinship, knowledge, technology and so forth.⁶

Indeed, I find that the public institutions that make up modern day power structures, allow the state to impact female populations in a particular way that intends on disciplining their bodies. In his theory of sovereignty and state power, Foucault describes that power is exercised in modern day societies through the combination of a state’s right to sovereignty and via various mechanics of discipline.⁷ His theories on the state and the means with which it perpetuates its disciplinary methods could be summarized in the following description:

The discourse of discipline is alien to that of the law; it is alien to the discourse that makes rules a product of the will of the sovereign. The discourse of disciplines is about a rule: not a juridical rule derived from sovereignty, but a discourse about a natural rule, or in other words a norm.

⁴ PAUL AMAR, HUMAN-SECURITY STATES, SEXUALITY POLITICS, AND THE END OF NEOLIBERALISM, 213, (Duke University Press, 2013).

⁵ *Id.*

⁶ MICHEL FOUCAULT, POWER: THE ESSENTIAL WORKS OF MICHEL FOUCAULT 1954-1984, Truth and Power 122, (Penguin UK, 2019).

⁷ MICHEL FOUCAULT, “SOCIETY MUST BE DEFENDED” LECTURES AT THE COLLÈGE DE FRANCE, 1975-76, 37-38, (2003), https://pdflibrary.files.wordpress.com/2008/02/foucault_soc_defended.pdf

He later builds on this to theorize the final stage of “government” which aims to “perfect” and “intensify” the processes of power it directs.⁸ To do so, the state no longer depends on the law, rather, its tactics are streamlined through processes that ensure the continued subjugation of its population. However, Foucault also emphasizes in his later works the fact that, governmentality is threefold whereby it engages in a continuous process of sovereignty, discipline and government. He writes:

We need to see things not in terms of the replacement of a society of sovereignty by a disciplinary society and the subsequent replacement of a disciplinary society by a society of government; in reality one has a triangle, sovereignty-discipline-government, which has as its primary target the population and as its essential mechanism the apparatuses of security.⁹

Iran’s 1979 revolutionary moment is particularly interesting as a moment in time when in many ways a new sovereign was being established. By looking at the events and the regime’s actions in the early moments of its conception, the “triangle” in its three points can clearly be seen at work. For my thesis, I am particularly interested in the point where law is used as a disciplinary measure for the control of the female population in Iran and I believe this intersection of law and the female body can be vividly seen in the 1979 revolutionary moment. I am interested specifically in how law is invoked to control women’s bodies during times of revolution and resistance. Women are entrapped by intentionally shaped laws stipulating what those bodies should look like and how those bodies should act, in an effort to turn those laws (which fall under the “disciplining” power of the state) into socially constructed ideas that organically lead to the submission of those very bodies (which in turn leads to disciplinary societies, that eventually lead to control societies, as described by Deleuze.¹⁰) In this thesis, I draw upon the specific case of the hijab law (used to monitor women’s dress and public appearance, and thus, eventually, silence their dissenting voices in protection of the state’s existing power structures) as an embodiment of that intersection of different power structures and forms of state governance.

⁸ MICHEL FOUCAULT, *THE FOUCAULT EFFECT: STUDIES IN GOVERNMENTALITY*, Governmentality 95, (The University of Chicago Press, 1991).

⁹ *Id.* at 102.

¹⁰ Gilles Deleuze, *Postscript on the societies of control*, 59., THE MIT PRESS, 3, 3-7 (1992).

The 1979 Iranian revolution is a case in point that shows us the ways in which states use the law in revolutionary times. For the purpose of my thesis, I view the revolutionary moment to be a moment in which Foucauldian notions of disciplinary tactics as enacted by the state are most visible. The state uses different modes of control to exert, and consolidate, its power over women's bodies particularly in the fragile moments of state-building; from navigating their access to public spaces, to directing their access to education and the labor market, to navigating their familial relations. To demonstrate how this is done, I look at the hijab law as an embodiment of the Iranian regime's utilization of the law in regulating the relationship between its female citizens and the state, the public (civil society) and their own bodies (in their private lives.)

A starting point for my thesis is based on the premise that the state has the desire to and is capable of, exerting control onto its subjects in an effort to consolidate its power. While I do draw on Foucault's concept of power which is centered on the rejection of the concept that the state is a unitary center of power, rather, that power is exercised through multiple forces, institutions and discourses, I do not believe that the state has at all withered away. Aretxaga's theory of the state succinctly describes my understanding of the state for the purpose of this thesis, as follows:

The state as phenomenological reality is produced through discourses and practices of power, produced in local encounters at the everyday level, and produced through the discourses of public culture, rituals of mourning and celebration, and encounters with bureaucracies, monuments, organization of space, etc..¹¹

In 1979 in Iran, for example, the state's social and political presence, which in Aretxaga's words "can hardly be ignored"¹², became particularly vivid. In a moment of rupture, when a new form of state was coming into being, the state's power in creating systems of control was visible.

Even more specifically, I attempt to engage with the state by looking at a particular site in which the state's power is reproduced: the female bodies it governs. Aretxaga writes that "at the margins of the polity and at the local level, encounters with the state are often experienced in an intimate way where power is experienced close to

¹¹ Begoña Aretxaga, *Maddening States*, 23., ANNU. REV. ANTHROPOLOGY, 398, 393-410, (2003).

¹² *Id.* at 393

the skin, embodied in well-known local officials, through practices of everyday life (Das 2003.)”¹³ In the early days of state-building in 1979, out of which today’s Iran was born, these intimate ways of exercising power were clear as day. Such was the case for the entire population, indeed, but it was particularly experienced by the female population. Aretxaga echoes this notion of disproportionate control over women’s bodies when he writes that “women have become the embodiment of a threatening nation or a threatening ethnic other; their bodies become the field through which violent statehood not only enacts but draws its power.”¹⁴

And so, it is on these premises that I engage with the Iranian state as it was being established in 1979, in order to encapsulate the ways in which it touched the bodies of Iranian women, and to understand how that served its power dynamics. In specific, I look into the law as one of the sites in which those power dynamics are illustrated with the understanding that “the terrifying force of the management of bodies and people that characterizes the modern state, coupled with the intimacies that invest it, is not unrelated to the power of the law as it has come to represent the sovereign power of the state.”¹⁵

In chapter one, I study the years leading up to the 1979 revolution, focusing on the dominant discourse on women, and gender more broadly. I am interested in unpacking the logic of state control and subjugation by engaging with this history. Specifically, I focus on how Iranian women’s bodies became sites of political and legal contestation. In other words, this chapter sets up the scene for the 1979 revolution as a moment to think about the politics of touch (by the state) in revolutionary times. Chapter one also serves as an important premise on which my thesis is based. There are various reasons why I chose Iran as a case study but possibly the most important reason is because of its versatile history with regards to the political nature of its many state forms. Before being an Islamic Republic, Iran was governed by Western-oriented, secular modernists and by portraying the ways in which the female body has been a site of contestation throughout Iranian history, long before the Islamic Republic came to be, I attempt to shed light on the fact that power structures desire the control of women’s

¹³ *Id. at 398*

¹⁴ *Id. at 398.*

¹⁵ *Id. at 404.*

bodies. The state will, and does, always exercise its power over women's bodies, whether the form of government is secular or Islamic; how this power manifests itself onto women's bodies will be different, but, in essence, "there is a strange intimacy between the state and the people. The state excises from the polis those subjects and practices that question or threaten homogeneous models of territorial sovereignty and heterosexual forms of political control, which are fundamental to national narratives of harmonious domesticity."¹⁶

Chapter two is about the revolutionary moment itself. Here, I am interested in looking at how the state's tactile practices formed the Islamic Republic's image of an Iranian female subject. Again, context is important to the understanding of the intentions of the regime in stipulating laws that maneuver the presence of female bodies in Iranian society at a fragile moment of state-building. In particular, I take a closer look at the hijab law as a manifestation of the reach of law in moments of change. I examine the hijab law and the legal bodies that regulate it, to observe the socio-political impact it has had on the lived experiences of Iranian women.

In chapter three, I look into the afterlives of the 1979 moment that remains palpable 41 years later. Iranian women show us the essence of resistance in their ability to navigate the law (case in point being the hijab law) and its supporting institutions of violence that are so vehemently intent on confining them to fabric and reducing them to fragments of the nation's "honor." I explore the ways in which Iranian women resist the state's touch on their bodies and suggest that feminist movements everywhere take a page out of their books: in Iran the everyday lived experience of women becomes an act of resistance in and of itself. The resistance of women in Iran tells a story of how the Iranian state project of creating a society of control has failed. Its disciplinary practices failed too often, and thus it continuous to attempt to reinvent levels of controlling women's bodies through the law.

In making a final note I would like to say this: as a Muslim woman with a particular resentment for the effects of neocolonial "othering" on people of the Global South, I am not interested in joining forces with white feminists wanting to save brown women from their own communities. On the contrary, I chose the hijab law, for example,

¹⁶ *Id.* at 403.

as an illustration of the legal tools used by states to turn women’s bodies into playing fields for the advancement of their socio-political agendas. In other words, this is not a contestation of the hijab as such. I am not interested in joining forces with liberal voices, either. The intention in selecting Iran as a case study is not to condemn Islamic governance. On the contrary, it is to critique state power in all its forms. As the story in Iran has showed us, the state manages women’s bodies, seen as a “threatening nation,”¹⁷ regardless of the ruling ideology. In doing so, I hope to complicate the relationship between the state, public law and gender, and to challenge the role of law during revolutionary times in confining and constraining revolutionary subjects, especially women.

¹⁷ *Id.* at 398.

II. The Politics of Body

The 1979 revolution in Iran is a revolution of profound social change, of anti-imperial triumph, of grappling with modernity and resisting Empire. It is a revolution creating Islamic governance that paved the way to a theocracy like never seen before, and, most memorably, it is a revolution heavy with gender struggle and sexual politics that have structured Iranian state and society to this very day. Iran's revolutionary moment of 1979 left irreversible marks on the bodies of those in its streets and homes. Those bodies, which had been created long before on the streets, in the classrooms and at the Bazaars, collectively assembled together regardless of class, background or political ideology in the moments leading up to the revolution. They rallied behind hope for an authentic nation state that was true to the Iranian heart. In the way that the history of modern states has come to show, however, this moment of unity would soon pave the way for a new Iranian regime, which would then itself pave the way for new systems of oppression, dividing and conquering the revolutionary collective into separate bodies that can be controlled and neutralized.

Throughout this chapter, I explore the ways in which Iranian women, simply by being, posed the "woman's question" in various moments of political upheaval in Iran's history as a modern state. By doing so, I illustrate a more vivid image of the female body in Iran leading up to the 1979 revolution, in order to later depict how that female body became, in turn, a site of struggle during the revolutionary moment of 1979, and beyond.

In the years leading up to 1979, many factions of Iranian society created the waves that would eventually cause the collapse of the Pahlavi regime and with it, the Iranian monarchy. For starters, there were the Bazaaris, a category of Iranian citizens who were "involved with petty trade, production, and banking of a largely traditional to only a slightly modernized nature,"¹⁸ and whose activities were centering on bazaar areas and traditional Islamic culture.¹⁹ The Bazaaris were in close association with the ulama²⁰

¹⁸ NIKKI R. KEDDIE, *MODERN IRAN: ROOTS AND RESULTS OF REVOLUTION*, 226, (Yale University Press, 2006).

¹⁹ *Id.*

²⁰ Traditional Muslim religious scholars, who have historically had large social and political influence in Iran.

and the Iranian clerics; who, benefitting from the traditional legitimacy of the clergy and deep social network embedded in Iranian society, were essentially the mobilizing force of the revolution. In addition to those two factions were the students, who played a substantial role in taking to the streets, and the lawyers who assisted greatly in the shaping and organization of protests and rallies. In every one of those factions, Iranian women were present. As students, teachers, lawyers, Bazaaris, farmers and workers, these women's participation in the 1979 revolutionary movement was substantial. Just as substantial as their participation in the revolution itself, was the way in which the Iranian woman; her body as well as her presence in the public space, became a subject of contestation during the revolutionary moment between competing and rising powers in Iranian political life. The struggle between the different factions of the political scene (nationalists, Islamists, modernists, etc.) was mirrored in their different approaches to women. Even though the 1979 revolution in its own right was exceptional, it showed how the female body is often a site of struggle in revolutionary moments, or moments of profound political rupture.

Read through an understanding of Foucault, the body is a social construct, formed by power relations and politicized in such a way as to serve political ends. The concept of the political utilization of bodies to control populations is known as biopolitics, which “deals with the population, with the population as a political problem, as a problem that is at once scientific and political, as a biological problem and as power's problem.”²¹ This is foundational to understanding the desire of the Iranian state to control its population, specifically women's bodies, the ways in which the state chose to do so during the moment of political rupture in 1979, as well as the lasting impacts this has had on Iranian women to this day.

I have come to understand that the individual does not come to be out of a void. The man/woman is produced from various experiences; particularly the experience of human connection. How humans connect in the social dictates how man and woman are seen and understood. The same can be said with regards to how the state, despite its abstract nature, interacts with its subjects, and how that defines those very subjects in turn.

²¹ FOUCAULT, *supra* note 7 at 245.

In the next section, I complicate the understanding of what it meant to be an Iranian woman by 1979; by understanding how the female body was “created” in the Iranian context from the experiences of women with state and society prior to 1979, I then build on that understanding to analyze how the 1979 experience impacted those very female bodies. It is important to note here that there is no particular approach taken with regards to the chronology of events in Iran. The following section unravels ways in which the Iranian woman’s body became a political question in times of political upheaval or change, from the Qajar period leading into the creation of “modern” Iran, to the Pahlavi dynasty and the post-colonial moment of nationalism.

A. The Theoretical Evolution of the Iranian Woman

Afsaneh Najmabadi takes an in-depth look at who a woman in modern Iran is, by dissecting Iran’s understanding of gender and sexuality and how it evolved over time. Going back to the Qajar period, the Pahlavi dynasty predecessor, when Iran was ruled by the Qajar dynasty from 1789 to 1925, Najmabadi illustrates the ways in which modernity and the Empire restructured the Iranian understanding of gender and sexuality. Whereas in Iranian tradition in the early Qajar years, gender was far more fluid a concept, with female/male depictions often hardly distinguishable and the concept of love not exclusively defined as heterosexual²², modern Iran saw the transformation of sexuality and gender to mean more binary and strict depictions of male vis-a-vis female, and of the shunning of homosexuality. This transformation, as argued by Najmabadi, came along with Iran’s increased interaction with Europe. Brought on by the initiation into the modern moment as imposed on Iran by the West, such a change is not unique to the Iranian case in point. The colonial experience, in general, is defined by its “civilizing mission,” through which the White Savior must liberate barbaric nations from their backward practices. As Franz Fanon writes, “colonialism is not satisfied merely with holding a people in its grip and emptying the native’s brain of all form and content. By a kind of perverted logic, it turns to the past of the people, and distorts, disfigures and

²² AFSANEH NAJMABADI, *WOMEN WITH MUSTACHES AND MEN WITHOUT BEARDS: GENDER AND SEXUAL ANXIETIES OF IRANIAN MODERNITY*, 4, (University of California Press, 2005).

destroys it.”²³ Experiences of the Global South with colonialism and the Western imperial order, have had long standing impacts on not only the logic and knowledge creation of the communities that it has exploited, but also on the ways in which those communities function, with the perception and function of gender being largely impacted, too.

Najmabadi goes on to describe the historical process through which the female body and the male body came to be seen in modern Iran in relation to nationalism. She uncovers how national symbolism coincided with the reconfiguration of the female and the male in Iran, thus defining gender roles and women’s status in society. Women slowly came to be seen as the fertile bearers of children. She explains how “once vatan was embodied as a mother, woman's body was also transfigured. Dedicated sons would emerge from the homeland's pure soil, the nation's originary womb. A woman's womb would exude vataniyat (patriotism) and produce a new kind of Iranian.”²⁴ Soon, the homeland was seen as the “mother,” and inherently female, while the state became increasingly masculine and “the modern state [seen] as a male collective in charge of protecting the female homeland became progressively more masculinized symbolically as well.”²⁵ This masculinization process was completed with the crowning of Riza Shah who had centralized and consolidated power to become the head of the nation, or its father. For insight on the context in which the concept of the Iranian woman was manifested, I attempted to depict the way in which gender had intertwined with the history of Iran, and it naturally flows that next, I will outline how the Iranian woman was impacted throughout the evolution of Iranian society into modern Iran. This way, I attempt to draw an image of the various ideological and political struggles that have, time and time again, dictated the experience of the Iranian woman in Iran, eventually leading up to the Iranian revolution.

²³ FRANTZ FANON, *THE WRETCHED OF THE EARTH*, (Constance Farrington trans., Grove Press), 1963.

²⁴ NAJMABADI, *supra* note 24, at 125. See also: *The Erotic Vatan [Homeland] As Beloved And Mother: To Love, To Possess, And To Protect*, 39 *CSSH*, 442, 442-467 (Vatan is the Farsi term for “homeland,” described by Najmabadi, and is used as an indication of the modern notion of the gendered perception of homeland as a female body).

²⁵ *Id.* at 128.

B. Post-Colonialism and The Woman Question: A Nationalist Struggle

Adding to the way the Iranian woman was seen and defined was Iran's experience with post-colonialism and the wave of the modernization mission engulfing non-Western nations. The country's post-colonial moment coincided with critical developments in gender and sexuality in various colonized states. The modernization project of Iran in the nineteenth century, as based on the European model, had lasting effects on the woman question in Iran. From providing a new focus on women's education to shifting the way societal norms for women, such as the veil, were seen, the Iranian example once again shows one how nationalist fear juxtaposed with the will to modernize creates a current that sweeps over women in society. In Iran, this changed not just how the female was seen in the figurative sense, but also how she was seen in the very literal sense of the word, namely in her dressing and undressing. Najambadi illustrates this battle between political forces and its impact on how women were allowed to appear in public:

For Iranian modernists, viewing European women as educated and cultured, the veil became a symbol of backwardness. Its removal, in their view, was essential to the advancement of Iran and its dissociation from Arab-Islamic culture. For the counter-modernists who wanted to uphold the Islamic social and gender roles, the European woman became a scapegoat and a symbol of corruption, immorality, Westernization, and feminization of power.²⁶

The veil, and what a woman wears thus became a matter of national identity: did Iran want to position itself as modern? Westernized? Forward-looking? Or did it want to appear traditional? Authentic? Backwards? How would it choose to present itself? And in what ways would that choice result in the formulation of the female identity?

Questions like these, centered around women in the post-colonial moment, were not exclusive to Iran, but rather common for other neighboring nations transitioning from colonialism to their independence at the time, as was the case in India and Egypt²⁷, for

²⁶ *Id.* at 133

²⁷ In *FEMINISTS, ISLAM, AND NATION: GENDER AND THE MAKING OF MODERN EGYPT* (Princeton University Press, 1995), MARGOT BADRAN notes how the feminist movement in Egypt came to identify itself in relation to the discourse on nationalism and modernism, which was voiced in the wake of colonial occupation, and "involved collective self-review as part of a project of national reinvigoration to win independence. Feminist women legitimized their own discourse of revitalization and empowerment in the discourses of Islamic modernism and secular nationalism." Further illustrating the Western impact, regardless of whether or not that impact was intentional and exclusive, on the formation of feminist

example. In those contexts, the “women’s question” was raised precisely at the time when Europeans arrived at the shores of the Global South and the dichotomies between East and West, modern and traditional, and woman then and woman now were born.

This is how the “modern” Iranian woman came to be. A woman who went from belonging only to the private sphere, to becoming a “newly conceived woman, with a veiled language, a disciplined body, and scientific sensibilities, [who] could claim a place in the public space; she could be imagined as a citizen, learning a new verbal language, a new language of the body, and new rules of social intercourse...”²⁸ In Najmabadi’s words, the Iranian woman became “the well-educated mother, the companionate wife, the capable professional woman often at the service of the state institutions, the sacrificing nationalist heroine, the selfless comrade.”²⁹

It was this woman for whom the veil was compulsorily banned by law in 1936 with the kashf-al-hijab decree as imposed by Reza Shah Pahlavi. The female body was thus subjected to, as Walter Dignolo suggests of the lived experiences of colonial subjects, “a constant struggle between forces of regulations and energies of liberation,”³⁰ It is therefore inevitable that by defining the female as one thing, she is juxtaposed

discourse, “nineteenth-century Egypt saw the rise of the modern state, expanding capitalism and fuller incorporation into the European-dominated world market system, secularization, technological innovation, and urbanization. These forces, changing the lives of Egyptians across lines of class and gender, assailed urban harem culture.” Though Badran essentially argues that the Egyptian feminist movement came to be and found a voice independent of the West, the temporal fact remains that the shift in understanding gender and the woman in society coincided with increased European interaction and presence in the region, as it did in Iran. In India, the “women’s question,” as referred to by PARTHA CHATTERJEE in *Colonialism, Nationalism, And Colonialized Women: The Contest in India* (AMERICAN ETHNOLOGIST, November 1989), was strongly defined by the colonial moment. In this case, the nationalist movement, in an effort to overthrow the colonizer, determined the answers to the “women’s question.” In the Indian experience, the change in women’s status and role in society came, not as a direct result of colonialism, but rather as a resistance mechanism to Western impact. The Indian experience of nationalism was defined by the meticulous process of selecting what belongs to the “material world” and thus ought to be Westernized and what belongs to the “spiritual world,” wherein the East was more superior than the West, and thus should remain intact. The role and status of women in India were areas that belonged to both domains and thus saw an interesting new structure emerge. The new woman defined in this way was subjected to a new patriarchy. In fact, the social order connecting the home and the world in which nationalists placed the new woman was contrasted not only with that of modern Western society; it was explicitly distinguished from the patriarchy of indigenous tradition, the same tradition that had been put on the dock by colonial interrogators. Sure enough, nationalism adopted several elements from tradition as marks of its native cultural identity, but this was now a “classicized” tradition-reformed, re-constructed, fortified against charges of barbarism and irrationality.

²⁸ NAJMABADI, *supra* note 24, at 152.

²⁹ *Id.* at 154

³⁰ DECOLONIZING SEXUALITIES: TRANSNATIONAL PERSPECTIVES, CRITICAL INTERVENTIONS (Sandeep Bakshi et al. eds, Oxford: Counterpress, 2016).

against another; there is the image of the woman and the counter-image. The Iranian female body, despite having become reincarnated into a newly-founded role, “could not do away with her complementary/conflicting Other: the sexual woman, seething with appetites and desires, previously held in check by the veil.”³¹ She remained a symbol of political narratives. As explained by Najmabadi, “by the 1960s and 1970s she becomes the very embodiment of Westoxication, often referred to in the anti-Shah oppositional political discourses, both secular and Islamist, as the “painted doll of the Pahlavi regime.” In this reinscription she embodies a double Other: the enemy within, *fitna*, and the enemy without, the West, thereby making it possible for the previously distinct voices of secular radical modernism and the newly rearticulated Islamism to condemn in unison the “superwesternized” woman.”^{32 33}

C. The Modern Iranian Female Subject: On the Eve of Revolution

With this understanding of who the woman in Iranian society was, one can begin to understand her experience interacting with state and society in the time before the Islamic Republic. As illustrated, the Iranian woman enjoyed increased visibility by the turn of the nineteenth century. She became “sister” and “citizen.” The early 1900s saw increased public appearances of women and demands made for the advancement of women’s rights. Records of the first Majles³⁴ meetings from as early as 1908 show debates with regards to the legality of women’s appearances in public as seen at the time through women’s associations, which would plan social events as well as fundraising events for women’s schools and celebrations of national occasions.³⁵ Quite literally, this period witnessed the beginning of the visibility of women in Iranian streets through the debates in Majles about this new visibility’s legality. Later, women’s political presence became palpable on the streets of Iran during the constitutional revolution. From as early as 1905,

³¹ NAJMABADI, *supra* note 24, at 154.

³² The Arabic word “fitna” has several meanings, but is used in this context to refer to the verb meaning to “seduce, tempt, or lure” and refers to a feeling of disorder or unrest. It can be used to describe the inner conflicts of one’s consciousness between ‘good’ and ‘bad’ faced during personal trials.

³³ Afsaneh Nahmabadi, *Veiled Discourse-Unveiled Bodies*, 19 FEMINIST STUDIES 487, 511 (1993).

³⁴ Iranian parliament.

³⁵ NAJMABADI, *supra* note 24, at 222.

when several men and women were paid by a prominent family of landowners to protest the overtake of land by a Russian bank,³⁶ to 1906 during increased tensions between government and religious officials, whereby an account is given of crowds of women stopping the Shah's carriage in protest of rumors of certain ulama being held against their will to negotiate with government officials,³⁷ women became more politically active.

Questions of women's education also increasingly appeared on the public stage during the legal reforms and drafting of the constitution, in 1906. Journalists had a large role to play in informing public discourse on the issues being discussed by the ulama as well as the revolutionaries and intelligentsia in the Iranian Majles. They began discussing the importance of education for women reflecting the discussions occurring in parliament at the time. These discussions and urban political activism paved way to more changes later on in the 1900s, with the new Pahlavi dynasty.

However, even the desire to advance education for women was underlined by ulterior motifs. On one hand, calls for female education were perpetuated by the turn of the century to coincide, as explained previously, with the modernity project and increased Westernization. To fit into the Western mold, the education of women needed to happen through formal channels that were producing knowledge mirroring the West. On the other hand, calls for female education were made with underlying concepts of producing a particular type of female subject; by justifying the need for women's education on the basis of the female's role as the supportive wife, and nurturing mother, who must be equipped with particular knowledge in order to become desirable for marriage and to manage her household efficiently.³⁸

Through the discourse used in promoting education, the Iranian woman was thus further defined: woman as wife, mother and creator of citizens. Najmabadi describes the rationale behind this promotion of education at the time, and its contribution to furthering the limitation of the female figure in Iranian discourse: "Women's education was therefore oriented toward rearing an educated (male) citizenry...Once the family was

³⁶ MANGOL BAYAT, *IRAN'S FIRST REVOLUTION: SHI'ISM AND THE CONSTITUTIONAL REVOLUTION OF 1905-1909*, (Oxford University Press, 1991).

³⁷ *Id.*

³⁸ *Id.*

envisaged as the building block of the nation, relationships within it had to be reformulated. Ignorant women made unsuitable mothers and unfit spouses."³⁹

This is an indication of how the state underwent the process of creating an educated female subject, and how that was, in and of itself, a gendered process from the start, to consolidate the woman as a particular socio-political subject.

Looking at the labor force of a specific society at a certain point in time reveals much about the overall societal patterns in which the labor force is functioning. In an interesting survey of women's labor in Iranian history, Valentine M. Moghadam provides an extensive look into the history, regarding which academics and historians have mostly remained silent, of female labor in the Iranian market. She states that "accounts of Iranian economic history show that Iranian women played an important economic role in the late Qajar period, in ways that benefited the family/household, owners of enterprises, and the state."⁴⁰

At the particular moment of Iran's transition into capitalism, women in Iran were involved in productive labor ranging from work in the textile industry. Whether this work was in carpet weaving or in manufacturing velvet, Moghadam interestingly notes that "in 1906-07, some 3,000 workshops producing velvet (*makhmal bafi*) could be found in people's homes, almost entirely operated by women."⁴¹ Further, records indicate that unproductive labor at the time was also performed by, in the literal sense of the word, the female body, whereby prostitution and sex work were "alternately tolerated, encouraged, and punished"⁴² during the Qajar dynasty. Additionally, though Moghadam writes that "we know very little about poor urban women, the difficult lives of maids and wet nurses, or the marital experiences of urban or rural women,"⁴³ we can understand from her analysis that women were responsible for other forms of unpaid reproductive labor, including housework and nursing.

Despite the fact that the historical records of women's labor indicate that women workers were grossly underpaid and subjected to difficult working conditions, be it in the

³⁹ NAJMABADI, *supra* note 24, at 196.

⁴⁰ Valentine M. Moghadam, *Hidden from History? Women Workers in Modern Iran*, 33 IRANIAN STUDIES, 377, 380.

⁴¹ *Id.* at 381.

⁴² *Id.* at 384.

⁴³ *Id.* at 386.

factory spaces or in the very fact that they would have to perform their own waged labor to assist their husband's earning in addition to "unpaid" labor in the household, thus combining productive and reproductive labor,⁴⁴ it is understood that women in the Qajar era, and stretching into the Pahlavi dynasty, had various roles in the labor market. A study by S. Kaveh Mirani shows the ratio of women to total persons employed in major industries by 1978: agriculture (4.3%), to manufacturing/mining (an alarming 33.1%), to construction (0.4%, which might not seem high in abstract terms, but when considering the nature of construction work, is a remarkable figure), energy and health (2.6%), and general services (21.4%), an interesting proportion of the total labor market in those industries.⁴⁵ Mirani credits these figures to not only the increase in the level of education of women, but also the fact that general economic conditions in Iran had been rapidly developing during the Pahlavi dynasty. Hamideh Sedghi explains these changes as well by associating the rise in numbers of women in the labor market with the simultaneous integration of Iran into world capitalism, which caused an increased demand in overall labor, part of which was women's labor.⁴⁶

The very absorption of female bodies into the labor market was both a political tactic as well as a result of political choices made by the last Shah at the time of his rule. These policies again were ones implemented by the desire for Westernization and for the approval of post-colonial powers. In Sedghi's words, "What served Westernization-as he understood it- served the monarch: even a degree of women's emancipation and their participation in the labor force."⁴⁷ To meet the increasing need for a developed economy according to the new age of capitalism, women needed to be incorporated into the formal economy, though the importance of their work in the household did not diminish. Rather, a woman's value in the labor market was measured against and justified by her ability to balance between her duties as a "mother" and "wife" with her ability to assist in providing for the family as well, which could explain how and why in Iran, the majority

⁴⁴ HAMIDEH SEDGHI, *WOMEN AND POLITICS IN IRAN: VEILING, UNVEILING, AND REVEILING*, 33, (Cambridge University Press, 2007).

⁴⁵ S. KAVEH MIRANI, *WOMEN AND REVOLUTION IN IRAN, Social And Economic Change In The Role Of Women, 1956-1978*, (Guity Nashat ed., Westview Press, 1983).

⁴⁶ SEDGHI, *supra* note 46.

⁴⁷ *Id.* at 104.

of women participating in the labor force in the 1970s were married women.⁴⁸ The female body, even in the moments when she had become increasingly visible in the labor market, was still defined by her gendered role in society, and was still seen as an object to address the Woman's Question and the dilemma of modernity in an increasingly capitalistic and post-colonial world. In this case, it had become a matter of how the female body could be utilized in the labor market to advance the vision of westernization. As Sedghi writes of the Shah's strategies, "motivated by the drive to project a "modern" image of the state, as well as of himself, to the West, the Shah declared that to meet part of the demand for labor, 'greater use must be made of the enormous existing pool of women.'"⁴⁹

D. Women and The Pahlavi Dynasty: One Step Forward, Two Steps Back

As further indication of the fluid relationship between the female and the state in Iran, the years of the final Iranian dynasty presented a paradoxical time of increased freedoms for women under Reza Shah that were also met with increased limitations. While education for women was central to all national programs in Iran, gaining significant grounds when it became compulsory in 1944, and despite the establishment of a coalition of women's groups under the Women's Organization of Iran in 1966 (an organization centralized under the patronage of the Shah's twin sister, no less, and again, reinstating the concept of the contradiction of both advancement and limitation of women's freedoms,) the kashf-al-hijab law was applied in the 30s, banning the veil in public.

The veil ban in Iran coincided with the Shah's modernity project, and was among many provocative dress code regulations at the time.⁵⁰ The veil ban prohibited women from wearing the veil and chador in public. The ban defined the experience of women in public spaces at the time, whereby many women's rights for mobility and movement were repealed owing to cultural beliefs that they could not be present in public "with

⁴⁸ *Id.* at 125.

⁴⁹ *Id.* at 109.

⁵⁰ Houchang E. Chehabi, *Staging The Emperor's New Clothes: Dress Codes And Nation-Building Under Reza Shah*, 26 *IRANIAN STUDIES* 209, 209-229, (1993).

nothing on.”⁵¹ In an attempt to liberate the woman from the veil, the Shah had done the opposite to the more conservative working classes of Iranian women. State violence was used to ensure that women were uncovered: police would ban women from entering particular areas if they were veiled, and even assaulted women physically when they would tear scarves off them.⁵² The parallels that are drawn between the kashf-al-hijab law in the 30s, and the hijab law in the 80s, are fascinating. The two laws, though 50 years apart and, theoretically, one being the precise opposite of the other (one law banning the veil and the other enforcing it,) are in reality, exactly the same. Both laws sprout from the same structures of state oppression and violence; both laws aim to turn bodies into abiding subjects that are otherwise seen as a threat to the ruling class’s political agenda, whatever it may be at any given time. The Iranian woman’s body was always a site of subjugation over which many diverging actors (the state, the imperialists, the nationalists, the anti-modernists, or the Islamists) contested.

While the limitations on the physical mobility of many women in public spaces were increasing, so were, ironically, the advances of women in the political sphere. In the 1940s, the wave of nationalism hit Iran, and many nationalist and leftist party members were women.⁵³ By then, women were receiving formal education and participating politically, both in urban movements as well as in formal political structures.

The White Revolution was also a defining moment in Iranian women’s history. Beginning in 1962, the Shah enacted many modernization reforms varying from land ownership, to reforms in infrastructure and women’s status. It is noteworthy that these reforms and the start of the White Revolution coincided with increased American interest in Iran and the Kennedy administration’s prioritization of Iranian relations, in an attempt to secure Western support and thwart Soviet threats. April R. Summit, in a paper discussing the Kennedy/Shah relations during the White Revolution, wrote: “In its report in the fall of 1961, the Task Force on Iran argued: ‘to prevent Soviet domination of Iran must be our immediate and overriding objective. This requires the continuance in power of a pro-Western regime, for the ultimate alternative is a weak neutralist government

⁵¹ HOMA HOODFAR, *WOMEN, GENDER, RELIGION: A READER*, The Veil In Their Minds And On Our Heads, 431, (Elizabeth A. Castelli ed., Palgrave Macmillan, 2001).

⁵² CHEHABI, *supra* note 52.

⁵³ Nikki R. Keddie, *Women in Iran Since 1979*, 67 *SOC RES* 405, 405-438, (2000).

which could not withstand Soviet pressures.’ The report suggested various methods the US could use to preserve the stability of the Shah. One option was to take a very open and active role in pushing for reforms, the other a more private, discreet one. Whatever the method, Iran must be stable in order to contain the Soviet Union.”⁵⁴

It becomes evident, then, that the reforms of the White Revolution, including those targeted at the Iranian woman, were politically charged by Western forces to advance agendas that far extend beyond the lives of the Iranian people; a notion reminiscent of the impact of the colonial predecessors of the Western imperial epoch in Iran.

Nevertheless, women’s lives continued to be defined both in the streets and in the homes and in 1963 women were granted the right to vote and to run in elections for certain public office positions. Further, a number of women had also been elected to the Iranian Parliament. In relation to how the woman was defined in the private sphere, the Family Protection Law, which provided changes to the Iranian civil code, was amended during this time as well. Initially, section 1133 of the civil code provided the husband’s autonomy in matters of divorce, but the Family Protection Act aimed to restrict divorce and provide some form of increased equality between both husband and wife in matters of divorce.⁵⁵ Additionally, the Act, which was reflected into the civil code, discussed child custody and the restriction, albeit not the prohibition, of polygamy. The civil code at the time of its amendment allowed for increased emancipation for women, for example in allowing women the right to independently control their own property and assets.⁵⁶ However, it was still underlined by several limitations in the ability of women to have total control over all aspects of their lives. A case in point is article 1117, which stipulated that: “The husband can prevent his wife from occupations or technical work which is incompatible with the family interests or the dignity of himself or his wife.”⁵⁷ From these examples, it is clear, then, that the woman was used merely as a tool for performative progressiveness; the freedoms granted to women in Iran during this era

⁵⁴ April R. Summitt, *For a White Revolution: John F. Kennedy and the Shah of Iran*, 58 MIDDLE EAST JOURNAL 560, 563 (2004).

⁵⁵ Ali Raza Naqvi, *The Family Protection Act Of Iran*, 6 J. OF ISLAMIC STUD., 241, 241-265.

⁵⁶ IRN Civil Code § 1117 (1928).

⁵⁷ *Id.*

were precise political decisions and were almost always underlined or met with ways to ensure that the complete emancipation of the Iranian woman would not and could not be attained.

Throughout this chapter, I have described the evolution of the concept of “body” in the years leading to the eve of the 1979 revolution; particularly that of the woman. I have explained how, by the time the revolution in Iran had erupted, the Iranian woman had already been established as the “honor” of the nation; a visible actor in the public sphere, an educated and working laborer who must also remain a “mother” “sister” and “wife.” She had already been dressed and undressed, emancipated and oppressed, and had become an essential component for westernized modernity and the heart of “Westoxication.”⁵⁸ The female body and its visibility stood for far more than a mere physical existence; it had long become political, and so had the symbols and indications of that visibility. As Najmabadi writes, “the veil, in its hypervisibility, has come to serve as a sign for more than gender; it has come to be read for “the state of modernity.” This hypervisibility has compounded the erasure of that other excess figure of Iranian modernity by continuing the prior work of making woman stand as a privileged mark of modernity.”⁵⁹

With this illustration of the many times in which the Iranian woman was a site of contestation over the years prior to 1979 and how state and society have defined the female subject over time, it is easier to imagine how in the revolutionary moment of 1979, the Iranian woman was, once again, redefined and, quite literally, redressed by a new system of power players to perpetuate new systems of oppression. It becomes clear that the woman in Iran, as is the case elsewhere in the world where patriarchy has defined and regulated our understandings of both public and private spaces, is a body that is itself historically constructed and re-constructed by the state and power forces in order to fulfill particular political end goals.

⁵⁸ NAJMABADI, *supra* note 35, at 511.

⁵⁹ NAJMABADI, *supra* note 24, at 255.

III. The Body of Law

The act of categorizing opposition in particular moments of political upheaval by very much literally touching the bodies of those politically adversarial individuals, is a prominent feature in the Iranian state's experience, but is not unique to it. As illustrated in the first chapter, over the course of Iran's modern history as well as in the experience of other post-colonial states like India and Egypt, in moments of political rupture and revolution, the "women question" was perpetually raised and contested, and with it, women's bodies were defined, redefined, and thus, to a large degree, disciplined (or attempted to be disciplined.) In a way, this control of bodies, be it socially or legislatively, can be interpreted as moments in which the state touches the bodies of its subjects. The concept of touch understood politically may seem absurd; after all, "touch" is associated with biology; with poetry and art, but hardly ever with politics and law. How can the state, an abstract concept, "touch" the physical bodies of its subjects?

This chapter engages with one of the ways in which Iran has controlled its population against revolution. Though this was achieved through several complex methods, for the purpose of this thesis, I focus on the state "touching", i.e., controlling Iranian women's very bodies using the law. I illustrate the context in which the veil law was enacted and implemented. I look at the veil law as an example of the ways in which the newly-established regime first touched the female body, in an attempt to unpack the many layers that contributed in the subjugation of the Iranian woman. In order to do so, I theoretically engage with revolutions and counter-revolutionary practices from a gendered perspective; I argue that revolutions, and thus, counter-revolutions, are about gender just as much as they are about economy, social welfare and anti-imperialism. As Aretxaga writes:

On the one hand, the fantasy of a unified, imagined nationalist community clashes with internal differences and power struggles. Differences class, gender,

ethnicity, and status create de facto differences in citizenship. The impact of state power is felt differently at various levels of the national community.⁶⁰

As such, it is important to understand the Iranian woman's narrative and her experience in the 1979 Revolution. Further, I observe the symbolic value of the veil itself, prior to state intervention, and the events leading up to the very moment in which the state used the veil as a tool of subjugation. By doing so, the state turned its focus, in terms of its general discourse as well as its legislation, onto the female body. I believe it is important to point out here, that I do not mean to say that individual men behind closed doors plotted for the subjugation of women in this way, rather, that the way in which the events and legislative decisions were actualized led to state-sponsored control of Iranian women's bodies in a revolutionary moment which they had as much ownership of as their male counterparts. Finally, I deconstruct the veil law to portray the ways in which it manifests the state's intention to subjugate women and female forces.

A. Can the State Touch?

When we talk about touch, we should not restrict our understanding only to fingers. Rather, haptic experience concerns the whole body or the whole skin covering the body (Montagu 1971). It is also a constant sensual account of our relationship with the world. Through our haptic relationship with the world, we also make sense of it. Touch, as a form of "dwelling on the surface of the body of the other" (Segal 2009, 6), has a tremendous world-making capacity in marking surfaces with value and meaning, establishing boundaries, and indicating borders. From this point of view, it connotes something beyond merely the physical; it is a corporeal situation charged with emotional, political, social, and cultural processes.

-Asli Zengin,⁶¹

As I grapple with coinciding the meaning of "touch" with state practices, Zengin's words strongly resonate with me. The way in which the state defines and

⁶⁰ ARETXAGA, *supra* note 12, at 396.

⁶¹ Asli Zengin, *Violent Intimacies: Tactile State Power, Sex/Gender Transgression, and the Politics of Touch in Contemporary Turkey*, 12 MIDDLE EAST WOMEN'S STUD. 225, 230 (2016).

redefines the woman through its social discourses and its juridical policies, thus impacting the perception of the woman and her experience in interacting with state and society, can very much be seen as acts of touch.

Touch is twofold. By this, I mean to say that touch involves both the “touched” and the “toucher,” and it is essential that they both come into contact. From the previous chapter, one can understand the ever-changing nature of the Iranian state’s illustration of the female subject in moments when the state and Iranian women came into contact, across different moments of political upheaval in its modern history. With that in mind, a closer look can be taken into the particularly significant event that defined Iranian women of today: the 1979 revolution. By understanding the nature of the contact between Iranian women and the regime one can begin to understand the ways in which the state turned that moment of contact into an opportunity to touch, encapsulate, and discipline female citizens, in order to eventually quench political dissent, and how that opportunity to touch define the experience of Iranian women with both state and society to this day.

As understood from the previous chapter, the question of women’s identities, bodies and, specifically, how to dress them, is one that has long been raised throughout Iran’s modern history. Every moment of political change had deep and physical implications on women’s bodies; from the early Qajar period and the fluid approach to gender and “bodies” in their physical and figurative sense, to the post-colonial moment when unveiling women, in an attempt to emulate the West and embrace its ideals, was regarded as a premise for modernization, to the moments of power struggles between different ideologies and political actors in which questions of women’s education, labor and legal rights were contested. Naturally, this means that the question of the veil did not form out of a vacuum in 1979. As worn and interpreted by the Iranian woman, the veil, or the *chador*, the name for traditional Persian and Islamic cloth covering the woman’s body and face save for her eyes, had held a significant presence in the revolutionary moment in Iran from its start.

B. Woman and Revolution

Accounts of the early days of the revolution describe the noticeable presence of women on the streets of Tehran. In their 1985 study on modes of mobilization in the Iranian revolution, Ahmad Ashraf and Ali Banuazizi divided the revolution leading to the final collapse of the Shah's regime into three waves of protests, strikes and movements of dissent they refer to as "revolutionary activities."⁶² They described that "with each successive wave, the number of participants in revolutionary activities increased dramatically. Beginning with 45,000 participants in the first wave, the number almost quadrupled in the second, leaped to 1,400,000 in the third, rose to 5,200,000 in the fourth, and finally involved some 29,000,000 people in the last."⁶³ Though they do not include a gendered perspective of their statistics, it can safely be assumed that these numbers were not all only male revolutionaries. This understanding that revolutionaries distinctly included female bodies is emphasized through Shahla Talebi's description of her experiences in Iranian prisons. As a former Iranian political prisoner, she was detained both under the Shah's regime, in 1977 as well as under the post-revolutionary Islamic regime between 1983-1992. Through her riveting account in "Ghosts of Revolution,"⁶⁴ of her own experience as a female political activist as well as those of her fellow women inmates, the "gendered" layer of political participation of women in the years leading to, and of, the political disruption culminating into the 1979 revolution becomes clear.

The Iranian revolution was a series of mass collective protests and strikes mobilized by different groups and segments in society. Misagh Parsa describes this collective action in their book "Social Origins of the Iranian Revolution," writing that "by 1977, the regimes policies had adversely affected major social groups and. Classes including bazaaris⁶⁵, industrial workers, white-collar employees and professionals. The mobilization and collective actions of these classes and their coalition were responsible for the overthrow of the monarchy."⁶⁶ From the working class bazaaris and the white-

⁶² Ahmad Ashraf & Ali Banuazizi, *The State, Classes and Modes of Mobilization in the Iranian Revolution*, 1 STATE, CULTURE, AND SOCIETY 3, 3-40 (1985).

⁶³ *Id.*, at 21.

⁶⁴ SHAHLA TALEBI, GHOSTS OF REVOLUTION: REKINDLED MEMORIES OF IMPRISONMENT IN IRAN, (Stanford University Press, 2011).

⁶⁵ See Chapter 1 for explanation of "Bazaaris".

⁶⁶ MISAGH PARSA, SOCIAL ORIGINS OF THE IRANIAN REVOLUTION, (Rutgers University Press, 1989).

collar workers, to the clergy, the legal professionals and the students, collective dissent against the Shah and his regime was breaking out across the streets of Tehran, and then echoed elsewhere into more rural areas.⁶⁷ As illustrated in the first chapter, women in Iran by 1979 had been present in each of those revolting factions, with perhaps the exception of the clergy. Representing a segment of the bazaaris and the working class, female workers were present in factories as well as involved in the labor market, albeit many times being involved in unpaid labor. Female students were growing in numbers in universities and school across the nation. In “Reconstructed Lives,” by Haleh Esfandiari⁶⁸, her primary sources of accounts of Iranian women on their lives before the revolution illustrate firsthand what it meant to be a woman in Iran in the time leading up to the 1979 fall of the monarchy. She interviews women who were lawyers, students, business owners, government professionals and housewives. Through their accounts, it is also clear that women, though having divergent expectations and understandings of the revolution as it was occurring depending on their class and their social backgrounds, were present in the coalitions mobilized during the revolutionary moment in 1979.

Anne H. Betteridge describes how “a distinctive feature of the Iranian revolution was the participation of large groups of women. Western audiences were particularly impressed by the sight of so many black-veiled women involved in the “referendum of the streets.”⁶⁹ Hamideh Sedghi illustrates the political scene during 1979, and the presence of both the Islamist as well as the secular women on that scene. She writes: “Homa Nateq, a prominent and progressive historian, hailed Iranian women’s heroic revolutionary activities, as she spoke to a large crowd at the University of Tehran in early 1979.”⁷⁰ From her description, it is clear that Iranian women had a significant role during the protests of 1979. Further, she adds: “Unaccustomed to covering her hair, she wore a hat-whether concealing her hair signified fear of zealots or political ambivalence is uncertain.”⁷¹

⁶⁷ ASHRAF & BANUAZIZI, *supra* note 64.

⁶⁸ HALEH ESFANDIARI, *RECONSTRUCTED LIVES: WOMEN & IRAN’S ISLAMIC REVOLUTION*, (The Woodrow Wilson Center Press, 1997).

⁶⁹ ANNE H. BETTERIDGE, *TO VEIL OR NOT TO VEIL: A MATTER OF PROTEST OR POLICY*, (Guity Nashat ed., *Women and Revolution in Iran* 109, Westview Press, 1983).

⁷⁰ SEDGHI, *supra* note 46, at 211.

⁷¹ *Id.*

Keddie, while describing the secular and guerilla opposition forces during the revolution, writes that “although women students played and play an important role in political demonstration and activities, even more numerous in the demonstrations of 1978 were chadored bazaari women, who came out usually in separate ranks to participate in the mourning processions, where they had always been, but where their presence took on a new political meaning.”⁷² These accounts not only show that the Iranian woman was an integral element of the revolution, but also that the veil in and of itself held significant symbolic meaning from the early days of the uprising.

C. The Veil as a Symbol

As portrayed in the previous chapter, the 1979 revolution and the unrest beginning in the Spring of 1977 was a result of various factors that impacted the various actors of opposition. Analyses of the revolution in Iran attribute the overthrow of the monarchy to different influences, from the rapidly occurring economic changes and state accumulation of power and wealth, to socio-political aspects of Iranian life at the time. An article in the Associated Press from September 4, 1978 stated that

the source of current turmoil is Iran’s rush into the 20th century engineered by the Shah over the past 15 years. In 1963, a decade after the United States helped him seize power, he began his effort to bring Iran’s feudalistic society into the modern world...But modernization has collided with ancient social and religious traditions, whose proponents refused to budge.⁷³

The various analyses all have one general concept in common: that a shared sentiment between all revolutionary forces at the time was one of denouncing, or at the very least, distrust of imperialism, the association of Western/European models with modernization and deviation from traditional Persian traditions, culture and lifestyle. Homa Hoodfar recalls, in a podcast interview with Manijeh Nasrabadi, co-editor of *Jadaliyya’s* Iran Page, how in the years prior to the revolution during her visits back home from where she was studying in Europe, she noticed that her previously seemingly Westernized friends and colleagues had increasingly began embracing Iranian culture;

⁷² KEDDIE, *supra* note 19.

⁷³ PARSA, *supra* note 68, at 62.

listening to Farsi music, reading Farsi writers, etc.⁷⁴ This general anti-imperial sentiment and the cultural wave of returning to Iranian roots are essentially what lies behind the appearance of the veil in a political context during the revolution: moving beyond its religious role the veil became a symbol for political dissent to some. Keddie explains this further by describing that

veiling has become perhaps the central symbol of the Islamic Republic; the veil and “proper veiling” have become definitional symbols of a woman’s faith and loyalty. Although in traditional Islamic discourse the veil is related to modesty and morality, its transformation into a central symbolism of power has imbued it with a total religiopolitical significance as well.⁷⁵

Further emphasizing the “political’ rather than merely religious role of the veil is the fact that secular, non-veiled women in the 1970s, embraced the chador during protests and modest dress in public spaces as “a sign of opposition to the shah and solidarity with his popular class opponents.”⁷⁶ In a different account by Betteridge, she describes the wearing of the veil as indicating a “particular moral stance---morality defined positively by Islamic law or negatively by opposition to the immortality of the Shahs’ regime and the West in general.”⁷⁷

It was as such that the veil came to hold various significances in the revolutionary moment, during which wall graffiti and publications depicted the symbol of the veiled woman. The veil had become so symbolic of revolution and femme-force, that the first stamp in Iranian history to include a woman was that of a veiled woman issued in the years of the revolution. It is noteworthy however to read into Sedghi’s description of the stamp which she illustrates as such:

She [the veiled woman on the stamp] had no body, only a face cloaked in black, a face without wrinkles or lines, a face with a closed mouth and serious eyes looking into infinity. Except for a gun showing from behind her head, the background looked cold. There was no feeling, or passion. Only because her hair was covered. she could not be mistaken for a man.⁷⁸

⁷⁴ Manijeh Nasrabadi, *1979 Generation: Homa Hoodfar on Feminism and Revolution*, STATUS AUDIO MAGAZINE (2019), available at <http://www.statishour.com/en/Interview/2446>.

⁷⁵ KEDDIE, *supra* note 55, at 410.

⁷⁶ *Id.* at 409.

⁷⁷ BETTERIDGE, *supra* note 71, at 110.

⁷⁸ SEDGHI, *supra* note 46, at 209.

From her depiction, it is clear that the veiled woman of the revolution; once carrying the chador on her body as an act of defiance and dissent, would be used by the new regime to encapsulate the body of the female subject. The regimes change, but the tactics of the patriarchy remain. The revolutionary regime was quick to redefine the Iranian woman and her body, where the ideal woman was “a pious Muslim and militant fighter; more importantly, she was masculinized or perhaps, a de-sexualized woman.”⁷⁹ This image of the desexualized and covered woman soon became a critical symbol of the revolution, and later, of the Islamic state. The veil gradually went from being a symbol, to being institutionalized. But how did this process occur? When did the shift in power of the veil being an Iranian woman’s personal and/political choice, into an opportunity for the state to “touch” the very body of the revolutionary woman; restructuring her into a subject to serve its new ideals and state-building objectives?

D. Khomeini and the Iranian Woman: A Shift in Narrative

The most straight forward way to go about understanding the means in which the state was able to touch the bodies of women in the 1979 moment is by understanding the chronology of events in the wake of Khomeini’s control of Iran. Early on in the events leading up to the final collapse of the Pahlavi regime, Khomeini, who at the time was in exile in France, had issued statements that were widely distributed amongst protesters. Those statements were messages of encouragement to the Iranian protestors and revolutionaries in general, but also frequently made inference to the gendered aspect of the revolution; giving particular attention to women and their role in perpetuating the revolution, commending their brave and heroic participation in demonstrations, and illustrating the belief in equality and social justice for women as being deeply rooted in Islamic principles. To mobilize women as part of the revolutionary forces, Khomeini would emphasize the importance of their participation and his commitment to embracing Islam’s true ideal of the liberation of women. He wrote, from France to Iran: “As for women, Islam has never been against their freedom. It is, to the contrary, opposed to the

⁷⁹ *Id.*

idea of woman-as-object and it gives her back her dignity. A woman is a man's equal; she and he are both free to choose their lives and their occupations.”⁸⁰

He juxtaposes this notion of Islamic liberation of women against the, at the time, ruling Shah's injustices towards women, which he states were “trying to prevent women from becoming free by plunging them into immorality. It is against this that Islam rears up. This regime has destroyed the freedom of women as well as men. Women as well as men swell the population of Iranian prisons, and this is where freedom is threatened.”⁸¹ While the Shah's regime had reduced the Iranian female to what many women described as mindless⁸² and sexualized bodies to echo physical reflections of the West and its modernization model, the Khomeini regime seemed to do the same on a different end of the spectrum: “the IRI promoted Islamization and anti-Westernization by controlling women's bodies and their sexuality as strategically vital to state consolidation of power.”⁸³ Almost immediately after Khomeini took power, the rapid shift in the discourse on women is palpable from Khomeini's statements in public, and the series of legal changes made as part of the Islamic regime's first actions in solidifying its power in Iran.

In February 1979, Khomeini officially seized power from the Shah, returning to Iran. It is important here to note, that Khomeini was not the only popular revolutionary leader in Iran at the time. Khomeini rose to his position of leadership amongst progressive leaders like Mehdi Bazargan, Ayatollah Shariatmadari Ayatollah Taleqani and Shariati as well as many leftist activists from the Mojahedin.⁸⁴ He was however, as Keddie describes it, “the most uncompromising opponent of the Pahlavis, of the monarchy itself, and of foreign control and cultural domination.”⁸⁵ To understand that Khomeini did not come to power out of a void, that there was political competition, and that his more absolutist ideology is essentially what got him into power through popular support, suggests an explanation as to why in 1979 mechanisms of control were so prominently exercised.

⁸⁰ BETTERIDGE, *supra* note 71, at 118.

⁸¹ *Id.*

⁸² ESFANDIARI, *supra* note 70.

⁸³ SEDGHI, *supra* note 46, at 220.

⁸⁴ Nikki Keddie, *Iranian Revolutions in Comparative Perspective*, 88 AHR, 579-598 (1983).

⁸⁵ *Id.*

In October, 1979 the New York Times published an interview conducted by Oriana Fallaci a month prior with Imam Khomeini. In the interview, when asked about the reason behind the enforcement of the hijab/chador, the Imam stated the following:

The women who contributed to the revolution were, and are, women with the Islamic dress, not elegant women all made up like you, who go around all uncovered, dragging behind them a tail of men. The coquettes who put on makeup and go into the street showing off their necks, their hair, their shapes, did not fight against the Shah. They never did anything good, not those. They do not know how to be useful, neither socially, nor politically, nor professionally. And this is so because, by uncovering themselves, they distract men, and upset them. Then they distract and upset even other.⁸⁶

This comes into stark contrast with Khomeini's earlier statements prior to the collapse of the regime, which displayed a focus on uniting women under the promise and hope of a more inclusive and autonomous futures for themselves. Nevertheless, this statement, by October 1979, had not been born out of a void; rather, since the Islamic Republic's conception, its intentions behind the new process of state building and power consolidation became immediately clear.

E. Life and Law in the Wake of Revolution

Core to the process of state-building is the creation of legal rule and legislative capacities. In post-revolution societies, this process of creation becomes particularly significant. Revolutions create particularly volatile situations when the different revolutionary coalitions and forces compete over the consolidation of power in the momentary absence of rule of law and an entrenched sovereign. The creation of this rule of law and legitimization of power through a legal framework that regulates societal relations, then becomes critical for the continuation of the revolutionary regime in an environment that could cultivate power asymmetries. Matthew Lange describes this moment of state vulnerability by writing:

When the state is governed by rules and its relations with society are dictated by set procedures and laws, the potential for arbitrary action by either state officials

⁸⁶*An Interview with Khomeini by Oriana Fallaci, THE NEW YORK TIMES, (Oct. 7, 1979), available at <https://www.nytimes.com/1979/10/07/archives/an-interview-with-khomeini.html>.*

or societal actors is reduced, opening a space for formal relations between the two.⁸⁷

By doing so, the revolutionary regime, especially the one arising from major social revolutions, succeeds in further rooting the infrastructural capacity and disciplinary systems of the state onto and into its subjects and society, as it draws on popular mobilization and the fact that its legitimacy sprouts from the will of the social masses.⁸⁸

The case of the Iranian Revolution falls in line with this understanding of post-revolutionary state power accumulation. It was a social revolution, which followed Weber's model of state authority building that Jaime Becker and Jack A. Goldstone describe as being "built on at least three different foundations: charismatic authority, patrimonial authority (personal authority buttressed by patron/client relationships and personal rewards that is based on some form of traditional legitimacy), or rational-bureaucratic authority."⁸⁹ With Khomeini representing the charismatic authority, it did not take long for him to enact patrimonial authority as well, based on the traditional legitimacy of Islam and Shari'a. Khomeini went from capitalizing on his charismatic authority in the years leading up to the collapse of the Pahlavi regime, to consolidating that charisma into more tangible structures of authority. In that sense, the Imam and his revolutionary regime were following Lange's exact description of state building methodology post-revolutions, which he describes as follows: "In a revolution, leaders usually draw initially on charismatic authority, but they realize that for the revolution to last, they must institutionalize that authority by building new state structures on patrimonial or rational-bureaucratic lines."⁹⁰

In the case of the Islamic Republic, the new state structures that would control social obedience and the unity of the revolution from disintegrating, were to be built on, essentially, the judiciary and legislation, whereby, first and foremost in its project of

⁸⁷ MATTHEW LANGE, STATES AND DEVELOPMENT HISTORICAL ANTECEDENTS OF STAGNATION AND ADVANCE, *The Rule Of Law And Development: A Weberian Framework Of States And State-Society Relations*, (Matthew Lange and Dietrich Rueschemeyer ed., Palgrave Macmillan, 2005).

⁸⁸ THEDA SKOCPOL, STATES AND SOCIAL REVOLUTIONS: A COMPARATIVE ANALYSIS OF FRANCE, RUSSIA, AND CHINA, (Cambridge University Press, 1979).

⁸⁹ JAIME BECKER AND JACK A. GOLDSTONE, HOW FAST CAN YOU BUILD A STATE? STATE BUILDING IN REVOLUTIONS, (Matthew Lange and Dietrich Rueschemeyer ed., 192 States and Development Historical Antecedents of Stagnation and Advance, Palgrave Macmillan, 2005).

⁹⁰ *Id.*

Islamicization, the justice system had to institute Islamic law.⁹¹ The judiciary was viewed by the revolutionary regime and its clerical power as the most critical branch of government, “given that Islam is considered to be an elaborate body of laws in clerical point of view of Islam.”⁹² It was on those grounds that the Iranian theocracy was born.

The Islamic Republic’s judiciary initially focused on retaining power during the instability that follows revolutionary moments, requiring the eradication of the “other” or the “outsider”⁹³ who could threaten the newly acquired power, while propagating a well-established Islamic identity, steadfast in maintaining the anti-imperial sentiments that drove its rise to power through revolution in the first place. The importance of the judiciary to the Islamic regime explain why the first official steps taken by Khomeini’s regime were to institute, amend or abrogate certain laws. The enforcement of the veil on women, and thus the way in which the Iranian state attempted to manifest its touch on the bodies of Iranian women every day; on the streets, in the workplace and within the confines of their private lives, can be seen from the lens of the previously described method of state-building, whereby state accumulation of unrivaled power in the revolutionary moment became critical for the creation of the Islamic Republic.

The desire of the state to dress women, was quite literally, their desire to “veil” the female from the state apparatus; to reduce her visibility and thus subjugate a major element of dissent. The Iranian female, and all the paradoxical values she had stood for in the years prior to the foundation of the Islamic Republic, from the years of the Pahlavi regime; as the symbol for and target of Iran’s Westernization, to the years of the revolution; as the symbol for liberation of the Iranian identity, was a potential site through which the new state could be threatened. The female subject, then, had to be contained. Her body, the site of struggle of so many narratives, had to be concealed. Najmabadi eloquently writes: “In the first months and years following the overthrow of the Pahlavi dynasty in February 1979, the symbolism crafted in the previous decades between woman and culture was translated into the most horrific meanings: "revolutionary purification and cleansing campaigns" targeted dismissal of secular

⁹¹ MAJID MOHAMMADI, JUDICIAL REFORM AND REORGANIZATION IN 20TH CENTURY IRAN: STATE-BUILDING, MODERNIZATION AND ISLAMICIZATION, (Routledge, 2008).

⁹² *Id.*

⁹³ *Id.*

women professionals as "remnants of the old regime." Having located the site of "social sickness" on the bodies of women, eradication of "Westitis" from Islamo-Iranian culture translated into repeated waves of attacks against unveiled women and the eventual imposition of the veil and an elaborate "code of modesty."⁹⁴

The laws enforced by Khomeini, in the early days after revolution had succeeded, thus formed a space through which the Iranian regime could touch, and accordingly obscure, the bodies of not only the secular, unveiled women, but of the female as a concept and ground for political struggle. It must be noted here, though, that the laws Khomeini enacted did not all together, and all at once, strip the Iranian woman of her presence in its entirety. Khomeini, despite banning women from practicing in the socio-political realm, never did ban women from voting. Further, Khomeini never removed women from his discourse. On the contrary; he had redefined the woman's role in society as the "mother", and the "care-giver." The woman's role was to protect the nation's morality; the way she carries her body a symbol of moral purity, rather than a force for revolution. In May 1979, Khomeini stated the following: "Women have the responsibility of motherhood and raising the children. The mother is the child's first class, a good mother is a good class...If you bring up a child correctly, and one day that child is a leader of society, then the country will be prosperous and yours will be the credit."⁹⁵ Even during the Iran-Iraq war, women's economic roles were emphasized. Though the details of these rights go beyond the scope of this thesis, it is important to note that the discourse around the Iranian woman was formed in a way that would serve the state's agenda. In order to do so, the Iranian woman had to become a neutralized subject of the state, serving only the purposes laid out for her by the regime. For the regime, her "visibility" and voice needed to be concealed inasmuch as it threatened the state's power.

⁹⁴ Afsaneh Najmabadi, *Feminism In An Islamic Republic: Years Of Hardship, Years Of Growth*, ISLAM, GENDER, AND SOCIAL CHANGE, 1998 AT 60.

⁹⁵ VANESSA MARTIN, *CREATING AN ISLAMIC STATE: KHOMEINI AND THE MAKING OF A NEW IRAN*, 154, (I.B.Tauris, 2000).

F. Laying the Groundwork: Legislation likes build-up, too

Before the law to explicitly veil women came to be, one of Khomeini's first acts after taking power of Iran, even prior to establishing a constitution (which would come to be in December of 1979,) was to abrogate the Family Protection Law of 1967, and to declare it as un-Islamic. The Family Protection Act was issued as a supplement to the Iranian Civil Code and the Marriage Act of Iran. Having limited divorce laws and curtailing some of the freedoms of husband's in that regard, as well as restricting though not prohibiting polygamy, and organizing child custody matters in a more formalized manner, the Family Protection Act had been hailed as advancement towards the protection of women within the family. An Iranian attorney and activist named Mehrangiz Kar, attributes the abolition of this act by writing that "the intent of Khomeini's comments, which were rooted in radical Islam, was to label all legal measures to improve the status of women during the shah's regime as contradicting shari'a, rendering these measures ineffective."⁹⁶

No more than a week later, Khomeini announced that female judges could not be appointed in the Iranian judiciary; an interesting decision given the importance and weight given to the legal branch of government as described above.

In a way, whether intentional or not, it seems like the regime had eased into the moment of physical touch on the woman, where first her familial status was altered, and several of her rights even within the sanctity of her home had changed, then her position in the public sphere and in governance was also curtailed.

These two decisions were shortly followed by Khomeini's veiling decrees of March 1979. This was met with strong resistance when woman took to the streets on International Women's Day on the 08th of March, 1979. It seemed, at the time, that the regime had responded to public pressure.⁹⁷ Instead of immediately enacting hijab laws, the regime waited till 1980 when it took the first step to legally stipulating the veil, by enforcing it in all workplaces. The veil had officially been enforced in the work place within a year after the post-revolutionary regime had come to power. In the meantime,

⁹⁶ Mehrangiz Kar and Golriz Farshi, *Focusing on Women in the Internal Politics of Iran*, 15 BJWA, 75, 81 (2008).

⁹⁷ HOMA HOODFAR, *THE WOMEN'S MOVEMENT IN IRAN: WOMEN AT THE CROSSROADS OF SECULARIZATION AND ISLAMIZATION*, 25, (Women Living Under Muslim Laws, 1999).

the overall narrative was saturated with cues of tying the Iranian woman to virtue and morality. Women's roles were redefined in ways that associated them with the Iranian nation's purity and sense of morality and to protect the nation's purity, the state had to protect the woman's purity as well. The regime had rooted itself in its anti-colonial, traditionalist identity, and the veil had become one of the symbols of the same. It seems, then, like the most obvious way to go about in "protecting" the nation's identity of "purity," would be through the protection of the veil. And thus, the moment of "touch" had officially come to be.

G. What's in a Law?

In the immediate wake of the revolution, in 1982, Islamic criminal law legislations were stipulated in three bills that were adopted for 5 years. Those three bills laid the groundwork for the Penal Code, which was officially passed by the parliament in 1991.⁹⁸ The laws relevant to the hijab are found in Book 5 of the Penal Code, titled "Ta'azirat." Ta'zir is the branch of Islamic Law that deals with punishment for crimes and offenses at the discretion of the judge or ruler of the state. These are crimes or offenses for which punishment is not outlined by the Quran or Hadith⁹⁹. Particularly, the laws that have been used to justify punitive measures against Iranian woman for the hijab (or lack thereof) are governed by articles under Chapter 18, titled "Offenses against Public Moral." The fact that the hijab law is placed under this body of law is no coincidence, and the fact that the chapter is titled as such is strategic; it feeds off of the success of the state in cognitively associating the Iranian woman with morality and thus allows an umbrella under which any woman-related questions could fall. Because the Iranian woman is now the gatekeeper of Iranian public morality; her behavior, and how she carries herself in public is subjected to legislative scrutiny under this chapter.

Article 638 of Chapter 18 reads: "Anyone who explicitly violates any religious taboo in public beside being punished for the act should also be imprisoned from ten days

⁹⁸ Mohammad H. Tavana, *Three Decades of Islamic Criminal Law Legislation in Iran: Legislative History Analysis with Emphasis on the Amendments of the 2013 Islamic Penal Code*, 2 EJIMEL, 24, 24-38, (2014).

⁹⁹ According to British Library, The Hadith is the collected traditions of the Prophet Muhammad, based on his sayings and actions. See <https://www.bl.uk/collection-items/hadith-collection>.

to two months, or should be flogged (74 lashes).”¹⁰⁰ Underneath it lies a note that states that “women who appear in public without a proper hijab should be imprisoned from ten days to two months or pay a fine of 50,000 to 500,000 Ryal.”¹⁰¹ Further, article 639 states the following:

the following people should be imprisoned from one to ten years, and in the case of category (a) the property should be confiscated according to decision of the court.

a) anyone who manages a property where activities against public moral take place;

b) anyone who encourages people to violate public moral.¹⁰²

In typical law-making manner, the phrasing of both articles is generic by design. “Any religious taboo” could entail any wide range of behaviors that are deemed as such by whoever is applying the law. There is no strict definition for what a religious taboo is. In fact, there is no reference to “taboo” or its Arabic translation in Islamic texts (i.e., Quran or Hadith.) The fact that something could be considered to be taboo is thus an entirely man-made concept that is unrelated to the faith itself. The same applies to “violating public moral.” This is a statement that is so temporal, it becomes illusive. At a time when a nation had just undergone such major structural change, with so many different ideologies and cultural differences between the different socio-political classes in Iran, it is necessary to ask: which public? Whose morals? The Islamists? The working class Bazaaris? The Western-educated elite? Is public morality so rigidly set-in stone? Does it not perhaps alter over time and across class? Who’s to speak on behalf of the entire public and determine that a particular act defies its abstract sense of honor?

The note added to article 638 is the only place where the word hijab, verbatim, is seen in Iranian legal texts. By including the note, specific scrutiny of women’s dress becomes legal. By inserting the word “proper,” the law stretches to encompass anything those applying the law; namely male judges, deem “improper,” which adds on to the ambiguity of the law, and allows for a wider range of its application. There is no specification of what defines proper veiling. It is even argued that there are no indications of what veiling really entails in Islamic texts as one can conclude from a quick search

¹⁰⁰ IRN Penal Code § 5.18.638

¹⁰¹ Id.

¹⁰² IRN Penal Code § 5.18.639

into Islamic text and hadith with regards to the veil. The references to how or what it would even mean for a woman to be covered made in the Islamic texts are broad and, in textual terms, either too context-specific or open for interpretation. There is no strictly defined method or image of what the hijab would look like. The mainstream view of the hijab is the result of the inferred requirement for modest dress found in the Qur'an, which is considered the primary source of all Islamic jurisprudence.¹⁰³ Lila Abu-Lughod describes how the veil is considered by today's educated Muslim women to portray a sense of virtue, piety and a desire to be close to God, as well as prescribing a sense of modernity and urban sophistication.¹⁰⁴ Some perceive hijab to be limited to modest dress, some believe it to mean the head-scarf and some perceive it to mean the burqa. There is no universally accepted form of hijab and wherever you go, different Muslims will tell you different things about what they believe hijab means.

Article 638 exploits this ambiguity by allowing judges the discretion in determining whether a hijab is proper or not. Article 639 allows judges the same authority in defining what constitutes public morale; and what breaches it. These two laws provide the state with substantial space for maneuvering judicial decisions on the basis of individual judges' discretion. While some space is an important aspect for judges to be able to perform their duties, an essential precondition for such room to be left for a judge is a legal system premised on sound and fair laws and ideals. If the system is based on patriarchal notions applied by male dominated apparatuses, such a large space for judges to conclude rulings independently on the basis of their own whims and according to their separate discretions has the potential to become the precise platform through which the state can control the bodies of female Iranians.

No longer only regulating the lives of women in the household and public sphere, the laws of the new regime had formally touched the very body of the female citizen. By ordering her to dress in a particular fabric, the state would be policing her body. By policing her body, the state could control how she used it and to what end; it could weed out the uncovered, unlawful bodies, silencing them and ensuring that only the obedient

¹⁰³ Nisar Mohammad bin Ahmad, *The Islamic and International Human Rights Law Perspectives of Headscarf: the Case of Europe*, 2 IJBSSR, 161, 161-171, (September 2011)

¹⁰⁴ Lila Abu Lughod, *Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others*, 104 AM. ANTHROPOL, 783-790, (2002).

bodies are allowed to function within their specified domains. However, resilient in the way that it is, the female body, no stranger to the sensation of the violent touch and tear of the state, gradually healed and learned new ways to maneuver itself around the relentless fingers of the state.

IV. The Fabric of Resistance

Together with his close collaborator Felix Guattari, Deleuze was particularly concerned with the idea of becoming: those individual and collective struggles to come to terms with matters of fact, contingencies, and intolerable conditions and to shake loose, to whatever degree possible, from determinants and definitions— “to grow both young and old [in them] at once.” In becoming, according to Deleuze, one can achieve an ultimate existential stage in which life is simply immanent and open to new relations, camaraderies and trajectories without predetermined telos or outcome.

-Biehl and Locke¹⁰⁵

Becoming as an act of resistance through collective struggle is the best way to describe the feminist movement in Iran. Here, I use “feminist movement” not necessarily to describe a specific entity or movement, rather to address the resistance of all women in Iran, regardless of their formal political affiliations or lack thereof. Every act to defy the oppressive order of things; every creative way in which the system was maneuvered by women, every advancement for women’s rights in Iranian public and private life; they are all manifestations of the feminist movement to which I refer here. The Iranian woman, since the revolution of 1979 in specific, has been both a subject onto which constant power struggles have reflected, but has also been herself an object of constant resistance.

An historical anecdote of Women’s Day of 1979 in Tehran puts this in perspective. On March 6th, 1979 Khomeini announces that women must wear the veil, “the hijab” being his choice of words, in the workplace. On March 8th, 1979, women in the thousands take to the streets to protest Khomeini’s statements on the enforcement of

¹⁰⁵ JOÃO BIEHL AND PETER LOCKE, UNFINISHED: THE ANTHROPOLOGY OF BECOMING, 77 (Duke University Press, 2017).

the hijab.¹⁰⁶ In the days after the first step to veil women from public life, both physically and figuratively, women took to the streets in the first of its kind women's march, responding to the attempts to conceal them and make them "less visible" by being as visible as they could be. Rebecca Gould encapsulates this poetic and yet very political act of reversal and resistance: "They have reinscribed the veil's meanings by using it to give themselves greater, rather than less, visibility, and by politicizing its significations. Such re-inscriptions illustrate how the meanings of the hijab are as variable and variegated as is the cloth from which it is woven."¹⁰⁷

In this chapter, I build on the story of the Women's March of March 8th, Biehl and Locke's concept of resistance, and on Hoodfar's eloquently formulated argument that "while veiling has been used and enforced by the state and by men as means of regulating and controlling women's lives, women have used the same institution to loosen the bonds of patriarchy imposed on them."¹⁰⁸ By looking into the Iranian women's movement and its experience in rallying for women's rights since 1979 under the Islamic Republic's newly formed systems of subjugation, one can watch the unravelling of the fascinating story of the resilience of the woman in her fight against the patriarchy and its continuous attempt to shackle her body down. To illustrate this story, I continue using the hijab law to exemplify the state's capacity to legally touch the bodies of women. I specifically look into the evolution of women's agency in Iran since (and in spite of) the hijab law, and the ways in which Iranian women have manipulated and worked around it to rally for more rights in the public and private life, rather than succumb to the "invisibility" intended by its creators. I present the dichotomy at every stage of the Iranian regime's attempts to physically and figuratively veil the woman from public life. First, I explore the violent methods with which the state administered the hijab law, and the following response in women's continued resistance. Then, I look into the many ways in which Iranian women were able to increase their visibility in public life (from politics to education to the labor market) since 1979, despite the regime's strict intent on veiling them from it. Finally, I

¹⁰⁶ Elfiam Gheyntanachi, *Chronology of Events Regarding Women in Iran since the Revolution of 1979*, WOMEN LIVING UNDER MUSLIM LAWS, 2001, at 107-120.

¹⁰⁷ Rebecca Gould, *Hijab as commodity form: Veiling, unveiling, and misveiling in contemporary Iran*, 15 (3) FEM. THEORY, 221, 235, (2014).

¹⁰⁸ HOODFAR, *supra* note 53, at 441.

reflect on the implications that the case of Iran and its use of the hijab law has on my own understanding of law, its purpose and its potential.

A. The Birth of a New Iranian Feminism

The post-revolutionary regime in Iran, particularly in its earliest months, rolled back several rights women were previously able to enjoy. Within the first weeks of Khomeini taking power, the Family Protection Law of 1967 is abrogated. On the 3rd of March, 1979, he announces that women can no longer be judges in courts of law and on the 6th of March 1979, he announces that women must wear the *hijab* in the work place¹⁰⁹; the first step in the gradual process leading to the official legal enforcement of the veil in Iran in 1983. Even a simple survey of the earliest statements and government decisions would illustrate the generally limiting context created for Iranian women in post-revolutionary Iran. Interestingly, though, the ability of women to rally for their rights and, in many ways, lobby for more access to public goods like education and health care, was also increasing. This paradoxical situation was created first and foremost, ironically enough, because of the Islamic Republic's focus on gender and women's issues, thus, allowing for a space in which women, as a separate entity from the rest of the population, were targeted and consequently were able to speak out against that very targeting. Additionally, the fact that the Islamic Republic was a newly founded system that still needed to establish its capacity as an independent state arising from a revolutionary moment and thus needed to build and maintain legitimacy, meant that it also needed to uphold popular support. The post-revolutionary state could not afford to lose the support of the masses, including its female subjects. By capitalizing on their political power which, in and of itself, helped in the fall of the Iranian monarchy and thus the creation of the Islamic Republic, and the fact that the regime needed their support, women were able to utilize this political space to push back against the curtailing of their rights. As Louise Halper writes, "despite adopting a variety of retrograde gender policies, the post-

¹⁰⁹ GHEYTANCHI, *supra* note 108.

revolutionary government also encouraged women to be politically active and in return was required to respond to the demands that women's activism produced."¹¹⁰

It is within this enigmatic socio-political setting that the Iranian Women's movement operated and was able to make large strides towards an increasingly vocal resistance for the Iranian female. The hijab law was an act by the Iranian state to disseminate revolutionary forces, and in particular, to control the female subject in state and society. Interestingly, the very same law became, in and of itself, an opportunity for women to access certain rights and liberties that may not have been possible earlier. "Through the dress code, the state endeavors to define and symbolically control the role of women. By flaunting the dress code, women not only seek to score points against the authorities; they also strive to assert autonomy over their own persons,"¹¹¹ writes Esfandiari as they encapsulate the catch-22 the Iranian regime found itself in by drawing particular weight on the way Iranian women dress. "The dress code has become a principal battleground between the state and women, and the battle over dress assumed political significance,"¹¹² Esfandiari further claims. The fact that the word "battleground" is used as an anecdote for the socio-political importance the veil had in post-revolutionary Iran is an interesting, and quite accurate term that is reminiscent of Azar Nafisi's account as she tried to illustrate the lives of her female students 18 years after the revolution. Nafisi writes: "In the course of nearly two decades, the streets have been turned into a war zone, where young women who disobey the rules are hurled into patrol cars, taken to jail, flogged, fined, forced to wash the toilets and humiliated..."¹¹³

B. Violence Vs. Fashion

In the previous chapter, I explained how the Iranian regime was able to touch the bodies of its female citizens through the power of legislation. In reality, the violence did not end with laws on paper. Those laws were diligently applied immediately after their promulgation, and the violence that was propagated through the law, was now upheld by

¹¹⁰ Louise Halper, *Law and Women's Agency In Post-Revolutionary Iran*, 28 HARV. J.L. & GENDER, 85, 92 (2005).

¹¹¹ ESFANDIARI, *supra* note 70.

¹¹² *Id.*

¹¹³ AZAR NAFISI, *READING LOLITA IN TEHRAN: A MEMOIR IN BOOKS* 19, (2003).

the state's institutions. By establishing special policing units, the regime had transformed its 'poetic' approach of touching Iranian women's bodies into a very real, very tactile approach of touch. Aretxaga describes that the sovereign enacts mechanisms as such through the law to uphold its power. He writes that "the ghostly, persecutory power of law is incarnated in the police, a haunting figure invested with formless power (Benjamin 1978), whose effects are seen as disappearances, corpses, arrests, and internments but whose identity remains mysterious, as objects of constant speculation, rumor, and fear."¹¹⁴ The state was exercising its tactics of control by using its own apparatus to quite literally touch the female body into subservience. This could be seen, once again, as an indication of the failure of the Iranian state's biopolitical project, wherein the state could not move past the point of control mechanisms, to truly create disciplined bodies.

The Islamic Revolutionary Guard Corps (IRGC,) called *Sepah-e Pasdaran-e Enqelab-e Eslami* in Farsi, was born out of the revolution in an attempt by Khomeini to safeguard the post-revolution regime. By bringing together various Islamic militant groups and recruiting young volunteers, the IRGC shared in the Iranian military's sovereignty over air and sea warfare, and even surpassed it in political importance when it became the "source of the clerical regime's power both domestically and internationally."¹¹⁵

The IRGC is divided into different branches to serve different purposes, but the "Basij" is one of its major forces, and, for me, the most interesting. Formed in 1980, and tasked with riot control and maintaining internal security, the Basij is considered the Republic's moral police. To become the moral police, the Basij members are trained on things like warfare techniques and internal security; trainings that seem disproportionate to the potential harm of abstract immorality.¹¹⁶

In addition to the Basij, Khomeini had also formed a Morality Bureau, which was formed of committees of young armed revolutionary volunteers who would enforce moral control over their neighborhoods and confront moral crimes and immoral

¹¹⁴ ARETXAGA, *supra* note 12 at 405.

¹¹⁵ SAEID GOLKAR, *CAPTIVE SOCIETY: THE BASIJ MILITIA AND SOCIAL CONTROL IN IRAN*, (Columbia University Press 2015).

¹¹⁶ *Id.* at 49.

behavior.¹¹⁷ In many ways, the two entities; the Basij and the Islamic Revolutionary Committees, became the regime's hand with which it touched the bodies of its subjects and through which the state could extend its gaze onto women's bodies.

In the years that follow, brute force in implementing dress codes (among other things that could be classified as belonging to the vague realm of morality) continues to be a core characteristic of the Iranian regime. The roles of Committees and the Basij would fluctuate between patrolling, and direct policing. At some point during the 90s, the Basij's jurisdiction went from serving as support for the police-force, to gaining the legal right to act directly alongside the police. The Judicial Support for the Basij Act, had officially given militiamen the jurisdiction to enforce law. The law reads as follows:

The Basij Resistance Force, . . . like other judicial officers, has permission to take necessary actions whenever a crime is observed [*jorm-e mashhood*] and the police are absent, or when the police are not responding fast enough, or when the police ask for their help. In these situations, Basiji have to prevent the disappearance of the criminal evidence, and the flight of the accused, and prepare and send a report to the judicial authorities.¹¹⁸

By looking at the sheer numbers of the Basij officers (estimated to be at around 5 million, but officially stated as being up to 22 million) and the structure that disseminates those officers into every aspect of social and public life in Iran, the extent of the regime's efforts in maintaining a presence on the streets to actively police Iranian bodies is clear. Homa Hoodfar and Ana Ghoreishian explain the role of the morality police by describing that

since its inception the morality police forces (and the pro-regime vigilantes) have rigorously policed not only veiling but also the presence of women in public. They have continually disrupted the lives of millions in their attempt to limit women's presence to spaces that the regime deems legitimate, such as hospitals, mosques and pro-regime demonstrations.¹¹⁹

Monitoring the compliance of women with the government-sanctioned dress code, since the announcement of Khomeini in the early months following the revolution, has

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 78

¹¹⁹ HOMA HOODFAR AND ANA GHOREISHIAN, *SEXUALITY IN MUSLIM CONTEXTS: RESTRICTIONS AND RESISTANCE*, Morality policing and the public sphere: women reclaiming their bodies and their rights, (Anissa Helie and Homa Hoodfar ed., 2012).

been a critical function of the Iranian police force. Ashraf Zahedi puts this in context by providing a few figures from the early 2000s:

According to Tehran police chief Brigadier General Morteza Talaie, “30 percent of complaints to police involve cases of women not covering up properly....” In just one week in August 2004, 200 women were arrested in Tehran, 183 were arrested in the northern province of Gilan, and 1,250 women received verbal warnings. This data is for only two of Iran’s 28 provinces. The crackdown on women has intensified with the new campaign for *Amneeyat-e Akhlaghi* (Moral Security) which began on April 21, 2007. In the first three weeks of the campaign, 17,135 women received a verbal warning from the police; others were fined or sent to jail.¹²⁰

The state’s violence towards women is, at this point, not merely a symbolic kind of violence, rather, it has become an intentional and systemic form of violence that is aimed at ensuring the uniformity and subversion of the masses at large and of women in particular by subjecting them to the state’s policing gaze; a kind of violence that uses state institutions for the muscle and legislation for the brains. A kind of violence that is born out of the complete failure of a state’s biopolitical project.

The most obvious form of resistance by Iranian women, in direct response to the state’s fixation on women’s dress, has been what Shirin Abdmolaei refers to as “Refashioning.”¹²¹ Alternative dress is the technique scholars refer to when addressing Iranian women’s choices of dress that contravene the state-approved dress codes of the chador or the hijab. By politicizing their own bodies, women resist the regime’s agenda to turn those very bodies into docile, uniform subjects of the state. The Republic aims to “void the individual person and prevent an assertion of independent bodies,”¹²² and in order to counter that, many women have, in a sense, reclaimed their ownership of their bodies by dressing them in ways that defy the regime’s orders. Whether it is by dressing in color, wearing make-up, styling their hijab, or all together discarding it, the act of embracing independent fashion is considered to be an act of resistance by women in Iran. Women use the very bodies that were conditioned by the state to become mere vessels for

¹²⁰ Ashraf Zahedi, *Contested Meaning of the Veil and Political Ideologies of Iranian Regimes*, 3 JMEWS, 75, 94, (2007).

¹²¹ Shirin Abdmolaei, *(Re)Fashioning Resistance: Women, Dress and Sexuality in Iran*, 9 ANTHROPOL. MIDDLE EAST, 38, 38-55, (2014).

¹²² *Id.*

morality, and to denounce those ideas, reclaim their sexuality and become, instead, dissenting bodies defying the state.

C. The Woman's Place is in the Public

Both the state's violence and its increased fixation on women's dress were met with increased resistance and the counter-effect of providing women with more presence in the public space. Because of its state sanctioned violence against them, the regime has created the need for an increased political presence and for more pathways to resistance, by the masses of women in Iran, through both official channels and women's movements as well as decentralized resistance from individual women collectively coming together.

As Hoodfar explains, women in Iran

have understood that visibility is power. Given the extremely repressive nature of the regime, which precludes the formation of oppositional organizations, women have engaged in 'non-organized' movements, where large numbers of individuals and small groups engage in common actions in a decentralized manner. These include small acts of resistance in their daily lives. The extent of these actions has often resulted in compromises by the regime, and also created shifts in public opinion...¹²³

By politicizing the personal and turning the private into the legal; even the women who consider themselves to be non-political become political, whereby the simplest and most private actions came to be considered acts of political resistance. Shadi Sadr writes

By focusing on veiling as a step towards building a gender-segregated (if not gender apartheid) society, the state has opened unconventional political pathways for women, whose scarves, attire and lipstick have become political tools (Mahmoudi 2000: 84). The fact that the state frequently launches new initiatives to improve the observance of hijab is an indication of its failure to do so despite three decades of forceful imposition of the law.¹²⁴

It is as such that the hijab law in and of itself cultivated the space for a stronger and more active women's resistance movement than ever before in Iranian history. The hijab law, introduced into a society where women's revolutionary voices had just been realized as true political forces, created a ripple effect for the advancement of women's

¹²³ HOODFAR, *supra* note 121.

¹²⁴ HOODFAR, *supra* note 121, at 182 Shadi Sadr, *Veiled Transcripts: The Private Debate on Public Veiling in Iran*.

rights in Iran, expanding beyond the confines of fabric, and the freedom to dress or undress. The hijab law was manipulated by the women of Iran from its primary role as intended by the state, to control the bodies of its female subjects, to allow for the opposite: increased mobilization of women in the very public spaces of education and labor. The bonds tying women down loosened when an increased attention to female bodies and questions of what women wore and how they dressed became legal questions and central to state discourse. This, ultimately, legitimized female presence in public and allowed for the creation of a collective agency, whereas before the revolution, women did not necessarily see themselves as a separate entity within society. Before the new Iranian regime was established and before the revolutionary moment, women did not constitute a singular collective in Iranian society, rather, they were separated by, most prominently, class. After the revolution, however, women of all classes found their common voice, making way for an intersectional feminist movement in Iran. As Esfandiari describes,

many professional and better-off women had come to take for granted the rights and opportunities afforded them before the revolution. For working-class and lower-middle-class women, the Family Protection Law, day-care centers, and family planning programs were of much greater moment and provided a greater sense of security. Today, the necessity for legal protections and rights is felt by women across the social spectrum.¹²⁵

The Islamic Republic's newly sanctioned dress codes and restrictions created environments in which public spaces became more accessible for women than before, particularly women from more conservative economic and social backgrounds. Halper explains an example of the counter-opportunities which were created by the hijab law, when it comes to specific groups of women accessing education in particular. Whereas prior to the veiling law, such access was not feasible owing to their families who "previously resisted women's education and employment because they took place within a "corrupt" public space,"¹²⁶ the post-revolutionary regime and its fixation on "morality" and moral dress codes embodied by the hijab, "constructed public space as morally "safe" for women. The religious state power came to be seen as the guarantor of correct social behavior of men and women in non-familial settings like the workplace or university.

¹²⁵ ESFANDIARI, *supra* note 70, at 20-50.

¹²⁶ HALPER, *supra* note 112, at 124.

Hence, for many traditional families, sending girls to school became much more acceptable.”¹²⁷

D. Educa-SHE-on

Education was an essential step for the women’s movement in Iran. By increasing the access of women across the socio-economic spectrum to education, the resistance ultimately grew stronger, as access to labor and active political lives sprout from education. As Akbar Aghajanian wrote “education is also important as it determines other dimensions of the status of women such a paid labor force participation and health status of women and female children.”¹²⁸ From the 1986 census, one can see that by 1986 the Female Literacy rate had gone from being 35.5% in 1976 to 51.6%.¹²⁹ Seven years into the Islamic Republic’s rule, Patricia J. Higgins and Pirouz Shoar-Ghaffari observed that “the data currently at our disposal suggest that rather than experiencing decreased access to education, women in less developed, more ethnic, and rural regions of the country have greater access to at least elementary education in 1986 than they did in 1976.”¹³⁰ This increase happened despite the regime’s earlier efforts to segregate women from the educational institution, with restrictions on what women were allowed to study, when some subjects were barred to their access like Political Science, Law, Management, Engineering and others¹³¹, (these restrictions were later lifted owing to a campaign by Zahra Rahnavaard in the late 1980s,) ¹³² as well as the dismissal of many female faculty members who did not abide by the hijab dress codes.¹³³ These statistics that so starkly contradicted “the government’s discouragement and even outlawing of women’s higher education in some subjects and employment in several spheres,”¹³⁴ lead to the creation of educated women who “became more publicly active than ever before, and many went to

¹²⁷ *Id.*

¹²⁸ AKBAR AGHANJANIAN, IN THE EYE OF THE STORM, The Status of Women and Female Children in Iran: an update from the 1986 census, (Mahnaz Afkhami and Erika Friedl ed.,1994).

¹²⁹ *Id.*

¹³⁰ *Id.* at Patricia J. Higgins and Pirouz Shoar-Ghaffari, Women’s Education in the Islamic Republic of Iran.

¹³¹ JANET AFRY, SEXUAL POLITICS IN MODERN IRAN, 305, (Cambridge University Press, 2009).

¹³² KEDDIE, *supra* note 19.

¹³³ AFRY, *supra* note 133, at 305.

¹³⁴ NIKKI R. KEDDIE, *Iranian Women’s Status and Struggles Since 1979*, 60 J. INT. AFF. 17, 23, (2007).

court to defend their marital, custodial and economic rights.”¹³⁵ As such, and in an interesting turn of events, with the hijab law in place, more women were able to access education, and thus, became more aware of their own potential and ability to mobilize to increase their autonomy and influence.

E. Working Class (S)heroes

In addition to the fact that the hijab law and the discourse it created in and of itself lead to more accessible public spaces which women were increasingly able to navigate, the Iran-Iraq war that erupted within the regime’s first year of being allowed for an even more inclusive public space for women and thus, added fuel to the women’s movement and their resistance to the state. Breaking in 1980 and running till 1988, the war against Iraq meant that the Iranian state needed to change many of its initially divisive policies. The years of the war saw many changes that became favorable for women, from changes in custody laws, stipulating that custody of children of martyrs belongs to the surviving parent, regardless of gender¹³⁶, to a conversion in public narrative with regards to women’s roles in society. Most significantly, though, was the change in women’s labor during the wartime years. The state increasingly encouraged women to enter in the labor market, in order to make up for the detrimental economic losses it was incurring as a result of the war. Again, such changes in discourse came in stark contradiction to the state’s earlier divisive policies, where women were forced to wear the hijab in the workplace in order to somehow regulate the female body in the labor market, and where a ban on female judges came within months of the Islamic Republic’s rule.

“Labor market statistics indicate that, contrary to the general expectation of scholars, the general public, and the Islamic state itself, the rate of female employment in the formal sector has continued to increase in the 1980s even during the economic slump and increased general unemployment,”¹³⁷ writes Hoodfar. With an increase in women who had to work outside the home, either to make up for the fact that their husbands were at the frontlines, or because of the difficult economic conditions that required families to

¹³⁵ *Id.*

¹³⁶ HALPER, *supra* note 112.

¹³⁷ HOODFAR, *supra* note 53, at 435.

have two incomes, women were encouraged to participate in the labor force to help support their families and the Iranian economy.¹³⁸ The increased need for the economic participation of women allowed them to further navigate the public spaces the state had wanted to veil them from. Roksana Bahramitash illustrates this point when discussing the ability of women volunteers in national campaigns required by the Khomeini's counter-poverty efforts, and the same could be said of the women entering into the labor market in general. Bahramitash writes: "since these organizations brought many women into the public domain, they effectively counteracted the earlier exclusion of women. In return for their role as volunteers, women consolidated their public presence in Iran's post-revolutionary environment."¹³⁹ As Monir, one of the women in 'Reconstructed Lives' describes, "the greatest resistance by women was their continued presence in their places of work."¹⁴⁰

F. Bad Laws, Big Potential

In the post-revolutionary moment in Iran, women were confined by the hijab law, which was intended to control female bodies in the public space. Despite the violence through which the state attempted to achieve this goal, both circumstance and mobilization allowed women to resist the oppression intended by the regime, from the earliest moments of on the 8th of March, 1979 with the largest women's march to have been organized at the time in response to the mandatory dress code imposed, to this very day, women in Iran resist. Their resistance manifests itself in the very personal choices of how they dress their bodies, by making that personal choice a political one, as was seen in December 2017 by Vida Movahedi who stood in silent protest by removing her veil, which then snowballed into a civil disobedience movement named "The Girls of Revolution Street," or, as illustrated by this chapter, by navigating the very same public spaces from which the state's hijab law so violently attempts to remove them.

As such, the case of Iran raises many questions about the function and nature of law as we know it. By looking at the post-revolutionary moment in which the Iranian

¹³⁸ HALPER, *supra* note 112.

¹³⁹ Roksana Bahramitash, *Market fundamentalism versus religious fundamentalism: women's employment in Iran*, 13 MIDDLE EAST CRIT., 33, 39, (2004.)

¹⁴⁰ ESFANDIARI, *supra* note 70, at 147.

regime was able to control the bodies of its citizens in general, and the bodies of Iranian women in specific, one thing is clear: the state used the law every step of the way. How, then, do we make sense of the underlying premise of modernity that the law is “good” and “pure” and “just”? The way in which the Iranian Republic has been able to utilize the law to advance its interests and eliminate (or attempt to) potential threat of its hegemony is testament to the fact that law, at the end of the day, is simply just another political tool. We can see this political nature of law all over the world and across history: the law endorsed American slavery; the law paved the way for South African apartheid; the law allows Israel to exist; the law bans women in France from dressing a certain way; the law dismisses the killing of women if done in the name of Egyptian men’s honor; the law depletes the Earth and its most vulnerable people to serve Big Corporate.

In challenging the idea of the law’s impartial normativity, Koskenniemi highlights the idea that the law is indeed political: “According to the requirement of normativity, law should be applied regardless of the political preferences of legal subjects. In particular, it should be applicable even against a state which opposes its application to itself.”¹⁴¹

Though he discusses his theories with regards to international law, the concepts he presents are also relevant to domestic law. Koskenniemi writes: “Any legal rule, principle or world order project will only seem acceptable when stated in an abstract and formal fashion. When it is applied, it will have overruled some interpretation, some collective experience and appear apologist.”¹⁴² I would argue though, that many laws only seem acceptable to the ones who lay them, and it is so because they actively seek to marginalize the subjects of those laws and that even without application, they exist *in order to* overrule the interpretations and collective experiences of those very subjects. Law does not come out of a void; it is a meticulous process that has lasting effects on what Foucault and Deleuze would call “control society.”¹⁴³ It is, again as Foucault describes it, an institution, that helps to reinforce and emphasize power structures and regulates the dynamic of other disciplinary institutions.¹⁴⁴ In many ways, the law is a

¹⁴¹ MARTTI KOSKENNIEMI, *THE POLITICS OF INTERNATIONAL LAW*, 37, (Bloomsbury Publishing, 2011).

¹⁴² *Id.*

¹⁴³ Gilles Deleuze, *Postscript on the Societies of Control*, 59 *THE MIT PRESS*, 3, 3-7, (1992).

¹⁴⁴ Victor Tadros, *Between Governance and Discipline: The Law and Michel Foucault*, 18 *OXF. J. LEG. STUD.*, 75, 75-103, (1998).

mere reflection of existing power in society; it is not pure or sacred or indicative of a sacred will of any kind even when it is deemed to be “Islamic” or holy. Pierre Schlag emphasizes this idea when he writes: “Indeed, the social identities and relations that are in place-materially and socially-are effectively the handles through which law is imposed on and insinuated in the social fabric.”¹⁴⁵

Following the revolution, the Islamic Republic of Iran used the law as a tool to subjugate and subvert its people. The hijab law was one such example that was created for the deliberate subversion of Iranian women. But it does not always have to be so bleak; the Iranian feminist movement shows us that in the face of state-backed violence, ambiguous laws that work to oppress, and alienation from public spaces, a multitude of creative ways for resisting can be born. Carol Smart discusses the importance of exploiting non-legal strategies to challenge law¹⁴⁶, and I believe that Iranian women show us every day just how that could be done.

“Rather than the structure or fabric which constitutes our society, the law is a machine which oils the structures of domination, or which, at best achieves a tinkering on the side of justice.”¹⁴⁷ When we see the law as such, it becomes easy to imagine the potential of those systemically abused by it in smashing that machine and tearing it apart; one cog and hair strand at a time.

¹⁴⁵ Pierre Schlag, *Spam Jurisprudence, Air Law, and the Rank Anxiety of Nothing Happening: A Report on the State of the Art*, 97 GEO. L.J., 803, 815, (2009).

¹⁴⁶ CAROL SMART, *FEMINISM AND THE POWER OF LAW*, (Routledge, 1989).

¹⁴⁷ SCHLAG, *supra* note 147.

V. Conclusion

Iran's Hijab law tells a story of how states can touch and define the bodies of its subjects. It tells a story of discourse, power, revolution, violence, but above all, of resistance. I hope that by understanding the contexts in which the law was crafted, and by presenting the state's intentions in creating a law like that, we can inch closer to understanding the forces at play in the creation of the realities around us, in order for us to address them and to counter them with the appropriate measures. By understanding the ways in which the state exploits the law to control our bodies, we can become cognizant of one of the power dynamics at play in the world around us. By understanding that the real threat to being a woman is not her choice to dress in one way or another, but rather, is the state's institutionalization of law to force a woman to dress in one way or another, we can begin to look at what truly needs to be challenged: Faulty Legal Systems. In the words of Simone de Beauvoir, "it is in the knowledge of the genuine conditions of our lives that we must draw our strength to live and our reasons for acting."¹⁴⁸

The world is a scary place for our bodies. They are raped, and caged, and torn apart. We are reminded at every step of our lives that our bodies are not our own: they belong to our husbands, to our fathers, to our children, to the protection of our nations' honor, to the continuity of human life, to the divine; but never to us. And though that is a scary and overwhelming thought, it is one that is filled with potential: in a world where we are robbed of the ownership of our own bodies; reclaiming them as such becomes the greatest act of resistance.

¹⁴⁸ SIMONE DE BEAUVOIR, *THE ETHICS OF AMBIGUITY*, (Open Road Media, 2018) (1947).