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The Effect of Islamization on the Legal and Social Status of Women in Iran

Alexandra J. Zolan

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THE EFFECT OF ISLAMIZATION ON THE LEGAL AND SOCIAL STATUS OF WOMEN IN IRAN

ALEXANDRA J. ZOLAN*

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I. INTRODUCTION

The country of Iran presents an interesting example of third world development. The former ruling family, the Pahlavis, attempted, through the use of large oil revenues, to modernize and industrialize Iran and allow its population to share in the benefits of being a first world country. Unfortunately, due to poor planning and the misuse of funds, the development programs failed and the Pahlavis were replaced by a traditional, Islamic government. Under this new government, the goal is to have Iran conduct itself in keeping with true Islamic principles. This has meant a prohibition of many of the activities associated with Westernization that were popular during the rule of the Pahlavis, and a resurgence of traditional Islamic practices. Thus, the new government has drastically affected many sectors of society, some favorably and others somewhat less so. One sector that presents itself for consideration is the position of women within the new Islamic country. This article will discuss what Islamization has meant to the social and legal status of women in Iran.

II. THE POSITION OF WOMEN IN THE ISLAMIC REPUBLIC OF IRAN

The position of women within the Islamic Republic of Iran is a surprising one in the sense that it is not the position typically accorded individuals who have just helped to bring about a revolutionary change in government. A revolutionary overthrow inherently implies the achievement of revolutionary change. Implicit in this objective is the understanding that such revolutionary change is progressive in nature. This, however, has not been the case in Iran. The overthrow of Shah Reza Pahlavi marked the end of an era of accelerated Westernization, and in its place there was established a traditional Islamic state embodying traditional Islamic values. The reintroduction of these Islamic doctrines has had a major effect on several sectors of society. A dramatic display of this phenomenon can be seen in the status envisioned for women within the new republic.

* Associate, Curtis Mallet-Prevost, Colt & Mosle, New York, New York. J.D. Georgetown University, B.A. Trinity College.

A. *General Attitude of the New Regime Regarding Women*

The establishment of an Islamic state has necessitated the reinstatement of the *sharia* (traditional Islamic law). The *sharia* system involves extensive regulation of men, women, and the family, including areas such as marriage, divorce, sexuality, child custody, and husband/wife relations. The leaders of the new republic have relied heavily on the *sharia* in defining the position of women within the new republic. This reliance is exemplified in the preamble of the constitution, which embodies the traditional *sharia* doctrines regarding the importance of the family and of a women's position within the family. The preamble to the Constitution for the Islamic Republic of Iran states:

The family is the fundamental unit of society and the major center for the growth and advancement of man. Compatibility with respect to belief and ideal is the main consideration on the establishment of a family, for the family provides the primary basis for man's development and growth. It is the duty of Islamic government to provide the necessary facilities for the attainment of this goal. This view of the family unit delivers women from being regarded as an object or as an instrument in the service of consumerism and exploitation. Not only does the woman thereby recover her momentous and precious function of motherhood, rearing alert and active human beings, she also becomes the fellow struggler of man in all the different areas of life. Given the weighty responsibilities that the woman thus assumes, she is accorded in Islam great value and nobility.¹

This declaration embodies the view of the ruling regime regarding the proper place of women within the new republic. The objective of the current government, in keeping with the *sharia*, is that women should focus their efforts of contribution to the new state in the traditional direction of domestic responsibility.² This official desire that women resume their traditional duties as wives and mothers³ may have come as a bit of a surprise to those women who fought to bring about the revolution. The writings of Ayatollah Khomeini, while in exile in Paris, indicated a change from his former traditional position regarding women's rights.⁴ The role of women that Khomeini described while in Paris indicated that Iranian women would be equal partners with men in the economic, social, and political arenas, and would enjoy complete freedom of choice.⁵ Believing this, women joined the fight for the revolution in large numbers and were extremely instrumental in its success.⁶ Many believed that the changes instituted by the Shah were superficial and a mere imitation of corrupt Western influences.⁷ They felt that only a "regime they could

¹ ISL. REPUB. IRAN CONST., intro., Women in the Constitution.

² Nashat, *Women in the Ideology of the Islamic Republic*, in *WOMEN AND REVOLUTION IN IRAN 195* (G. Nashat ed. 1983).

³ *Id.*

⁴ Ferdows, *Shariati and Khomeini on Women*, in *THE IRANIAN REVOLUTION AND THE ISLAMIC REPUBLIC 78* (1982).

⁵ *Id.*

⁶ Nashat, *supra* note 2, at 199. The women's presence was the major factor in keeping the revolution essentially nonviolent in character. The women were instrumental in disarming the soldiers dispatched by the Shah to control the mobs. *Id.*

⁷ *Id.*

trust would improve women's condition."⁸ Khomeini's assurances that women would only benefit from his leadership, combined with the role women played in bringing about the revolution, led many to believe that they would play an active role in determining the future of the new republic.⁹ This, however, was not the case. Once the government was in place, it quickly established its view on women:

As the new leaders see it, while it was the religious duty of both men and women to rise up against the oppression under the Shah, now that the 'right type' of government is in power, women's religious duty requires that they concentrate on fulfilling their real task of taking care of their husbands and children, and that they allow the men to run the affairs of the government.¹⁰

Thus, it becomes readily apparent that although women were deemed to be a necessary force in bringing about the revolution, once the Shah was overthrown women were no longer expected to participate in public life.¹¹ Rather, in keeping with the reinstatement of the *sharia*, women would be more appropriately placed into strict seclusion at home.¹²

The views of the Ayatollah Khomeini and other influential Islamic leaders regarding the true nature of women indicate that they feel that the role of wife and mother is what women are best suited for. Khomeini has stated that "women will be encouraged to marry and bear children, since this is the specific task and duty of women in society."¹³ This belief regarding the proper role for women in Iranian society can be traced to the view held by Islamic leaders that the division of labor in society should be gender-based due to the innate differences between men and women which are in keeping with the command of God as revealed in the *sharia*.¹⁴ According to those differences, women are considered to excel in physical beauty, while men are considered to excel in physical and mental ability.¹⁵ Women are also viewed as being more sensitive and emotional than men, who are more rational in their approach and are thus considered better suited to make major decisions both inside and outside the home.¹⁶ These character assumptions dictate that women are not viewed as being suited for involvement in such areas as politics and other public pursuits because they lack the necessary intellectual ability.¹⁷ Those women interested in pursuing professions should restrict themselves to "midwifery, gynecology, the surgical needs of women (since a woman should see a female doctor if possible), sewing, teaching in girls' schools, and nursing."¹⁸

⁸ *Id.*

⁹ *Id.* at 200.

¹⁰ *Id.* at 195.

¹¹ Hegland, "Traditional" Iranian Women: How They Cope, 36 MIDDLE E. J. 483, 499 (Autumn 1982).

¹² *Id.*

¹³ Nashat, *Women in the Islamic Republic of Iran*, 13 IRANIAN STUD. 165, 184 (1980).

¹⁴ Nashat, *supra* note 2, at 200-01.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Nashat, *supra* note 13, at 181.

¹⁸ *Id.*

B. Views on Male and Female Sexuality

Traditional Islamic ideology regarding male and female sexuality is also extremely instructive in understanding the present regime's attitude towards women. Women are traditionally viewed in two ways; they are seen as creatures in need of security and protection, and are also viewed as being sexually dangerous because they use their sexuality to attract and lure men.¹⁹ Men are also viewed as being primarily sexual and completely controlled by sexual desires. An influential Iranian Islamic leader, Ayatollah Mutahhari, has said:

It is a mistake for us to imagine that a man's sensuality when satisfied to a certain limit will attain rest. In the same way that a person, whether male or female, cannot be satisfied with wealth and power, no man ever has enough of possessing beautiful women and no woman enough of attracting the attentions of men and possessing their hearts. Finally, no man's heart is satiated by sexual pleasure.²⁰

Mutahhari also stated:

Where would a man be more productive, where he is studying in all male institutions or where he is sitting next to a girl whose skirt reveals her thighs? Which man can do more work, he who is constantly exposed to arousing and exciting faces of made-up women in the street, bazaar, office, or factory, or he who does not have to face such sights?²¹

It is clear from these passages that women are seen as being temptresses, and that men are seen as possessing extremely weak wills, thereby being incapable of resisting the temptation created by women.²² It logically follows from these views that women present a threat to the smooth functioning of society and therefore it would be better if they were kept out of men's sights and in the seclusion of their homes.²³ Realizing, however, that women must occasionally venture outside the protective environment of their homes, Islamic jurists created a system whereby women could be in public but still remain, for all intents and purposes, secluded. Islam achieved this phenomenon by the institution of the *hijab* (veil) by which women cover themselves from men's gazes. By wearing the veil, women are protected from the advances of men, and men are protected from the temptation presented by women.²⁴ According to the Islamic leaders, support for the institution of *hijab* can be found in the Qur'an. The passages on which the leaders rely for authority, however, actually advise both men *and* women to be modest in their

¹⁹ Nashat, *supra* note 2, at 203–04.

²⁰ *Id.* at 204.

²¹ *Id.*

²² *Id.* at 204. See also Ferdows, *supra* note 4, at 79.

²³ Nashat, *supra* note 2, at 204.

²⁴ *Id.* at 203. It has been stated that:

the *hijab* is the most effective protection of the chastity and character of the individual and society. It is a strong fortress against the onslaught of marauders of chastity. The *hijab* is the highest symbol of the respect of Islam for women's position so that they do not become playful objects of sexridden sensualists, and corrupt individuals.

Id. Traditional Islamic theologians like Ayatollah Khomeini and Ayatollah Mutahhari strongly advocate the veil as one solution to the problem caused by overly visible women.

interactions.²⁵ Despite this recommendation to both men and women, the burden of veiling has fallen solely upon women.²⁶

As long as women keep the *hijab* and avoid close interaction with men, they are not prevented from working outside the home.²⁷ Women and men should, however, work and study in separate institutions in order that each may fully concentrate and maximize their productivity.²⁸ Since women do have the option of leaving the house as long as they wear the *hijab*, Islamic theologians like Ayatollah Khomeini believe that "to wear the *hijab* does not imply suppression or seclusion."²⁹

C. Multiple and Temporary Marriage

The belief in the extreme sexuality of men has had more severe consequences upon Iranian women than simply donning a veil. Two institutions are directly related to this conception of male sexual needs: polygamy and *mut'a* (temporary marriage).

Polygamy is a well established Islamic practice, having its roots in the Qur'an. According to the Qur'an, a man may take a maximum of four wives at any given time providing he cares for each equally.³⁰ The Iranian Islamic leader Ayatollah Mutahhari considers monogamy to be the natural form of marriage, but believes that polygamy has emerged and continued, in part, because of biological necessity and the greater number of women as compared to men in society.³¹ It is considered to be the natural right of women to marry, and thus polygamy provides a solution to the problem of an oversupply of females.³² Another major defense for polygamy is that it is a necessary response to the allegedly unbridled sexual needs of men.³³ Mutahhari believes that if men were

²⁵ HOLY QUR'AN, Surah XXIV, verses 30, 31 (M.H. Shakir trans. 1982):

Say to the believing men that they cast down looks and guard their private parts; that is purer for them; surely Allah is Aware of what they do. . . . And say to the believing women that they cast down their looks and guard their private parts and do not display their ornaments except what appears thereof, and let them wear their head-coverings over their bosoms, and not display their ornaments except to their husbands or their fathers, or their sons, or the sons of their husbands, or their brothers, or their brothers' sons, or their sisters' sons or their women, or those whom their right hands possess, or the male servants not having need (of women), or the children who have not attained knowledge of what is hidden of women; and let them not strike their feet so that what they hide of their ornaments may be known; and turn to Allah all of you, O believers!, so that you may be successful.

Id.

²⁶ Nashat, *supra* note 2, at 203.

²⁷ Yeganeh, *Women's Struggles in the Islamic Republic of Iran*, in *THE SHADOW OF ISLAM* 47 (1982).

²⁸ Nashat, *supra* note 13, at 180.

²⁹ Ferdows, *supra* note 4, at 79. Certain other modern Islamic theologians like Shariati, while still favoring the traditional role of women, do not favor *hijab*. They feel that the veil is a pre-Islamic practice which "Muslim leaders have adopted and imposed on women through their misrepresentation of religion in order to subjugate them to men." *Id.*

³⁰ HOLY QUR'AN, Surah IV, verse 3 (M.H. Shakir trans. 1982):

And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four; but if you fear that you will not do justice (between them), then (marry) only one or what your right hand possess; this is more proper, that you may not deviate from the right course.

³¹ Yeganeh, *supra* note 27.

³² *Id.* at 48.

³³ Nashat, *supra* note 2, at 205.

unable to have access to another wife during such times as pregnancy or menstruation, they would be forced to seek out prostitutes which would spread "the undesirable institution of prostitution."³⁴ Mutahhari also claims that polygamy is necessary because of men's great desire for children which a woman can no longer satisfy upon reaching menopause.³⁵ Thus, polygamy, in keeping with the *sharia*, is permitted in the Islamic Republic of Iran.

A more unusual development in response to Islamic views on sexuality is the Shiite practice of *mut'a*. *Mut'a* is a system whereby a man may form a contract for sexual services with a woman for a specific period of time upon the payment of a mutually agreed sum of money.³⁶ This system is defended by the present regime as providing a legitimate method for men to satisfy their sexual needs.³⁷ It is interesting to note that this institution is only practiced among Shiite Muslims. The Sunnis view *mut'a* to be a form of prostitution and as such is banned by all Sunni legal schools.³⁸ Temporary marriages entail none of the rights to support held by permanent wives. A temporary wife is not entitled to any support even if she is carrying her "husband's" child.³⁹ *Mut'a* wives may also be in a difficult position when it comes to finding permanent husbands because society places a premium on a woman's virginity.⁴⁰

D. *The Position of Women Within the Marriage Relationship*

Marriage in Iran, according to traditional Islamic doctrines, involves not only the right of a man to take more than one wife (and temporary wives as well), but also involves the subjugation of women to men within the marriage relationship itself. Ayatollah Khomeini, in interpreting the *sharia*, states that:

A woman who has been contracted permanently must not leave the house without the husband's permission and must surrender herself for any pleasure that he wants and must not prevent him from having intercourse with her without a religious excuse. And if she obeys the husband in these the provision of her food and clothing and dwelling and other appliances mentioned in books is obligatory for the husband and if he does not provide them he is indebted to the woman, whether or not he can afford them.⁴¹

Khomeini further states that "if the wife does not obey her husband in those actions mentioned in the previous problem, she is a sinner and has not right to food and clothing and shelter and sleeping [with the husband] but her dowery will not be lost."⁴² Thus, a woman has the right to food, clothing and shelter, but only if she is obedient and

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* According to Shi'ite religious law this practice is allowable between mature men and women. Maturity is defined as fifteen for men and nine for women. It is also seen as a legitimate manner in which the sexual urges among adolescents may be dealt with. Ayatollah Mutahhari thus argues that *mut'a* is a progressive institution. *Id.*

³⁸ *Id.*

³⁹ Afshar, *Khomeini's Teachings and their Implications for Iranian Women*, in *IN THE SHADOW OF ISLAM* 83 (1982).

⁴⁰ Nashat, *supra* note 2, at 206.

⁴¹ KHOMEINI, *A CLARIFICATION OF QUESTIONS*, 318 para. 2412 (J. Borujerdi trans. 1984).

⁴² *Id.* at para. 2413.

"surrenders" herself to her husband's wishes and desires. Khomeini espouses the traditional doctrine that it is "sinful for women to disobey their husbands, thus making it the wife's religious duty to be always subjugated by the husband."⁴³

E. Legal Changes

These various views regarding women and their place in society were translated into law shortly after the new regime assumed control. Article 20 of the new constitution established that: "All citizens of the nation, both women and men, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with *Islamic criteria* (emphasis added)."⁴⁴ This article has previously examined the Islamic social doctrines concerning women. In keeping with these ideas, new laws were passed by the leaders which had significant effects on the official status of women within the regime. As a result of the belief regarding the inherent emotionality and lack of intellectual ability of women, traditional elements argued that women should be banned from occupying judicial positions.⁴⁵ Hence, female judges were dismissed from their positions, barred from practice, and told to look for "clerical and administrative posts" in the judiciary.⁴⁶ Following this dismissal of women from judgeships, a large number of women were dismissed from top level government jobs and were forced to either accept lower level positions or stop work completely.⁴⁷

Another important legal change involved the official mandate for the wearing of the *hijab*, or veil.⁴⁸ Khomeini first expressed his intention to make this traditional practice into law shortly after his return to Iran in March, 1979.⁴⁹ The new law mandated that a woman's head must be covered "except for the oval of her face and that her entire body be covered except for her hands up to the wrist."⁵⁰ Women reacted negatively to this attempt to impose a dress code upon them. They even participated in large demonstrations claiming that "choice of dress is a basic right of women and should not be determined by governmental decree."⁵¹ Bowing to public sentiment, the government initially opted for a gradual plan for the imposition of the veil.⁵² The government started the plan by having governmental agencies issue their own dress codes requiring all women employees to wear a veil.⁵³ Workers who did not comply were either dismissed or coerced into donning a veil.⁵⁴ As of 1980, wearing a veil is compulsory in all govern-

⁴³ Afshar, *supra* note 39.

⁴⁴ ISL. REPUB. IRAN CONST. chap. III, art. 20.

⁴⁵ Yeganeh, *supra* note 27, at 46.

⁴⁶ Tabari, *The Enigma of the Veiled Iranian Woman*, MERIP REP., Feb. 1982, at 26.

⁴⁷ Nashat, *supra* note 2, at 208.

⁴⁸ See *supra* note 24, and accompanying text.

⁴⁹ *Id.* at 209. Khomeini urged that the wearing of the veil was necessary to separate the true Muslim woman from the corrupt women of the previous regime. *Id.*

⁵⁰ Az, *The Women's Struggle in Iran*, 32 MONTHLY REV. 22, 23 (Mar. 1981).

⁵¹ Nashat, *supra* note 2, at 209. Khomeini discredited the female demonstrators, alledging that they were not proper young women and had been brainwashed by the Shah's system of education. Ferdows, *supra* note 4, at 79. Khomeini also claimed that their moral corruption was due to the lack of proper Islamic education and that his regime would see that this deficiency was corrected. *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* at 210. Members of the *Hizbullah*, Party of God, threatened women with bottles and stones and insulted them by accusing them of being prostitutes. The media supported these attacks as

ment and public offices,⁵⁵ and women are not allowed to travel without it.⁵⁶ Numerous women have been fired from their jobs for failing to wear the veil, including female television broadcasters.⁵⁷

The area of criminal law further exemplifies the new regime's goal to return to the traditional *sharia* position regarding women. The regime's Bill of Retribution establishes as law the traditional doctrine that if a Muslim man kills a Muslim woman, blood money from a woman's kin must be paid to the man's kin before the man can be executed.⁵⁸ When a Muslim woman kills a man, however, no blood money need be paid to her kin before her execution.⁵⁹ Similarly, if a woman deserves to be killed according to religious law, for example, for committing adultery, then her murder is not considered to be a crime.⁶⁰

Other areas of the criminal law also help define the regime's philosophy regarding women. In Iran, as *sharia* law mandates, the testimony of a woman in court is considered to have only half the value of the testimony of a man.⁶¹ Additionally, in a murder case, only male testimony may be used as proof.⁶²

Khomeini also instituted extremely significant changes regarding women in the area of family law. The Shah's regime had accomplished major improvements in the area of women's rights vis-a-vis the family, most of which have been repudiated by Khomeini. Under the Shah, day care centers were founded in order to aid working mothers.⁶³ In addition, laws establishing benefits for women, like maternity leave, were passed.⁶⁴ However, under Khomeini's rule, the institutions which had been founded to provide nursery facilities were condemned for undermining the family⁶⁵ and many of the day care centers which had been provided by government agencies and factories under the Shah's regime were closed.⁶⁶ In addition, the guarantee in the new constitution for the protection of pregnant and nursing mothers⁶⁷ has been used as a justification for barring women from the workplace, claiming that only the family can be the proper provider of such child-care.⁶⁸ In keeping with this belief, "in accordance with the supreme demands of motherhood, all civil woman servants are now required to work only part time in order to

expressions of Islamic patriotism and labeled anti-veil demonstrators as corrupt women, sympathizers of the old regime and prostitutes. *Id.*

⁵⁵ Tabari, *supra* note 46, at 26.

⁵⁶ Afshar, *supra* note 39, at 86.

⁵⁷ Tabari, *supra* note 46, at 26; Nashat, *supra* note 2, at 210.

⁵⁸ Tabari, *supra* note 46, at 26. Blood money is the sum that the man would be worth if he were to live a normal life. The amount paid is negotiated between the two families. Afshar, *supra* note 39, at 87.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Nashat, *supra* note 2, at 209.

⁶² Tabari, *supra* note 46, at 26.

⁶³ Nashat, *supra* note 2, at 197.

⁶⁴ *Id.*

⁶⁵ Afshar, *supra* note 39, at 87.

⁶⁶ Nashat, *supra* note 2, at 209.

⁶⁷ ISL. REPUB. IRAN CONST., chap. III, art. 21, para. b. Article 21 says in part: "The government must assure the right of women in all respects, in conformity with Islamic criteria, and accomplish the following goals: . . . b. the protection of mothers, particularly during pregnancy and childrearing, and the protection of children without guardians."

⁶⁸ Afshar, *supra* note 39, at 87.

have the time to fulfill their national duties of motherhood."⁶⁹ Additionally, laws have been passed which provide retirement benefits to women who have worked a fewer number of years than required for men⁷⁰ and working couples are allowed to receive the wife's full salary if she decides to remain at home.⁷¹

The largest accomplishment of the Shah's era was the passage of the Family Protection Law.⁷² This law was instituted to cut back on many *sharia* principles thereby giving women increased civil rights in such areas as marriage, divorce, polygamy, child custody, and employment.⁷³ This law set the minimum age for the marriage of girls at fifteen, which was raised to eighteen in 1975. The ability of men to have more than one wife was restricted, and the consent of the first wife became mandatory before a man was allowed to take another wife. Even then, a judge could grant permission only under certain conditions, e.g. the sterility of the first wife.⁷⁴ The law also greatly improved the ability of women to obtain a divorce and placed restrictions on a husband's ability to obtain a unilateral, uncontested divorce.⁷⁵ With respect to child custody, the court was vested with the power to decide which parent was best suited to raise the children and was authorized to place them with the appropriate parent,⁷⁶ as opposed to the traditional practice of automatically placing children with the father or the nearest male relative.⁷⁷

Khomeini, however, has condemned the Family Protection Act as being contrary to Islam, both because of its content and because it was passed by an illegitimate, anti-Islamic body.⁷⁸ He repealed the Act and returned women to their former *sharia* status vis-a-vis their civil rights.⁷⁹ This means that the restrictions on polygamy have been removed, and that the consent of the first wife is no longer necessary as a prerequisite to the husband's taking new wives. The new regime also, in contrast to the position taken by the Shah, officially favors polygamy and encourages the institution of *mut'a*.⁸⁰ Khom-

⁶⁹ *Id.*

⁷⁰ Nashat, *supra* note 2, at 209. Women who have worked as little as fifteen years are allowed to retire with full benefits.

⁷¹ *Id.*

⁷² *Id.* This law was passed in 1967 and amended in 1975.

⁷³ *Id.*

⁷⁴ Ramazani, *Behind the Veil: Status of Women in Revolutionary Iran*, 4 J. S. ASIAN & MIDDLE E. STUD. 27, 28 (Winter 1980).

⁷⁵ Section II of the Family Protection Law added grounds upon which a woman could obtain a divorce. These include:

imprisonment of the husband for five years or more and/or a fine that would be equivalent to imprisonment for five years, drug addiction on the part of the husband if the court rules that it is detrimental to the family, marriage to a second wife without the previous wife's permission, the committing of a crime that affects the dignity and position of the other party, and desertion.

Touba, *Effects of the Islamic Revolution on Women and the Family in Iran*, in *WOMEN AND THE FAMILY IN IRAN* 139 (A. Fathi ed. 1985).

⁷⁶ *Id.*

⁷⁷ Ramazani, *supra* note 4, at 28.

⁷⁸ Ferdows, *supra* note 4, at 78.

⁷⁹ *Id.* The Ministry of Justice repealed the Act on August 9, 1979. Khomeini went farther than simply repealing the act, however. He declared that all women who were granted divorces under the Act are still legally married to their former husbands and that if they have remarried they are guilty of committing adultery and any children born out of such an adulterous relationship are illegitimate and have no inheritance rights. *Id.*

⁸⁰ *Id.*

eini, in fact, has stated that "concubinage of a woman is correct even if it is not for seeking pleasure."⁸¹ Other effects of the repeal of the Act include the reduction of the minimum age for marriage to thirteen⁸² and the right of fathers to marry off their children at birth.⁸³

The repeal of the Family Protection Act has also meant that women have lost certain rights to seek and contest divorces, and consequently must be content with the traditional grounds for divorce: husband's nonsupport, desertion, and mistreatment.⁸⁴ Men conversely retain their traditional right to divorce at will with the requisite number of male witnesses and payment of the *mahr*.⁸⁵ The custody of children in a divorce is also now in line with traditional Shiite law, under which women automatically lose their children; boys at age two and girls at age seven.⁸⁶

Another important device used by the present government to accomplish their official objective of returning women to their traditional roles in society is to revamp the entire education system. One of the first steps taken by Khomeini was to close the universities in the spring of 1980.⁸⁷ Next, coeducation was banned and elementary schools were forced to become segregated.⁸⁸ In addition, young, married women were forbidden to attend high school.⁸⁹ The curriculum in the schools was significantly changed as well, with girls' schools emphasizing those subjects which would teach them to be better wives and mothers, or prepare them for careers deemed suitable for women, i.e. sewing, nursing, and teaching in girls' schools.⁹⁰ Textbooks have been rewritten to impress upon the young the image of the "new Islamic woman," who wears 'proper Islamic cover,' and busies herself with housework.⁹¹

Thus, the Islamic Republic of Iran has completely redefined the nature and role of women so as to be in keeping with traditional Shiite ideals. Women are viewed as being best suited for domestic areas and men are given almost total control over them. It is interesting to note, however, that a return to traditional *sharia* law regarding women and the family need not have automatically adversely affected the position of women. Shiite Islam, unlike the Sunni sect, permits the use of *aql*, or reasoning by judicial authorities, in interpreting Qur'anic law.⁹² This could allow for a great deal of flexibility in interpreting Islamic law, because it is permissible to use *aql* for reform appropriate to the times and circumstances and in keeping with Islamic doctrines.⁹³ Unfortunately, at

⁸¹ KHOMEINI, *supra* note 41, at 319, para. 2412.

⁸² Nashat, *supra* note 2, at 208.

⁸³ Afshar, *supra* note 39, at 83. Khomeini favors child marriage and advises fathers to marry off their daughters as soon as possible stating "it is highly recommended to have one's daughter married as soon after puberty as possible. One of man's greatest happiness is to know that his daughter has not had her first period in her paternal home but in that of her husband." *Id.*

⁸⁴ See Higgens, *Women in the Islamic Republic of Iran: Legal, Social, and Ideological Changes*, 10 SIGNS 477, 480 (Spring 1985).

⁸⁵ Nashat, *supra* note 13, at 184.

⁸⁶ Nashat, *supra* note 2, at 198.

⁸⁷ Tabari, *supra* note 46, at 26.

⁸⁸ Touba, *supra* note 75, at 142. High schools were already segregated.

⁸⁹ *Id.*

⁹⁰ Nashat, *supra* note 2, at 210.

⁹¹ Az, *The Woman's Struggle in Iran*, 32 MONTHLY REV. at 22 (Mar. 1981).

⁹² Ramazani, *supra* note 74, at 33.

⁹³ *Id.* at 33-34.

present the Iranian clergy appears to dislike this principle. Perhaps in the future, if the pressure on the regime increases, they will make greater use of it.

III. CONCLUSION

Women, in Iran, have had their position in society radically changed since the new government took control. Under the Shah, the *sharia* had been significantly modified and women were given increased rights and freedoms both in the workplace and within the family. However, this liberal trend has been reversed by the present Khomeini regime. The Islamic Republic has reintroduced traditional Islamic law and now emphasizes traditional family values, regarding the home as the best place for women since they can best contribute to the new order by raising "Islamic" children. Thus, laws have been passed to remove women from the workplace and force their seclusion in the home. Major changes in family law have also been promulgated, re-establishing men as the controlling force within the family with superior rights in child custody, divorce and multiple marriages. Educational policy has also been changed, and now consists of a segregated school system in which subjects are taught in accordance with their suitability for the respective sexes. Women have thus been relegated to a secondary, passive position in the new regime, with the burden of progressive movement falling upon the males. To date, the Islamic government has had little trouble in bringing women and the family into line with traditional Islamic notions. In the future, however, women may grow displeased with their new roles and mount stronger opposition to the regime.