

Manchester Journal of Transnational Islamic Law & Practice

About

The Manchester Journal of Transnational Islamic Law & Practice (formerly the Journal of Islamic State Practices in International Law) was founded in 2005. The Journal is independent of any State or institutional affiliation with a diverse and global editorial board. It is indexed on Scopus and available both in electronic and printed forms.



Aims of the Journal

The principal objectives of the Manchester Journal of Transnational Islamic Law & Practice (MJTILP) are to provide a vehicle for the consideration of transnational forms of Islamic law and practice. Transnationalism in Islamic law is taken broadly as communications and interactions linking Islamic thoughts, ideas, people, practices and institutions across nation-States and around the globe. In recent times, research in Islamic law has shaped narratives based on nation-States, demographics, diasporic communities, and ethnic origins instead of developing around a central core. Contemporary issues of Islamic law are increasingly linked to geographical locations and ethnic or parochial forms of religious beliefs and practices. Expressions like American, European, British, Asian, and Arab Islam have widely gained acceptance.

Despite the growing importance of dialogue to develop shared understandings of issues facing Islamic law and proposing coordinated solutions, the contemporary research and scholarship has not developed harmoniously and remains piecemeal and sporadic. Researchers and practitioners of Islamic law are drawn from a wide variety of subjects and come from various regions of the world but have insufficient institutional support for sharing information and comparing experiences. Innovation in various strands and paradigms of Islamic law and practice is stifled because there are limited spaces where evolutionary, collaborative and interdisciplinary discourses can take place. This in turn hampers the ability to build on past research and record best practices, negatively impacting a consistent and orderly development of the field. There is a need to constitute a world community of Islamic law scholars based on interactions and aspirations moving across linguistic, ethnic, geographical and political borders.

The MJTILP is inspired by the need to fill these gaps. It provides a platform to legal and interdisciplinary scholars and researchers for critical and constructive commentaries, engagements, and interactions on Islamic law and practice that are built upon configurations in contemporary contexts. It welcomes contributions that look comparatively at Islamic law and practice that apprise and inspire knowledge across national boundaries whether enforced by a State or voluntarily practiced by worldwide Muslim communities. We are equally interested in scholarships on encapsulated cultural worlds, diaspora, identity and citizenship that are embedded and circumscribed by religious ties. As it has been the practice of the journal since its establishment in 2005, it also has a specific interest in issues relating to the practice of Muslim States in international law, international law issues that may concern Muslim countries, and all aspects of law and practice affecting Muslims globally.

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Vali-e Faqih and his Female Subjects: Women in the Iranian Constitution

Fatemeh Sadeghi*

Abstract: The 1979 Constitution of the Islamic Republic, which came about after the revolution, abolished many of women's citizenship rights and reduced them to second-class citizens. How did this happen? What is the role of the Iranian Constitution in restricting women's rights? How are women and gender defined and redefined by the Constitution? What is the role of the concept of *velayat* (guardianship) in reducing women to feeble creatures, who are unable to manage their own affairs? Analysing key articles of the Constitution of the Islamic Republic, this paper explores women's citizenship rights in the shadow of the concept of the *velayat*. It is an attempt to investigate the legal structure of the Constitution of Iran and its implications for women. The paper argues that *velayat*, and for that matter the *velayat-e faqih*, is a gendered concept, in two senses. First, it considers women as feeble creatures who are to be ruled by a male guardian; second, it feminises the nation and degrades its status as an agentless creature that is to be ruled and dominated by a male guardian/ruler (*vali-e faqih*). Whereas people in general are regarded as feeble in this framework, it degrades women's status even further. This article also demonstrates the limits of constitutionalism and argues that understanding women's constitutional rights and the situation of women in the Islamic Republic is inseparable from the epistemological and political pre-texts, which define and redefine women as intellectually deficient feeble subjects.

Keywords: Iranian Constitution; Velayat; Women's Constitutional Rights

"In truth, the institution which Muslims generally call the caliphate has nothing to do with religion. It has more to do with the desire for power and the exercise of intimidation that has been associated with this institution. The caliphate is not among the tenets of the Muslim faith—no more so than the judiciary or any other governmental function or state position.

*These exist by dint of nothing else but political fiat, and has nothing to do with religion, which it wants neither to know nor to ignore; which it neither advocates nor repudiates. It is a matter which religion has left to humankind, for people to organize in accordance with the principles of reason, the experience of nations and the rules of politics."*¹

I. INTRODUCTION

Though millions of Iranian women participated in the 1979 Revolution² that resulted in the formation of the Islamic Republic, the Constitution of the Islamic Republic of Iran ratified a few months later would extinguish many of their citizenship rights and reduce them to second-class citizens.³ The role of women in the Iranian Revolution involved a key paradox. On the one hand, the Revolution implied equality of citizens, while on the other, a stratum of society

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¹ Ali Abdel Razek, *Islam and the Foundations of Political Power* (London: Edinburgh University Press and Agha Khan University Press 2012) 117.

² Nikki R. Keddie, 'Women in Iran Since 1979' (2000) 67 (2) *Social Research* 405, 413.

³ *ibid.* See also Patricia Higgins, 'Women in the Islamic Republic of Iran: Legal, Social and Ideological Changes' (1985) 10 (3) *Signs* 477, 477.

became superior to others. This was partly rooted in the revolutionary movement culminating in the overthrowing of the Pahlavi regime and the establishment of the Islamic Republic. This movement, especially in its last phase, enforced homogeneity and suppressed its divisions despite the profound ideological differences, identity variations, and pluralistic claims that existed. Consequently, women's claim for gender equality became secondary to the hegemonic revolutionary cause. Furthermore, in the aftermath of the Revolution, this claim was effectively curtailed by the Constitution.

This phenomenon is not exclusive to the Iranian Revolution, however. We saw a similar trend in the Arab Spring of the early 2010s. As Asef Bayat points out "women seem to join the revolutions not simply as women with particular gender claim but as citizens concerned with a better life for everyone."⁴ Indeed, by participating in revolutionary movements, women do not collaborate in their subjugation, but claim collective goals beyond particularistic identities.

This understanding raises several important questions: if Iranian women were key participants in the Revolution against authoritarianism, how did their marginalisation under the post-Revolution Constitution transpire? What role did the latter play in enabling and legitimising the restriction of women's rights? How are women and gender defined and redefined by the Constitution? What is the role of the concept of *velayat* (guardianship) in reducing women to feeble creatures who are unable to manage their own affairs?

Analysing key articles of the Constitution of the Islamic Republic, this article examines the Constitution's legal anatomy and its implications for women. It argues that although the concept of the *velayat-e faqih* (guardianship of the jurist), has been extensively criticised,⁵ its implications for women's constitutional and civil rights have not been adequately explored. Therefore, this article explores women's citizenship rights in the shadow of the concept of the *velayat* and *velayat-e faqih*. It argues that *velayat*, and for that matter the *velayat-e faqih*, is a gendered concept, in two senses. First, it considers women as feeble creatures who are to be ruled by a male guardian; second, it feminises the nation as a whole to degrade its status to that of an agency-less⁶ being, and hence to justify the authoritarianism of a male guardian/ruler (that is, the *vali-e faqih* or guardian jurist). Whereas the population in general is regarded as feeble within this framework, it disproportionately degrades women's status.

In both its traditional and modern formulations, *velayat* functioned as the foundation of the Iranian Constitution. Owing its origins to the Shia tradition, *velayat* developed as a political concept since Safavid rule (1501-1736) to gradually favour the modern notion of sovereignty. Resurrected and modernised by Ayatollah Khomeini in the 1970s, it was officially incorporated into the Constitution of the Islamic Republic in 1979.

Muslim constitutions, including the Iranian one put a great deal of emphasis on Sharia, which sets them apart from "secular" constitutions. According to this view, the constitutional order must prioritise Sharia. This discursive framing is referred to as "Islamic Constitutionalism." Islamic Constitutionalism does not appear to comprehend the multi-layered document, which can lead to contradictory interpretations depending on the authorities' preferences, as well as to continuous changes to the Constitution based on the ruling apparatus' priorities.

⁴ Asef Bayat, *Revolutionary Life: The Everyday of the Arab Spring* (Cambridge: Harvard University Press 2021) 108.

⁵ *ibid* 221-375.

⁶ Mohsen Kadivar, *Hokumat-e Velay'I* (in Persian) [*The Velayi Government*], 5th edn (Tehran: Ney 2008) 47-8.

The role of external political and military forces in the interpretation and application of the law is key to understanding the shortcomings of a Constitution born out of a popular revolution, such as that of the Islamic Republic. This article aims to highlight the limits of constitutionalism and argues that it cannot ignore the forces behind the text. Women's constitutional rights and their status in the Islamic Republic cannot be detached from the epistemological and political pre-texts, which define and redefine women as intellectually deficient subjects.

I shall briefly explore the historical evolution of *velayat* and its detrimental role in the formation of the gendered attitudes of the Iranian Constitution. This exercise is particularly compelling when we consider that the relationship between constitutional doctrine and women's status, particularly in the Middle East, has not been sufficiently investigated.

This relationship is best exemplified in Article 5 of the Iranian Constitution, known as the Article of the *velayat-e faqih*. The Article is a modified version of the theory of the *velayat-e faqih* formulated by Ayatollah Khomeini before the Revolution. According to this Article:

“during the absence (*ghayba*) of his holiness (may God hasten his fate), in the Islamic Republic of Iran, the guardianship and leadership of the Ummah is the responsibility of a just and pious jurist, aware of the time, brave, managerial and resourceful, whom the majority of people recognized as a leader. And if no jurist has such a majority, the leader or the leadership council composed of highly qualified jurists will be in charge according to Article 170.”

Women are not mentioned in this Article. And yet, guardianship is a gendered notion that already presupposes domination over women, as shall be discussed in this article.

II. A HYBRID CONSTITUTION

This article is critical of the stance that views the constitutions of Islamic societies, and that of the Islamic Republic of Iran in particular, as primarily religious and “ideological,”⁷ hence “nonconstitutional”⁸ and hardly deserving of legal analysis. The term “ideological” or “Islamic” constitutionalism presupposes a dichotomy between the secular and the sacred. However, as Lefort pointed out, there has been a permanence of Christian theological categories and worldviews in western liberal politics.⁹ Likewise, Asad convincingly argued that secular political practices often stimulate religious ones.¹⁰ Conversely, religious political practices also stimulate secular ones as post-revolutionary Iran demonstrates. While it is true that the Constitution of the Islamic Republic draws on the Sharia as the primary source of legislation, this does not mean that it repudiates secular law making. Arguably, Islamic constitutionalism is not necessarily a contradictory phenomenon, as Asifa Quraishi-Landes argues.¹¹

⁷ Said Amir Arjomand, ‘Islamic Constitutionalism’ (2007) 3 Annual Review of Law & Social Science, 116.

⁸ See, generally, Nathan Brown, *Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Governments* (New York: State University of New York Press 2001).

⁹ Benoit Challand, ‘Religion and the Struggle for People’s Imagination: The Case of Contemporary Islamism’ in Chiara Bottici and Benoit Challand (eds), *The Politics of Imagination* (New York: Birkbeck Law Press 2011) 144.

¹⁰ Talal Asad, *Formation of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press 2003) 26.

¹¹ Asifa Quraishi-Landes, ‘Islamic Constitutionalism: Not Secular, Not Theocratic, Not Impossible’ (2015) 16 Rutgers Journal of Law and Religion 553.

Indeed, Islamic constitutionalism, in which the Sharia is a focal point, could not be practically implemented without secular legal apparatuses and institutions. In the Constitution of the Islamic Republic, the Sharia, though an important source of legislation, is only one among many, and the Constitution draws on other sources as well including *maslahat* (government's convenience and welfare), *urf* (customary law), as well as modern sources of legislation, such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). For instance, Article 3 of the Constitution guarantees that "the securing of all-inclusive rights for everyone, man and woman, and the creation of judicial security for everyone, equality for all before the law"¹² is incumbent upon the government of the Islamic Republic. Similarly, Article 19 stipulates that "the people of Iran enjoy equal rights, regardless of the tribe or ethnic group to which they belong. Colour, race, language, and other such considerations shall not be grounds for special privileges."¹³

Additionally, Article 112 provides that, "the leadership orders the Expediency Council to meet in order to attend to cases where the Guardian Council finds legislation made by the Islamic Consultative Assembly in violation of the Sharia or the Constitution; the Assembly, with regard to the welfare of the system, does not sustain the opinion of the Guardian Council; or for consulting on affairs that the leadership will refer to the Expediency Council; or other duties that are mentioned in the constitution."¹⁴ As the Article suggests, the expediency of the government lies beyond the Sharia and ideology to the extent that even Sharia may be violated to promote other objectives.

Effectively, the Constitution of the Islamic Republic is an amalgam of various legal traditions, both sacred and secular, where practical necessities trump ideological concerns.

III. THE DRAFT CONSTITUTION

The Constitution of the Islamic Republic was born out of a preliminary draft (*pishnevis*). Before delving into a discussion of the Constitution and its implications for women, a quick look at the draft Constitution is necessary. This analysis is key to challenging the widespread assumption that the draft Constitution was democratic,¹⁵ becoming undemocratic only after the Constituent Assembly, known as the Assembly of the Experts of the Constitution¹⁶ (AEC), incorporated the principle of the *velayat-e faqih*. Parallel to this assumption is the belief that Ayatollah Khomeini did not intervene in the formulation of the draft Constitution and that his suggestions played an insignificant role in the final document.¹⁷ This implies that the AEC was entirely responsible for making the undemocratic Constitution.

It is true that, initially, the draft Constitution made no mention of the *velayat-e faqih*. However, Ayatollah Khomeini did intervene in the formation of the draft Constitution and his interventions were in fact rather extensive and detrimental to the relevant democratic draft. Furthermore, his active intervention was followed by other Ayatollahs' and clergys' interference, causing the draft Constitution to become undemocratic even before the

¹² Constitution of the Islamic Republic of Iran (1979), 8.

¹³ *ibid* 10.

¹⁴ *ibid* 26.

¹⁵ Katajun Amirpur, 'Gender in the Iranian Constitution' (2018) 98 *Oriente Moderno* 265, 267.

¹⁶ *Majles-e Khobregan-e Qanun-e Asasi*.

¹⁷ Asghar Schirazi, *The Constitution of the Islamic Republic of Iran: Religion, Law and the Absolute Power* (Paris: Ketab-e Cheshmandaz 2011) 29.

incorporation of the *velayat-e faqih* by the AEC. Ayatollah Khomeini's intervention was not unexpected though, as he was considered to be the charismatic leader of the Revolution by various strata of society.

In previous years, some important documents were published on the subject, which shed light on the process of the formation of the draft Constitution, calling into question the accuracy of the above noted assumptions. They reveal that the draft Constitution, which was prepared by a group of lawyers and political activists, was submitted to Ayatollah Khomeini, who in turn made important changes to the document.¹⁸ His revisions included the inequality of men and women,¹⁹ conditional freedom of press (contingent on whether the topic aligns with the regime's interpretation of Islam)²⁰ and women's inability to hold the Presidency. He emphatically asserted that women were not qualified for the *velayat* (*velayat be zaman nemiresad*).²¹ These documents contradict the previous belief that Ayatollah Khomeini recommended only "trivial"²² corrections to the draft Constitution. The theory that identifies these changes as trivial is ahistorical and suffers from gender blindness, seeing women's issues as insignificant despite women constituting half the population.

Ayatollah Khomeini's suggestions and revisions to the Draft Constitution have had a significant impact on women's status and their citizenship rights in post-Revolution Iran. As a result of his interventions, women are banned from running as candidates for presidential elections by the Guardian Council.²³ The ban was later formalised in Article 115 of the Constitution, which provides that only *rijal* (men) are allowed to become President, as shall be seen.

Of course, the changes to the draft Constitution cannot be attributed to Ayatollah Khomeini alone. Other Ayatollahs, including Mohammad-Reza Golpaygani, Shahab ud-Din Mar'ashi Najafi, Hosseinali Montazeri, and Kazem Shariatmadari, also edited the draft Constitution.²⁴ Interestingly, all of these religious authorities, despite their disagreements across a number of religious questions, agreed that, according to religious law, women are unable to obtain the *velayat*, that is, to govern, and hence are not qualified to become President or a minister in the Islamic Republic of Iran.²⁵ This was a major setback to women's citizenship rights by the newly established government.

The draft Constitution, published on June 14, 1979, already incorporated these undemocratic changes before its final ratification by the AEC, which in turn made further amendments and added decisive discriminatory articles. As a result of these interventions and amendments the secondary status of women in the Islamic Republic was formalised. Below, I briefly explain some of these interventions.

¹⁸ Javad Vara'i, *Mostanadat-e Ghanun-e Asasi be Revayat-e Ghanungozar* (in Persian) [*The Documents of the Constitution according to the Lawgivers*] (Tehran: Dabir Khaneh Majles-e Khobregan-e Rahbari 2006) 55.

¹⁹ *ibid* 1048.

²⁰ *ibid* 1049.b.

²¹ Abul Hassan Bani Sadr, 'Interview on the Draft Constitution' *Zeitoon* (in Persian) (Iran: 18 July 2020) <<https://www.zeitoons.com/78262>> accessed 26 March 2023.

²² Schirazi (n 17).

²³ *Shoraye negahban-e qanun-e asaasi* in Persian is an appointed and constitutionally mandated 12-member council that wields considerable power and influence in the Islamic Republic of Iran including the interpretation of the Constitution.

²⁴ Javad Vara'i (n 18) 54.

²⁵ *ibid* 1048, 1061; Hosseinali Montazeri, 'Khaterat' (in Persian) [*Memoires*] (2000) 889-903 <<https://amontazeri.com/book/khaterat/volume-1>> accessed 26 March 2023.

After the draft Constitution was published in June 1979, more than one hundred scholars from the Qom seminary signed a petition calling for the inclusion of *velayat-e-faqih*. According to them, the Constitution could not be considered Islamic without it, and the Shiite authority is the highest authority in the country.

For almost a month, clerics' criticisms of the draft were published in various newspapers and pamphlets. Also a group of *ulema* (clerics) of the Qom seminary made a call for the exclusive right of the Supreme Leader in a regular column of a public newspaper entitled "The Constitution and the People."

The campaign was accompanied by visible and hidden pressures placed on AEC members by clerics even before the Assembly was formed. For instance, in a television interview aired years after the Constitution was enacted, Seyyed Kazem Haeri, a student of Seyyed Mohammad Baqir Sadr, revealed that, with a group of his students, he had suspended his classes on the eve of the Assembly of Experts elections to work on the *velayat-e faqih* principle. Haeri's interventions do not constitute an isolated case, however. Many of the proposals were finally included in the final Constitution.

Despite these measures, immediately after the AEC was formed, Ayatollah Khomeini sent the Assembly a letter urging the deputies to work on the draft Constitution and prepare it for a referendum. Ayatollah Khomeini explicitly rejects the input of non-clerics and non-Muslims in constitutional matters in the letter:

"People who are not qualified to recognize Islamic rules and teachings, under the influence of deviant schools, interpret the verses of the Holy Qur'an and the texts of hadiths at will and adapt to those schools and do not pay attention to the fact that the evidence of Islamic jurisprudence is based on which requires long lessons, discussions and research, and with those ridiculous and superficial arguments, without considering the opposing arguments and comprehensive study, high-level and deep Islamic knowledge cannot be obtained, and I expect the environment of the Assembly of Experts be away from such a practice ... If the Islamic scholars present in the parliament see any article of the draft Constitution or the proposals made against Islam, it is incumbent upon them to declare it explicitly and not be afraid of the controversy of the westernized newspapers and writers, as they see themselves defeated and will not give up on controversy and criticism."

He further called on the delegates to make every effort to pass a comprehensive law with features such as "anticipating the needs and interests of future generations as intended by the Holy Shari'a in the eternal teachings of Islam."²⁶

In protest against this process, on the day of the inauguration of the Assembly of Experts, the prominent journalist, Ali Asghar Haj Seyed Javadi, wrote:

"Those who turned the Assembly of Experts into a private assembly in the name of Islam with those shameful schemes of seizing power, have launched attacks on militant groups to crush freedom and establish fascism [...]. Why do they poison the simple minds of the people with such provocation and demagoguery? Why do they lay the

²⁶ Ayatollah Khomeini, *Sahife-ye Emam*, vol 20, 310.

foundation of the Islamic Republic on violence, division, monopoly, lying and separating people from each other and pitting them against each other?”²⁷

As the Assembly of Experts was reviewing the text of the draft Constitution, Ayatollah Khomeini repeatedly raised the issue in his public speeches, calling those who opposed the principle of *velayat-e-faqih* enemies of Islam. As a result, despite the opposition, *velayat-e-faqih* was introduced at the very first session of the AEC. Many deputies had stipulated from the beginning that this principle needed to be included in the Constitution.

After the positive vote of the people on the Constitution approved by the Assembly of Experts, Ayatollah Khomeini called the document “the constitution of Islam” and declared:

“This constitution, which was prepared under the supervision of Islamic scholars and experts, causes concern to some people and I am not worried at all. The Constitution is correct. And if some groups think that what they want is not in the Constitution, that is a mistake. And they should know that Islam is for everyone. And the Constitution of Islam cures all pains, God willing. If there is a shortcoming, we hope it will be rectified in the Shura Council later. Do not worry about any of the groups.”²⁸

In light of the above, the theory holding the ACE solely responsible for the Constitution seems hardly credible. Long before the incorporation of the *velayat-e faqih* into the Constitution, a campaign by Ayatollah Khomeini and his supporters had begun with the aim of monopolising political power under the aegis of Islam. One could expect that, after these constant and strong interventions by Ayatollah Khomeini and his allies, the Constitution that came out of the ACE would effectively curtail democratic rights.

IV. THE PARADOXICAL DOCUMENT

As a result of these interventions, the Constitution of the Islamic Republic is far from being a consistent document. It is rather a contradictory one, in which diverse political and moral values are in constant tension with each other. It is similar to a political manifesto in which inconsistent notions on how to rule a society are found. These paradoxes pave the way for varying and sometimes contradictory interpretations. For instance, while popular sovereignty is accepted as the foundation of the Islamic Republic in Article 56, it is rejected by other articles including Article 5, in which the *vali-e faqih* is recognised as the highest authority.²⁹

As Asghar Schirazi³⁰ pointed out, the Constitution of the Islamic Republic suffers from two main contradictions: first, between Republican and authoritarian elements, and second, between secular and religious elements.³¹ Where the Constitution’s approach to women is concerned, another contradiction is also discernible, which could be called a contradiction of

²⁷ Haj Seyyed Javadi, Ali Asqar, *Jonbesh (weekly journal)* (1979) 1.

²⁸ Ayatollah Khomeini, *Sahife-ye Emam*, vol 11, 175-8.

²⁹ Constitution of the Islamic Republic of Iran (n 12), art 56 (‘Absolute sovereignty over the world and man belongs to God, and it is He Who has made man master of his own social destiny. No one can deprive man of this divine right, nor subordinate it to the vested interests of a particular individual or group. The people are to exercise this divine right in the manner specified in the following articles’), art 5 (‘During the Occultation of the Walial-’Asr (may God hasten his reappearance), the wilayah and leadership of the Ummah devolve upon the just [’adil] and pious [muttaqi] faqih, who is fully aware of the circumstances of his age; courageous, resourceful, and possessed of administrative ability, will assume the responsibilities of this office in accordance with Article 107’).

³⁰ Schirazi (n 17) 17.

³¹ Schirazi (n 17).

status based on disparity dictum. Whereas in some Articles, such as Article 19, women are identified as being equal to men and are regarded as full citizens, others, such as Article 10, 21, 22 and 115,³² deny them equality. These paradoxes are partly rooted in the divergent political and religious attitudes of the revolutionaries, some of whom became members of the AEC. The antagonism between republican and authoritarian politics goes hand in hand with the opposition between the egalitarian and non-egalitarian tendencies. As a result, differing attitudes towards women, religious groups and minorities are found in the Constitution, representing conflicting political positions that existed within the opposition to the previous regime.

Apart from gender inequality, the Constitution suffers from the paradox of sovereignty, that is, contradictory notions on the question of to whom sovereignty belongs. Within the AEC, there were at least two oppositional camps on the subject: the advocates of popular sovereignty versus the proponents of the *velayat-e faqih*. Whereas the latter argued that people are not qualified to rule over themselves and are hence in need of a higher authority to guide them through the right pathway of life, the advocates of popular sovereignty insisted on the undeniable right of the people as the true sovereign. These disputes are best reflected in the seemingly contradictory text of Article 56 of the Constitution, vesting sovereignty both with God and with the individual. It declares:

“The absolute sovereignty over the world and the human being belongs to God. And it is He who has made human beings sovereign over their social destiny. No one can take this divine right away from human beings or apply it to the interests of a special person or group. The nation exercises this God-given right in ways that are specified in the following Articles.”³³

As this Article states, absolute sovereignty belongs to God. Yet, it also emphasises the right of the individual to determine their own destiny. However, the Article does not clarify the ways in which this dual sovereignty can be practically applied. As a result, despite the coming into effect of the Constitution, the debate has not subsided, although advocates of the *velayat-e faqih* have since succeeded in marginalising the republican stance through judicial and extrajudicial measures.

The Constitution contains internal contradictions, but they seem to be partially rooted in the “paradox of constitutionalism,” suggesting that constitutions are initially founded not on the principle of the rule of law but on an extra-legal constituent power, which stands outside of the law.³⁴ The problem arises when the constituent power is not democratic but is inclined towards authoritarianism and gives unlimited power to one individual or a group. Consequently, whereas constitutions are primarily made to secure rights and restrict extra-legal authorities, the extra-legal authoritarian constituent power would annul this purpose. This seems to be the case of the Islamic Republic of Iran. According to the Constitution of the Islamic Republic, *vali-e faqih* is an extrajudicial authority which exists parallel to the law and even beyond it. This results in an unresolvable paradox, as the existence of such an extrajudicial authority leads to the invalidation of the law and the purpose for which the Constitution was designed. Put differently, though the *vali-e faqih*/sovereign is bound by the law, this very law grants the *vali-e faqih* powers that place him (both *de facto* and *de jure*) outside the scope of the law.

³² I shall return to these articles later in the chapter.

³³ Constitution of the Islamic Republic of Iran (n 12) 15. See also (n 29).

³⁴ Martin Laughlin and Neil Walker, *The Paradox of Constitutionalism: Constituent Power and Constitutional Form* (Oxford: Oxford University Press 2007) 1.

We can conclude that the position of the *vali-e faqih* is an exclusionary inclusion. In this sense, *velayat-e-faqih* is similar to Carl Schmitt's sovereign who determines the exceptions.³⁵ According to Schmitt, in exceptional situations such as war and civil crises, there should be an unquestionable authority vested with the power to suspend the law, otherwise applicable in times of stability and peace. Within this framework, the sovereign is, on the one hand, bound by the law, while, on the other, the law bestows onto him extra-legal and extrajudicial powers. This is a crucial point with significant consequences as it implies that in such a context, constitutionalism would not necessarily lead to the rule of law and the democratisation of political power. On the contrary, it would be subservient to the existing legal structure that legitimises the extrajudicial character of sovereignty and its unbounded powers.

It seems that *vali-e faqih* possesses such a duality formalised by Article 110 of the Constitution, which grants the *vali-e-faqih* leader the following powers:

“1. determining the overall politics of the Islamic Republic system of Iran after consultation with the Expediency Council; 2. supervising the proper implementation of the general policies of the system; 3. issuing referenda; 4. commanding the armed forces; 5. declaring war, peace, and mobilising forces; 6. issuing appointments, dismissals, and accepting the resignation of: a. the jurisprudence of the Guardian Council, b. the highest position of the judiciary power, c. the president of the mass media of the Islamic Republic of Iran, d. the chief of the general staff, e. the commander-in-chief of the Islamic Pasdaran Revolutionary Corps, f. the supreme commanders-in-chief of the security and armed forces; 7. coordinating the relationship among the three branches of the government and resolving any conflict among them; 8. resolving issues in the system that cannot be settled by ordinary means through the Expediency Council; 9. signing the appointment of the President of the Republic, after his election by the public. The qualifications of the candidates for presidency, with respect to the conditions set forth by the constitution, must be confirmed by the Guardian Council prior to the general elections and approved by the leader for the first term [also known as the *nezarat-e estesvabi* or approbative supervision]; 10. dismissing the President of the Republic, with regard to the best interests of the country, after either the Supreme Court has issued a ruling convicting him of deviating from his legal duties, or the Islamic Consultative Assembly, based on Article 89, has cast a vote against his competence; 11. pardoning or reducing the sentences of convicts, within the framework of Islamic criteria, after the head of the judiciary power has recommended such a motion.”³⁶

As this Article indicates, the *vali-e faqih* enjoys unlimited powers in almost every aspect of political life in the Islamic Republic of Iran. Considering these powers, Article 107's assertion that “before the law, the leader is equal to other people in the country” seems purely rhetorical.

It should be noted that the legalisation of the expediency and the extrajudicial position of the sovereign is not exclusive to Iran. Article 154 of the Egyptian Constitution of 2014 also legitimised a state of emergency during which the law may be partially or entirely suspended

³⁵ Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Cambridge: MIT Press 1985) 24.

³⁶ Constitution of the Islamic Republic of Iran (1979).

by the sovereign ruler.³⁷ These examples underline the challenges of constitution making in contexts where authoritarianism has been historically pervasive.³⁸

V. REDEFINITION OF GENDER ROLES

The Constitution of the Islamic Republic is not merely a legal document setting out rights and responsibilities; it also redefines social relations and personal identities that are desired in the Islamic Republic. Not surprisingly, it depicts an ideal womanhood and redefined female identity. For instance, a significant section of the Preamble of the Constitution entitled “women in the Constitution” redefines women and gender relations thus:

“The family is the primal unit of society and the essential centre for the growth and grandeur of men. Compatibility in respect to beliefs and ideals is the fundamental principle in establishing a family, that is the essential ground for the course of humanity’s growth and development. It is among the responsibilities of the Islamic Republic to provide the conditions for attaining this goal. In accordance with this view of the family unit, women are emancipated from the state of being an ‘object’ or a ‘tool’ in the service of disseminating consumerism and exploitation, while reclaiming the crucial and revered responsibility of motherhood and raising ideological vanguards. Women shall walk alongside men in the active arenas of existence. As a result, women will be the recipients of a more critical responsibility and enjoy a more exalted and prized estimation in view of Islam.”³⁹

This manifesto declares women as primarily belonging to their families and whose main responsibilities are motherhood and raising ideological vanguards. Women’s domestic duties are a feature held in common by all conservative religious movements. This definition of womanhood can negate the principle of equality, as certain restrictions on women may be justified in the name of family well-being.

The Constitution also contains numerous articles that directly impact women. They include Articles 3, 10, 21, 22, and 115. Below, I briefly explain the content of these Articles and their implications for women’s rights.

Article 3 declares that the Islamic Republic’s government is obliged to use all its resources in order to achieve the objectives mentioned in Article 2. Such measures include the “securing of all-inclusive rights for everyone, man and woman, and the creation of judicial security for everyone, equality for all before the law.”⁴⁰

However, Article 10 somewhat paradoxically states that “the family is the foundational unit of the Islamic society. Therefore, all the laws, regulations, and their corresponding politics must be in the direction of facilitating the establishment of the family, the protection of its sanctity, and the maintenance of its relations, based on Islamic law and ethics.”⁴¹

³⁷ Constitution of Egypt (2014), art 154.

³⁸ Louise Fawcett, ‘Neither Traditional nor Modern: Constitutionalism in the Ottoman Empire and its Successor States’ (2008) 6 (1) *Journal of Modern European History* 116.

³⁹ Constitution of the Islamic Republic of Iran (n 12), 5.

⁴⁰ *ibid* 7-8.

⁴¹ *ibid* 9.

To further confuse matters, according to Article 20, “all members, whether man or woman, are equally protected by the law. They enjoy all the human, political, economic, social, and cultural rights that are in compliance with the Islamic criteria.”⁴²

Article 21 provides that:

“The government must secure the rights of women in all respects, according to the Islamic criteria. The government must do the following: 1. create an apt environment for the growth of a woman’s personality and restore her material and spiritual rights; 2. protect the mothers, especially during the child-bearing and child-rearing periods, and protect children without guardians; 3. create competent courts to protect the integrity and subsistence of the family; 4. establish a special insurance for widows, elderly women, and women who are without guardians; 5. bestow the custody of children to qualified mothers, whenever in the interests of the children, and in the absence of a legal guardian.”⁴³

Finally, as aforementioned, Article 115 of the Constitution requires that the President of the Islamic Republic be elected from among men.⁴⁴

VI. POLITICS OF AMBIGUITY

Admittedly, Article 21 does not explicitly reference women, nor does it seem to necessarily restrict women’s rights. However, regarding the ambiguity of this article, we ought to refer to the negotiations of the AEC in order to uncover the legislators’ use of the politics of ambiguity as a means to counter possible objections that the Article might have raised.

Beheshti, as the deputy of the AEC and the most influential figure in the AEC and a major contributor to the formulation of the principle of the *velayat-e faqih*, stated that “we highly believe in family in our social system and the significance of family and its social role has impacts on all decisions, laws, and social and economic regulations. Therefore, we ought to include this Article.”⁴⁵ He proceeded to suggest lowering the age of marriage for women, which prior to the Revolution had been legally set at 18. This suggestion was welcomed by the majority of the deputies of the AEC. Article 10 does not stipulate a minimum age of marriage, but the minimum age was later legalised by Iran’s Civil Code as 13 for girls and 15 for boys.⁴⁶

In effect, Article 10 initiated a set of measures, which resulted in the drastic shrinking of women’s rights in the Islamic Republic. Surprisingly, Monireh Gorji (b. 1929), the only female member of the AEC made no serious objections to these Articles, particularly Article 10. Though she tried to soften the position of the hardliners, her position was ambiguous because at some point, she emphasised that according to Islam and the Qur’an women are not qualified to hold political and governmental positions.⁴⁷ It should be noted that there was only one woman in the AEC, despite Iranian women’s critical role, with millions of women actively

⁴² *ibid* 10.

⁴³ *ibid* 10-11.

⁴⁴ *ibid* 26.

⁴⁵ Majles-e Shoray-e Eslami, *Sourat-e Mshrouh-e Mozakerat-e Majles-e Barrasiy-e Nahayi-e Qanun-e Asasiy-e Jomhouriy-e Eslamiy-e Iran* (in Persian) [*The Negotiations on the Constitution of the Islamic Republic of Iran*] (Tehran: Majles-e Shoray-e Eslami 1985) 435.

⁴⁶ Civil Code of the Islamic Republic of Iran (1985), art 1041.

⁴⁷ *ibid* 616, 1744.

participating, in the revolutionary movement. It is possible that if more women were actively present at the Assembly, the course of events would have been different.

Articles 20 and 21 are complementary to Article 10. However, here again, we encounter a similar ambiguity in the phrasing. According to Article 20, “all members, whether man or woman, are equally protected by the law. They enjoy all the human, political, economic, social, and cultural rights in compliance with the Islamic criteria.”⁴⁸ This Article guarantees that “man or woman are equally protected by the law,” but the guarantee is rapidly conditioned by the next important clause: “in compliance with the Islamic criteria.”⁴⁹ Such a clause suggests that women are not equal to men because according to the dominant attitudes in Islamic jurisprudence women and men cannot be considered equal. As a result, this Article effectively legalises discrimination as “justified” by Islam.

Moreover, according to Article 21, “the government must secure the rights of women in all respects, according to the Islamic criteria. The government must do the following:

“1. create an appropriate environment for the growth of a woman’s personality and restore her material and spiritual rights; 2. protect the mothers, especially during the child-bearing and child-rearing periods, and protect children without guardians; 3. create competent courts to protect the integrity and subsistence of the family; 4. establish a special insurance for widows, elderly women, and women who are without guardians; 5. bestow the custody of children to qualified mothers, whenever in the interests of the children, and in the absence of a legal guardian.”⁵⁰

Although based on this article, the government is obliged to secure women’s rights, the clause “according to the Islamic criteria” is again problematic, since compliance with Islamic criteria risks legitimising orthodox interpretations of Islam that treat women as inferior subjects.

Part 2 of this Article (protect the mothers, especially during the childbearing and child-rearing periods, and protect children without guardians) is also ambiguous and vulnerable to contradictory interpretations. It can be understood as granting women extra social and economic rights due to the task of mothering. Equally, it can be understood as restricting women’s access to the job market, mandating the confinement of women to domestic roles, duties and responsibilities of women and limiting their citizenship rights due to the privileging of women’s duty as mothers over social and political participation. In this way, the Article reinforces the gendered separation of private and public spheres.

In the context of the Islamic Republic, however, the latter interpretation seems more credible, considering the context of the Constitution, particularly Article 10. Indeed, the enactment of Article 21 was followed by an avalanche of restrictive measures enacted in the first decade of the Islamic Republic, which dramatically decreased women’s economic and public participation in this period.⁵¹

Section 5 of Article 21 institutionalises gender discrimination by adding the significant clause of “legal guardian.” According to Shia Islamic law, “the guardianship” (*velayat*) is exercised

⁴⁸ Constitution of the Islamic Republic of Iran (n 12) 10.

⁴⁹ *ibid.*

⁵⁰ *ibid.*

⁵¹ Fatemeh Sadeghi, ‘Women’s Citizenship Rights in Post-Revolutionary Iran’ in M. Roozkhosh (ed), *Shekafhay-e Ejttemayi dar Iran* (Tehran: Pajouheshkadeh Farhang va Ertebatat 2019) 61.

over the *mahjoors* (sing. *mahjoor*, mentally deficient person)⁵² and is equivalent to a male protector, whether in family or in politics. A *velayat* is deemed necessary when the person in question is not considered fully rational and capable of recognising his/her own interest. The *mahjoor* generally include women, slaves, intellectually deficient persons and minors (*segghar*, sing. *sagheer*).⁵³ However, in the political sense of the term, people in general are identified as *sagheer* who need guardianship. I shall return to this point later.

Together, these Articles frame the legal structure of the Iranian Constitution and the ways in which it redefines womanhood and gender relations according to the ideals and interests of the legislator. In contrast, whereas the sovereign *vali-e faqih* enjoys an inclusionary exclusion, women are subject to an exclusionary inclusion. In other words, the law includes women, but at the same time excludes them and denies them full citizenship rights. Therefore, the increasing authority of the *vali-e faqih* results in a corresponding decrease in women's rights. The analysis of the previous Articles demonstrates that the *velayat-e faqih* is a gendered concept, in which the male guardian is superior to a woman. What are the historical and intellectual foundations on which these ideas are grounded? It is to this question that I now turn.

VII. VELAYAT: FROM PROTECTION TO ABSOLUTE SOVEREIGNTY

In traditional Shia jurisprudence, *velayat* has a wide range of meanings including sainthood, custody, guardianship, friendship, protection, and the economic management of the affairs of women without guardians, widows, orphans, *segghar*, and *mahjoorin*, either by an appointed person or by the chief authority of the Shia community.⁵⁴ The function of this position was to put “the disabled, weak and *mahjoor* under the protection of capable people.”⁵⁵ Whereas in earlier times, *velayat* was largely free of political connotations, over the last three centuries it came to have political implications.⁵⁶ Particularly during the Safavid era and in large part due to Safavid politics, the concept of the *velayat* became politicised as a consequence of its association with sovereignty. By claiming *velayat*, the Safavid dynasty would become a sacred kingship. Consequently, the Safavid Shah claimed not only political sovereignty but also spiritual leadership of the community. It “was here that Muslim rulers came to express their sovereignty and embody their sacrality in the manner of Sufi saints and holy saviours.”⁵⁷ From this point onward, the *velayat* came to embody both the spiritual and the secular spheres of political power.

During the Qajar era (1789-1925), another ground-breaking development took place. Whereas the *velayat* was already claimed by the Safavid sultan, in the Qajar era, some *ulema* started to claim *velayat* as the authority of the jurists.⁵⁸ Such a claim, however, implicitly abolished the doctrine of the Imamate, since the *faqih*, as an ordinary person, could now claim a religious-political authority, which had traditionally belonged exclusively to the infallible Imam. Thus, the idea of the *velayat-e faqih* can be considered as an unprecedented radical idea, one which is also a secularised theological notion.

⁵² Abdollah Javadi Amoli, *Velayat-e Faqih: Velayat, Feqaha, Edalat* (in Persian) [*The Governance of the Jurist: Vilayat, the Jurists, and the Justice*] (Tehran: Asra 1999) 127.

⁵³ Kadivar (n 6) 50.

⁵⁴ *ibid.*

⁵⁵ *ibid.*

⁵⁶ *ibid* 105; A. Azfar Moin, *The Millennial Sovereign: Sacred Kingship and Sainthood in Islam* (New York: Columbia University Press 2012) 19.

⁵⁷ *ibid* 15.

⁵⁸ Kadivar (n 6) 104.

As a result of this unprecedented development, with the advent of the first Pahlavi era, the concept had become so well-known, at least among the seminary students and intellectuals, that a fierce debate on the subject took place in 1949 between Khomeini, at the time a young seminary student, and Ali Akbar Hakamizadeh (?-1987), an atheist intellectual and journalist. Hakamizadeh had published a questionnaire in which he asked whether the *ulema* claim political authority for themselves by drawing on *velayat-e faqih*, and if so, to what extent is this authority legitimised by Islam. Nobody responded to Hakamizadeh at the time. About six years later, however, Khomeini wrote an elaborate response in which he fiercely attacked Hakamizadeh and denied any claim to political power by the clerics.⁵⁹ Yet, a careful reading of his response reveals that he implicitly confirms that political power rightfully belongs to the *vali-e faqih*. He pointed out “as mentioned previously, we don’t say that the government belongs to the *faqih*. Rather, we say that the government should be run by the law of God as it is the best for the country and people, and this cannot be done without the supervision of the clergies.”⁶⁰

Two decades later he rendered explicit his previously implicit defence of the *vali-e faqih* in his book *The Velayat-e Faqih and the Islamic Government* (1970). “More than a thousand years ago” he noted, the Prophet “had to lay down a pattern of government and make his appointments, so that on the day when the nations awoke and the Muslims came into their senses, there would be no confusion and the form of Islamic government and its leadership would be known.”⁶¹

Unlike traditional understandings of guardianship, Khomeini’s interpretation of the *velayat-e faqih* takes, to some extent, people’s consent into account, at least in its earlier stages. However, such consent does not extend to the establishment of the Islamic government, as he already declared it to be an unquestionable duty.⁶² Yet, contrary to the previous version of the *velayat-e faqih*, which necessitated a kingship of jurists, Khomeini’s *velayat-e faqih* is effectively a model of government in which the people should trust the rulers. He remarked, “We must establish a government,” that will enjoy the trust of the people, one in which the people have confidence and to which they will be able to entrust their destiny. We need trustworthy rulers who will guard the trust the people have placed [in] them, so that protected by them and the law, the people will be able to live their lives and go about their tasks in tranquillity.”⁶³

Nevertheless, this was not his consistent position, and Khomeini changed his mind towards the end of his life and he entirely removed the role of people’s consent from his newly framed version of the Islamic government. This is best exemplified in a letter he wrote to the President of the Republic in 1987, in which he declared: “the government can unilaterally abolish its legitimate agreement with people, if that agreement is against the conveniences of the country and Islam, and it is also allowed to nullify or prevent every statute of whatever kind that is against the convenience of Islam.”⁶⁴

⁵⁹ Ruhollah Khomeini, *Kashf ul-Asrar* (in Persian) [*Discovering Secrets*] (1959) 186.

⁶⁰ *ibid* 222.

⁶¹ Ruhollah Khomeini, *Velayat-e Faqih: Islamic Government* (Tehran: The Institute for Compilation and Publication of Imam Khomeini’s Works) 84.

⁶² *ibid* 78.

⁶³ *ibid* 86.

⁶⁴ Ruhollah Khomeini, *Sahife-ye Emam* (in Persian) [*Collected Works*], vol 20 (Tehran: The Institute for Compilation and Publication of Imam Khomeini’s Works 1999) 170.

Hence, it should come as no surprise that, in 1987, a few months before his death, in an utter democratic act and in sheer opposition to the very Constitution he endorsed, Khomeini appointed a group of his allies to revise the Constitution. In a commanding letter, he admits that the Constitution suffers from numerous drawbacks:

“Since, after gaining ten years of objective and practical experience of running the country, most officials, and experts of the holy system of the Islamic Republic of Iran believe that the Constitution, although it has very good and eternal strengths, has flaws and drawbacks in drafting due to the inflamed atmosphere at the beginning of the victory of the Revolution and the lack of accurate knowledge of the executive problems of the society, its approval has received less attention, but fortunately the issue of completing the Constitution after one or two years has been discussed in various circles [...] I, too, have been thinking of solving it for a long time due to my sense of religious and national duty, which war and other issues prevented from doing. Now that, with the help of God Almighty and the good prayers of Hazrat Baqiyatullah – the Spirit of Redemption – the Islamic system of Iran has taken the path of its comprehensive construction, growth, and excellence, I have appointed a council to address this critical issue. The approval of the mentioned cases and principles should be approved by the public votes of the honourable and dear people of Iran.”⁶⁵

Following his command, the Council, whose members were appointed by Khomeini, revisited and changed some of the principles of the Constitution and put it to a referendum in 1989. The referendum itself, however, was far from constitutional. The 1979 Constitution stipulates that a constitutional amendment must be approved by two-thirds of the members of Parliament—a scenario that failed to transpire. Moreover, the revision process itself was dubious. It is unclear on what criteria the members of the Council were selected. Why were most of them clergy? Why was no woman selected? Why were representatives of guilds, opposing political parties, and ethnic and religious minority groups absent? Why was the scope of tasks predetermined? Why was the revision process so swift?

Perhaps the most notable amendment introduced by the Council concerns the rephrasing of Article 5 to more freely permit authoritarian governance. The amended Article reads:

“During the absence (*ghayba*) of his holiness, the Lord of the Age, May God Almighty hasten his appearance, the sovereignty of the command [of God] and religious leadership of the community [of believers] in the Islamic Republic of Iran is the responsibility of the *faqih* who is just, pious, knowledgeable about his era, courageous, and a capable and efficient administrator, as indicated in Article 107.”

Contrary to its previous iteration in which the appointment of the *vali-e faqih* was conditioned on people’s “recognition,” the amended Article 5 ignores it altogether. This amendment process demonstrates that the stronger the Islamic Republic feels itself to become, the less it deems it necessary to take people’s consent into account.

Ultimately, the Constitution’s amendment history only serves to highlight the central thesis that the *velayat-e faqih*, while justified on alleged theological grounds, is in reality a political tool of subjugation. Its manifestation, including questions of the role of public consent, has been constantly changing depending on the interests of those already in power and eager to

⁶⁵ *ibid* vol 21, 264-5.

consolidate their authority. In all its versions, the *velayat-e faqih*, however, implies two intertwined meanings. The first implies the sovereignty of men over women, as their “legal guardian,” in accordance with Article 21, and the second implies the sovereignty of the *faqih* over the people, as provided by Article 5.

VIII. CONCLUSION

The Constitution of the Islamic Republic is constantly swinging between the authoritarian pole, exemplified in the principle of the *velayat-e faqih*, and the republican pole, rooted in the notion of national sovereignty. Therefore, whereas the Constitution recognises women as citizens, this recognition is severely circumscribed/restricted by the insistence on the caveat that it be in compliance with the Sharia. As a result, the status of women conferred by/defined in the Constitution is equal to the status of minors in the Sharia, i.e., they are deemed incapable of agency and managing their own affairs. According to the Constitution, women are mainly domesticated subjects under the guardianship of a male guardian/*vali-e faqih*. Furthermore, although the Constitution does not explicitly state that the people as a whole are minors and unqualified to rule over themselves, this is implied in some Articles.

In practice, post-Revolution Iran has witnessed a dual sovereignty: on the one hand, the sovereignty of the *vali-e faqih*, and on the other hand, the sovereignty of people. The opponents of popular sovereignty have persistently attempted to minimise it by all means, including manipulating elections, as in the 2009 presidential election, filtering candidates through the notorious mechanism of the *nezarat-e estesvabi*, intimidating candidates, compromising and minimising the authority of the electoral positions such as the Presidency and more recently, attempting to transform the presidential system to a parliamentary one aimed at doing away with elections altogether.

In the shadow of the concept of the *velayat*, which enjoys unbounded authority over all aspects of life, the Constitution is incapable of holding the government accountable. On the contrary, it tends to legitimise the absolute authority of the sovereign ruler. Arguably, constitutionalism, if not a collaborator of authoritarianism, seems to be a passive bystander. In this light, it would appear that the Constitution of the Islamic Republic does not legitimise political power; but rather, it is itself legitimised by an extrajudicial authority. Whereas constitutionalists pursue legal change, they often fail to pay adequate attention to the historical, sociological, and political forces that make up the context of the laws. As a result, a democratic constitution and gender equality cannot be achieved without critical examination of the underlying undemocratic historical, theological, and ideological influences as well as the intellectual foundations of the contexts from which the Constitution arises. In the case of Iran, these underlying forces and influences legitimise absolute authority by feminising the subjects, thus demonstrating that any analysis of women’s status and gender relations is an inseparable part of this contextual critical examination.