

NEW PERSPECTIVES ON IRAN: THE PATH TO PROGRESSIVE FAMILY LAW BEFORE THE ISLAMIC REVOLUTION

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A progressive Iranian women’s rights movement has slipped through the cracks of mainstream scholarship. In the 1960s, Iranian women rallied for progressive family law reforms; their efforts culminated in the Family Protection Law of 1967. This note provides an alternative view of the women’s rights movement in the Middle East and highlights how a social movement gave rise to comprehensive and progressive family law reform. Over the last century, Iran has been under authoritarian rule, first in the form of a monarchy and now in a theocracy. In spite of this, Iranian women have been steadfast in the fight for freedom. In 2022, Iranian women of all ages, faiths, and socioeconomic backgrounds have led an unprecedented uprising against their government. For the first time since 1979, there is hope for democracy in Iran. This note shines a light on the road to restoring women’s rights in Iran.

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I. INTRODUCTION

The scholarly discourse on Iran is focused on the period following the Islamic Revolution in 1979. But this lens is myopic, obscuring the centuries of Iranian history since the nation's inception nine thousand years ago. Just over fifty years ago, as a culmination of these centuries of history, Iran enacted one of the most comprehensive and progressive family law reforms in the Middle East, codified in the Family Protection Law of 1967. By examining this widely ignored legislation, this note adds to the literature on law and social movements in non-liberal states.¹

Section II will provide a historical primer on Iran, focusing on religious and political history, and the characteristics of the Pahlavi dynasty. Section III will focus on the evolution of family law in contemporary Iran. Section IV will show how the women's movement set the stage for family law reforms, highlighting the role of Iran's first female lawyer and senator in this social and legislative movement. Section V will summarize and analyze the provisions of the Family Protection Law of 1967 and underline how the law empowered women to seek divorce. Finally, Section VI addresses further reforms in family law and the status of family law in the aftermath of the Islamic Revolution of 1979.

II. SOCIO-POLITICAL HISTORY

A. Government and Politics

The Qajar dynasty ruled over Iran from the end of the eighteenth century to the beginning of the twentieth century.² The Qajar dynasty was characterized by a decentralized state, corruption, and entanglements with Western imperial powers. The legal system during this period consisted solely of Sharia courts, which prescribed and enforced Islamic law.³ Toward

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*I dedicate this note to my grandmother, Parvin Dokht Jamshidi Tajrishi Shahidi who left this world on October 30, 2021. She believed in women's empowerment through education. As a literature teacher, her wisdom, strength, and love enriched so many lives. She would have been proud to see Iranian women and girls lead a historic revolution. She was a champion for women and girls' empowerment, and herself embodied the words "woman, life, freedom." I wish she were here to experience this unprecedented hope with us.

1. Scholars have described how peoples' movements have challenged oppressive laws and even authoritarian regimes through social movements and legal mobilization. *See, e.g.,* Lynette J. Chua, *Pragmatic Resistance, Law, and Social Movements in Authoritarian States: The Case of Gay Collective Action in Singapore*, 46 *LAW & SOC'Y REV.* 713, 734 (2012); Susan S. Silbey, *After Legal Consciousness*, *ANN. REV. L. & SOC. SCI.* 323 (2005); Freek Van der Vet, "When They Come for You": *Legal Mobilization in New Authoritarian Russia*, 52 *LAW & SOC'Y REV.* 301 (2018).

2. *See* Parvin Paidar, *Women and the Political Process in Twentieth-Century Iran* 38 (1997).

3. *See* Nobuaki Kondo, *Islamic Law and Society in Iran: A Social History of Qajar Tehran* (2017).

the end of the nineteenth century, anti-Qajar sentiments gained traction due to the regime's increased reliance on the West.⁴ These shifting political winds manifested in the Constitutional Revolution of 1906, which culminated in the signing of Iran's first Constitution.

Iranian revolutionaries sought limits on royal power, a constitution, and legislative representation.⁵ The revolution was deeply influenced by religious leaders, particularly Shi'a Muslim clergy. Shi'a clergy had deep institutional and political power and ensured that the new Constitution included both religious and secular law.⁶ The Constitution was also heavily influenced by the Belgian civil legal system.⁷ In 1907, courts covering civil litigation, financial claims, property disputes, commercial claims, and appeals were established.⁸ Despite these influences, the Constitution was not a carbon copy of Western legal mechanisms. The most significant departure from Western civil law is Article 27 of the Supplementary Fundamental Law, which divides the judiciary into civil and religious courts – Shari'a courts.⁹ Article 27 grants Shari'a courts exclusive jurisdictions in matters concerning "the sacred," which refers to family matters.¹⁰ Shari'a courts have no other roles. They are not state employees, but rather employees of the clergy – meaning they are not subject to state regulation.

In 1925, the legislative assembly, the *Majles*, introduced a bill to depose the Qajar dynasty and crown Reza Khan, a former Prime Minister of the Qajar era, as Shah (king).¹¹ His military experience made him very popular among the *Majles*, but the clergy feared that he sought to create a secular republic mirroring the newly formed Turkish Republic.¹² In 1926, Reza Shah Pahlavi ascended to the throne, and the Pahlavi dynasty was born.¹³ Reza Shah began a campaign of nation-building, focused on redefining the state as the most powerful institution in the country.¹⁴ The state took on ambitious modernization reforms, most notably the judiciary, which historically was

4. *Id.* at 50.

5. RAMIN JAHANBEGLOO, *DEMOCRACY IN IRAN* 40 (2013).

6. HADI ENAYAT, *LAW, STATE, AND SOCIETY IN MODERN IRAN: CONSTITUTIONALISM, AUTOCRACY, AND LEGAL REFORM, 1906-1941*, at 62 (2013).

7. *Id.* at 64.

8. *Id.* at 69.

9. *Id.* at 64.

10. *Id.*

11. *Id.*

12. *Id.*

13. Shireen Mahdavi, *Reza Shah Pahlavi and Women*, in *THE MAKING OF MODERN IRAN: STATE AND SOCIETY UNDER RIZA SHAH, 1921-1941*, 180, 183 (Stephanie Cronin ed., 2003).

14. PAIDAR, *supra* note 2, at 81.

under the influence of the clergy.¹⁵ In February 1927, the Ministry of Justice abruptly dissolved the central state judiciary for two months to undergo secularization and modernization.¹⁶ Reza Shah viewed the political influence of the Shi'a clergy as an obstacle to modernization.¹⁷ For the first time, Shari'a court judges would be state employees, subject to state regulations.¹⁸ The jurisdiction of these courts remained limited to family law.¹⁹ The Pahlavi state also initiated the drafting of Iran's first civil code. Despite the regime's successes in de-clericalization, the Shi'a clergy's political influence was still too strong to enact a completely secular civil code. Instead, the code was a combination of Shi'a Sharia law, and European codes such as the Napoleonic, Belgian, and Swiss codes. This is a quintessential example of Reza Shah's modernization approach, and a parallel to the Constitutional Revolution: balancing goals of secularism with political restraints from the clergy.²⁰

B. History of the Iranian Women's Rights Movement

Islam is not endemic to Iran but was only introduced after the Arab invasion in the seventh century.²¹ During the Arab conquest, conquerors attempted to drive out the Persian language and culture. Persians resisted their conquerors' attempts to impose Arabic and Islam. But over the course of a few centuries, Shi'a Islam became the dominant religion in Iran by the ninth century. Beginning in the Middle Ages, Shi'a law governed the country until the twentieth century.²² However, Persian culture and language have endured.²³ With the Arab conquest and the establishment of Shi'a jurisprudence, the role of women in the family dramatically shifted. Girls married as young as ten. Men took 'temporary wives' – a legal loophole for prostitution and sexual enslavement.²⁴

15. ENAYAT, *supra* note 6, at 122.

16. *Id.* at 121–22.

17. Nadjma Yassari, *Iranian Family Law in Theory and Practice*, 9 Y.B. OF ISLAMIC AND MIDDLE E. L. ONLINE 43, 44 (2002).

18. ENAYAT, *supra* note 6, at 122.

19. *Id.*

20. Sen McGlenn, *Family Law in Iran*, 16 (2001), https://bahai-library.com/mcglenn_family_law_iran.

21. Delaram Farzaneh, *One Step Forward, Two Steps Back: A Brief History of Legal Discriminations Against Women in Iran and the Violations of International Human Rights*, 20 ANN. SURV. INT'L & COMPAR. L. 201, 206 (2014).

22. DELARAM FARZANEH, *JUDGESHIP IN IRAN: STEP DOWN, YOU ARE A WOMAN: A LEGAL ANALYSIS OF INTERNATIONAL HUMAN RIGHTS: A HISTORY OF WOMEN'S RIGHTS IN IRAN AND WOMEN JUDGES IN THE UNITED STATES* 21 (2017).

23. RICHARD N. FRYE, *THE GOLDEN AGE OF PERSIA: THE ARABS IN THE EAST* 1–6 (1975).

24. *Id.* at 21–22. See generally Fariba Parsa, *Temporary Marriage in Iran and Women's Rights*,

Women's participation in society and politics shifted during the Constitutional Revolution, which marked the beginning of a new era for women's rights. Women acted as political organizers, protestors, and disruptors in the midst of the Revolution.²⁵ It "legitimized the integration of women and men in the society, established the necessity of women's education, raised issues such as family and veiling as a public and national concern, and created the opportunity for women to organize and establish a women's movement with the long-term aim of women's emancipation."²⁶ The first women's weekly newspaper, *Danesh* (Knowledge), was published in 1910.²⁷ In 1913, the political and nationalist newspaper *Shokoufeh* (Blossom) was established by Maryam Amid Mozayen ol-Saltaneh, who would go on to found the Iranian Women's Society.²⁸ Women's newspapers and organizations were established and flourished from 1917 to 1927.²⁹ Women wrote articles challenging the absence of women's rights, and provocative newspapers called for gender equality.³⁰ Women's organizations were established to organize for gender equality and access to education.³¹ In particular, education activists called out against the early age of marriage for girls and named the issue of child marriage as an obstacle to education.³²

Reza Shah's ascent to the throne was a catalyst for women's advancement.³³ Women's advancement was a cornerstone of his campaign to create a strong central state, and "struck a blow at the idea placing women in the realm of the 'private' which was prevalent in the nineteenth century."³⁴ In 1932, Reza Shah implemented reforms targeting primary education and centralized training for female teachers and midwives.³⁵ A turning point for women came after Reza Shah's 1934 visit to the newly secularized Turkey.³⁶ He observed that women were active in the workforce and veiling was banned.³⁷ Women had been granted new legal rights, including suffrage and

MIDDLE E. INST. (Jan. 13, 2021), <https://www.mei.edu/publications/temporary-marriage-iran-and-womens-rights> (explaining the practice and textual basis of temporary marriage).

25. See PAIDAR, *supra* note 2, at 52–76.

26. *Id.* at 76.

27. *Id.* at 92.

28. *Id.* at 92–93.

29. *Id.*

30. See *id.* at 55, 63–64.

31. *Id.*

32. *Id.* at 75.

33. *Id.* at 9.

34. *Id.* at 83.

35. See Mahdavi, *supra* note 13, at 193; Jasamin Rostam-Kolayi, *Expanding Agendas for the 'New Iranian Woman'*, in *THE MAKING OF MODERN IRAN* 164, 171 (Stephanie Cronin ed., 2003).

36. PAIDAR, *supra* note 2, at 81.

37. *Id.* at 104.

divorce.³⁸

Upon his return to Iran, Reza Shah called for the mandatory unveiling of women.³⁹ To that end, he set up a state-run Women's Center.⁴⁰ The Center worked with civil society groups such as the Iranian Women's League, the Women's Party, and the Women's Organization of Iran on issues pertaining to women's advancement such as unveiling, education, integration, and family law reforms.⁴¹ These civil society groups advocated for reforms in suffrage and family law and investigated the conditions of women in prisons with the Ministry of Justice.⁴² In 1935, women were admitted to Tehran University for the first time.⁴³

Building upon the successes of newspapers Danesh and Shokoufeh, the journal *Women's World* became a prominent publication that was widely circulated, including in the royal palace.⁴⁴ While an enthusiastic and optimistic supporter of Reza Shah's reforms, *Women's World* also called for more expansive legal reforms to address child marriage, temporary marriage, polygamy, venereal disease, and women's status in the family.⁴⁵ Radical women's magazines and organizations further proliferated from the 1940s to the 1960s.⁴⁶

The 1960s were pivotal years in the Iranian women's movement. The Women's Organization of Iran took on a unifying role and enjoyed state support under the leadership of Princess Ashraf Pahlavi, Reza Shah's daughter and the twin sister of future king Mohammad Reza.⁴⁷ However, women still faced enormous political obstacles. The Prime Minister called women's suffrage advocates "selfish" and lamented that they should devote themselves to charity instead of demanding the right to vote.⁴⁸ Nevertheless, women persisted, and they organized for the right to vote. In a national referendum, an organized movement of women went to the polls and cast ballots illegally. Their votes were not counted, but the momentum led to the legalization of women's suffrage in 1963, and the omission of the word

38. *Id.*

39. Mahdavi, *supra* note 13, at 194.

40. PAIDAR, *supra* note 2, at 105.

41. *See id.* at 91–154.

42. *Id.* at 126–27.

43. FARZANEH, *supra* note 22, at 34.

44. *See* Rostam-Kolayi, *supra* note 35, at 169.

45. *Id.* at 164.

46. PAIDAR, *supra* note 2, at 126.

47. FIROOZEH KASHANI-SABET, *CONCEIVING CITIZENS: WOMEN AND THE POLITICS OF MOTHERHOOD IN IRAN* 181 (2011).

48. VLADIMIR MINORSKY, *IRAN AND ISLAM: IN MEMORY OF THE LATE VLADIMIR MINORSKY* 53 (Clifford Edmund Bosworth ed., 1971).

'men' from the national Election Law.⁴⁹ In the following election, six women were elected to the Constituent Assembly. The next Shah, Mohammad Reza Shah, appointed two female Senators, including Senator Mehrangiz Manouchehrian, who would go on to be a key player in progressive family law reform.⁵⁰ The first female cabinet member was appointed in 1965.⁵¹ In 1967, the Constitution was amended to allow the Queen to exercise regency.⁵² In the following year, the last public position that was not open for women, the judiciary, opened its chambers.⁵³

III. FAMILY LAW UNDER REZA SHAH

After examining the political and social environment in Iran, we can better understand the landscape of family law in Iran, and why reforms were vital to achieving gender equality. Until the twentieth century, the judiciary was dominated by the clergy. Despite Reza Shah's expansive reforms for women, family law remained greatly ignored until the late 1960s.

Reza Shah's efforts to secularize the judiciary did not extend to family law.⁵⁴ This was out of step with Reza Shah's philosophy, as he generally viewed religion as an obstacle to social advancement. One could argue that giving a religious court jurisdiction of family law is particularly problematic, as it likely seeks to enforce patriarchal norms through its rulings. Due to the lack of study of this issue, historians have been unable to reconcile Reza Shah's commitment to gender equality with this decision. Some argue that he feared the political influence of the clergy and did not want to polarize them too much.⁵⁵ On the other hand, Reza Shah's flagrant disregard for the political will of the clergy concerning matters such as unveiling and women's education calls this argument into question. A more persuasive analysis of this tension in the Pahlavi quest for women's advancement is that Reza Shah "faced consensus in preserving the fundamental aspects of the patriarchy rather than its overthrow."⁵⁶ Where unveiling did not fundamentally challenge patriarchy, secularizing family law would have.

Family law was codified between 1928 and 1935 and mirrored religious

49. *See id.* at 180; FARZANEH, *supra* note 22, at 36–37.

50. KASHANI-SABET, *supra* note 47, at 180.

51. MINORSKY, *supra* note 48, at 54.

52. PAIDAR, *supra* note 2, at 158.

53. *Id.*

54. ZIBA MIR-HOSSEINI, MARRIAGE ON TRIAL: A STUDY OF ISLAMIC FAMILY LAW: IRAN AND MOROCCO COMPARED 23 (I.B. Tauris Pub., 2d ed. 2000).

55. *See* PAIDAR, *supra* note 2, at 113.

56. *Id.*

law⁵⁷ more than Western influences observed elsewhere in Iranian law.⁵⁸ It reflected Islamic family values, particularly with respect to promoting traditional gender roles.⁵⁹ In the first Civil Code, passed in 1928, 100 out of 1335 articles pertained to family law.⁶⁰ In 1931, the Majles passed the Marriage Act, and then the Law for the Production of a Medical Certificate in 1938.⁶¹ The Marriage Act instituted compulsory registration of all marriages, divorces, and deaths by a public notary, and imposed fines for noncompliance.⁶² Before the Marriage Act, the clergy would perform marriage ceremonies without state control or supervision.⁶³ The absence of compulsory marriage registration made all other family disputes difficult to litigate and resolve.⁶⁴ Compulsory registration addressed evidentiary concerns in litigation. It enabled “women to take men to court for wrongdoing and assert their rights and men’s obligations.”⁶⁵ The Law for the Production of a Medical Certificate was motivated by concerns about the spread of venereal disease.⁶⁶ It enabled couples to request medical certificates from their prospective spouse.⁶⁷ The law imposed a binding obligation to produce certificates for couples under the minimum age for marriage.⁶⁸ Girls under thirteen were barred from marriage, and girls under fifteen needed consent of the court to get married.⁶⁹ Men had to be eighteen to be able to legally marry.⁷⁰ The Civil Code also gave a wife the right to decline to have intercourse with her husband if he had a venereal disease.⁷¹ However, she could not cite her husband’s condition as grounds for

57. MIR-HOSSEINI, *supra* note 54, at 23–24.

58. See ENAYAT, *supra* note 6 at 127–38. The author discusses how the 1928 codification of property and contract principles are more of a fusion between Islamic and European law. This was not only due to secularization goals, but also as part of Reza Shah’s economic modernization goals. By drafting more Western-style property and contract laws, the law would be “more compatible with the principles of a modern capitalist society.” Nonetheless, the code promoted gender inequality with regards to property matters such as inheritance.

59. Yassari, *supra* note 17, at 45.

60. Rostam-Kolayi, *supra* note 35, at 161.

61. *Id.*

62. MIR-HOSSEINI, *supra* note 54, at 111.

63. Yassari, *supra* note 17, at 44.

64. ENAYAT, *supra* note 6, at 129.

65. Rostam-Kolayi, *supra* note 35, at 170.

66. Recall that the Family Protection Act allowed engaged couples to request proof of a clean bill of health, but such protections were not extended to married couples.

67. KASHANI-SABET, *supra* note 47, at 68.

68. *Id.*

69. MIR-HOSSEINI, *supra* note 54, at 24.

70. Rostam-Kolayi, *supra* note 35, at 161.

71. *Id.*

divorce.⁷²

In a setback for women's advocates, the Civil Code neither condoned nor condemned the practice of polygamy.⁷³ It granted the husband the right to temporary marriage, which could last from hours to years.⁷⁴ Women's advocates had argued that addressing polygamy was essential to combat venereal disease. Advocacy strategies aside, the relationship between polygamy and the spread of venereal disease was probably tenuous: in 1911, only two percent of the population was estimated to engage in polygamy.⁷⁵ That being said, a decline in polygamy and temporary marriages was observed after the law was brought into force.⁷⁶ For instance, in 1964 there were 74,000 estimated 'co-wives' in Iran.⁷⁷ Despite the fact the Civil Code did not outlaw polygamy, Reza Shah considered monogamy to be another means of achieving modernization.⁷⁸ Monogamy was also more advantageous to the throne, as polygamous marriage (which was rampant in the Qajar dynasty) created disputes over succession.⁷⁹ To that end, the wedding of his son and heir to the throne, Mohammad Reza Pahlavi (who would become King in the 1940s) was designed as a major cultural and societal event.⁸⁰ It was every bit the spectacle one would expect from a modern royal wedding and had enormous symbolic value: a new era of marriage.

Under the new law, both spouses had to consent to marriage.⁸¹ However, a woman also needed to obtain permission from a male family member for her first marriage.⁸² Men had an unqualified right to divorce.⁸³ As codified, "a man can repudiate his wife, whenever he wants,"⁸⁴ but women were only given four grounds for divorce: "the husband's failure to provide maintenance; his insanity; his impotence; and his mistreatment of the wife."⁸⁵ Women were not just vulnerable on this ground regarding

72. *Id.*

73. *Id.*

74. *Id.*

75. KASHANI-SABET, *supra* note 47, at 57.

76. PAIDAR, *supra* note 2, at 87.

77. MINORSKY, *supra* note 48, at 55.

78. *See* KASHANI-SABET, *supra* note 47, at 70.

79. *Id.* at 71.

80. *Id.*

81. Rostam-Kolayi, *supra* note 35, at 161.

82. *Id.*

83. ENAYAT, *supra* note 6, at 138.

84. MIR-HOSSEINI, *supra* note 54, at 47.

85. Rostam-Kolayi, *supra* note 35, at 168. The author lists a wife's grounds for divorce. The code also named the husband as the head of the household and assigned the husband responsibility for his wife's maintenance.

divorce, as a husband had no legal obligation to even inform his wife of divorce.⁸⁶ The Civil Code also reflected Islamic conceptions of child custody and welfare.⁸⁷ The civil code entrusted the father with *welajat* – the financial and legal care of a child.⁸⁸ But physical custody, *neghadari*, was more complicated. The mother was essentially only granted custody for the period in which she was needed: the mother had custody of her son until he was two years old and had custody of her daughter until she was seven years old.⁸⁹ Custody then returned to the father. The gender disparity also applied to inheritance: by law, sons were given greater inheritances than daughters.⁹⁰

The reforms undertaken by Reza Shah and the Majles brought a shift in Iranian attitudes toward marriage. Although progress was incomplete, major milestones were reached. State control over marriage and codified legal rights granted women some greater autonomy than they previously enjoyed.⁹¹

IV. THE FAMILY LAW MOVEMENT AND LEGISLATIVE HISTORY

Women's advocacy groups and Senator Mehrangiz Manouchehrian were instrumental in the passage of the Family Protection Law.⁹² Manouchehrian was Iran's first female lawyer and senator. She broke glass ceilings for Iranian women in education, the legal field, and the marital realm.⁹³ She won the inaugural United Nations Prize in the Field of Human Rights in recognition of her advocacy for women, the same year that First Lady Eleanor Roosevelt posthumously received the same honor.⁹⁴ Manouchehrian attempted to enroll in university in 1934.⁹⁵ When she was denied entry based on her gender, she wrote to Reza Shah. She asked for funding to attend university somewhere where men and women are considered equal, as she could not advance in Iran.⁹⁶ The University of Tehran made an exception for her to enter the male-only class.⁹⁷ After

86. *Id.*

87. See Ali Raza Naqvi, *The Family Protection Act of Iran*, 6 ISLAMIC STUD. 241, 248 (1967).

88. *Id.*

89. *Id.*

90. ENAYAT, *supra* note 6, at 138.

91. KASHANI-SABET, *supra* note 47, at 72.

92. See MINORSKY, *supra* note 48, at 47.

93. See generally NÜSHİN AĦMADĪ KHURĀSĀNĪ & PARVĪN ARDALĀN, SINĀTÜR: FA'ĀLĪYAT'HĀ-YI MIHRANGĪZ MANŪCHĪHRIYĀN BAR BĪSTAR-I MUBĀRAZĀT-I HUQŪQĪ-I ZANĀN DAR ĪRĀN (Chāp-i 1 ed. 2003). (Biography of Senator Mehrangiz Manouchehrian).

94. *Id.* at 163–66.

95. *Id.* at 54.

96. *Id.*

97. See also *supra* text accompanying note 43, stating women were only granted entry to the

studying philosophy, sociology, and education at the undergraduate level, she set her sights on law school. However, at the time in Iran, the only areas of graduate study open to women were medicine, literature, and the sciences.⁹⁸ She began a five-year-long battle to attend law school and ultimately decided to sue the law school at the University of Tehran.⁹⁹ The day before her case was scheduled to be heard, she scheduled a meeting with the head of the law school to give him a final chance. The school decided to admit her rather than go to court, and in 1945 she was the first woman in Iran to enter law school.¹⁰⁰ After law school, she worked in children's law at the Ministry of Justice, served as head of the Association of Women's Lawyers, and worked in the United Nations office in Tehran advocating for women and children's rights.¹⁰¹

She wrote a book on changing misogynistic laws in Iranian family law, advocating for increased property rights and procedural divorce rights for women.¹⁰² No publisher would accept the book. When she self-published the book, the government stopped the book's distribution.¹⁰³ Eventually, the Association of Women's Lawyers reprinted it, and it would go on to become the basis of family law reforms in Iran.¹⁰⁴

After her appointment to the Senate, Manouchehrian advocated for reforms to family law, eventually leading to her temporary exile. She wanted to introduce legislation providing new grounds for women seeking divorce: infidelity, mental illness, irreconcilable differences, venereal disease, infertility, and abandonment.¹⁰⁵ Although she also sought a ban on polygamy, she knew this was not politically feasible, and instead advocated for a reform that to take a second wife, a husband must have the consent of his first wife.¹⁰⁶ The Minister of Justice opposed her positions, and she was temporarily exiled in 1964 for calling him a "puppet of the clergy."¹⁰⁷

Upon her return from exile, her advocacy work continued through a massive, organized media campaign. The first draft of the Family Protection

University of Tehran in 1935. There has not been enough historical research to determine whether Manouchehrian was a factor in this change, but the involvement of the Shah in her education would suggest it was influential at the least.

98. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 54.

99. *Id.* at 79–80.

100. *Id.*

101. *Id.* at 136–41.

102. KASHANI-SABET, *supra* note 47, at 241.

103. *Id.* at 238.

104. *Id.* at 240.

105. *Id.* at 247.

106. *Id.* at 245.

107. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 254–57.

Act was published in magazines over six weeks, portraying the law as a way to achieve equality between the sexes.¹⁰⁸ Despite public support for the draft, Manouchehrian did not have enough votes to bring it to the Senate floor.¹⁰⁹ The Minister of Justice stated that the government would not change the law due to opposition from the clergy.¹¹⁰

The poems of Forough Farrokhzad, a national icon and feminist, became a rallying cry in this public campaign for women's rights in the family.¹¹¹ Her poems *The Captive*, *The Wedding Band*, *Call to Arms*, and *To My Sister* touch on the conditions of married women.¹¹² In the poem *To My Sister*, Farrokhzad writes:

Sister, rise up after your freedom,
 why are you so quiet?
 Rise up because henceforth
 you have to imbibe the blood of tyrannical men.
 Seek your rights, Sister,
 from those who keep you weak,
 from those whose myriad tricks and schemes
 keep you seated in a corner of the house
 . . .
 Rise up and uproot the roots of oppression.
 give comfort to your bleeding heart.
 for the sake of your freedom, strive
 to change the law, rise up.¹¹³

The media campaign to mobilize support for family reform came to a head in a public dispute between the women's movement and the clergy.¹¹⁴ The clergy publicly denounced suggestions that a first wife must grant her husband permission to take another wife.¹¹⁵ However, they were relieved that advocates were not pushing for legislation on abortion or contraception.¹¹⁶ Despite the clergy's opposition, public support for family law reform had reached a tipping point.¹¹⁷ Thus, unlike Reza Shah's reforms to the Civil Code, which anticipated and shaped public opinion, family law reforms were driven by public opinion.¹¹⁸ The new Shah, Mohammad Reza Shah, sought

108. *Id.* at 254.

109. *Id.* at 256.

110. *Id.*

111. MINORSKY, *supra* note 48, at 52.

112. MICHAEL CRAIG HILLMANN, IRANIAN CULTURE: A PERSIANIST VIEW 149 (1990).

113. FURŪGH FARRUKHZĀD, CAPTIVE = ASĪR (Farzaneh Milani trans., 2018).

114. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 263.

115. *Id.* at 277.

116. *Id.* at 281.

117. MINORSKY, *supra* note 48, at 47.

118. *Id.*

to continue his father's modernization movement, and his regime was able to lower the clergy's opposition by promising that the bill would minimize conflict with Islamic principles.¹¹⁹ His regime argued that reforming family law was not an effort to walk away from Islam, but rather to strengthen legal institutions as a means of modernization.¹²⁰ In March of 1967, the Family Protection Act was presented to the Senate.¹²¹ It was approved by the Senate two months later and signed into law in June of 1967.¹²²

V. THE FAMILY PROTECTION LAW OF 1967

Reza Shah's reforms, the growing women's movement, and Senator Manouchehrian's advocacy laid the groundwork for comprehensive family law reforms, which were codified in the Family Protection Law of 1967 (the "FPL"). While the FPL did not explicitly repeal any articles of the Civil Code, the Ministry of Justice announced that it would prevail in any conflict with the Civil Code.¹²³ The FPL finally brought adjudication of family law matters under state control and sought to secularize them as much as possible.¹²⁴ In an unprecedented turn since the Arab invasions, any issue regarding marriage, divorce, and child custody would go through a non-Sharia court.¹²⁵ Now, these matters would be adjudicated through Family Protection Courts.¹²⁶ The FPL gave the Ministry of Justice one month to create rules for implementing the law once it entered into force.¹²⁷ This section will highlight the key provisions of the 24 articles in the 1967 Family Protection Act: the codification of Family Protection Court procedure, reforms in spousal and child maintenance, expansion of a woman's right to divorce, restrictions on polygamy, the husband's right to bar his wife from working, and the substance of marriage contracts.

A. Procedural Laws

Articles 1–8, 17–18, 20, and 22 described court procedure and jurisdiction.¹²⁸ Under Article 1, parties file their complaint and request for a Certificate of Irreconcilability in a municipal court.¹²⁹ If the municipal court

119. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 274. *See also* MINORSKY, *supra* note 48, at 47.

120. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 304.

121. *Id.* at 274.

122. *Id.* at 275–77.

123. MINORSKY, *supra* note 48, at 57.

124. PAIDAR, *supra* note 2, at 156.

125. KASHANI-SABET, *supra* note 47, at 275.

126. MIR-HOSSEINI, *supra* note 54, at 24.

127. MINORSKY, *supra* note 48, at 63.

128. *See id.* at 59–63.

129. Interview with Anonymous Former Iranian Judiciary Official, in Durham, North Carolina

found that the matter fell under the jurisdiction of the Family Protection Court as described in Article 2, it would transfer the case.¹³⁰ This streamlined the procedure that had been prescribed in the Civil Code.¹³¹ Similar to other civil law systems where the judge is the fact finder, Article 3 gave the court power to investigate.¹³² This could entail bringing in expert assessors and social workers to testify.¹³³ If the evidentiary record was incomplete, the judge could compel evidence or testimony: for example, if one party alleged that their spouse was a drug addict but did not have proof, the judge had the authority to order a drug test.¹³⁴ Parties were allowed to enter witnesses, documents, and other materials into evidence.¹³⁵ Article 4 established the right to legal aid for indigent parties.¹³⁶ However, parties did not need an attorney to adjudicate a dispute.¹³⁷ Article 6 granted parties the right to appeal certain disputes, except for a judge's finding of credibility.¹³⁸ Article 7 assigned the judge the responsibility of attempting to reconcile the parties.¹³⁹ If the parties were unable to reconcile, the court entered judgment and the parties had ten days to appeal before the decision was binding.¹⁴⁰ The judgment on any appeal was final.¹⁴¹ Article 17 also addressed the finality of judgments.¹⁴² Not only was the court's judgment final once a certificate of divorce has been issued, but so were determinations of alimony, visitation, and permission to engage in polygamy.¹⁴³ These Articles will be evaluated in the subsequent subsections.¹⁴⁴

Article 20 gave parties the right to seek an injunction on urgent issues, such as child custody, before the dispute has been fully resolved.¹⁴⁵ Article

(September 23, 2021).

130. MINORSKY, *supra* note 48, at 59. The author describes the jurisdiction of the Family Protection Courts as any dispute arising between wives, husbands, children, paternal grandfathers, executors of estates, and guardians. The dispute in question must pertain to "rights and duties laid down in Books VII (Marriage and Divorce), VIII (Children), IX (the Family), and X (Legal Incapacity and Guardianship) of the Civil Code."

131. *Id.* at 58–59.

132. *Id.* at 60.

133. *Id.*

134. Anonymous Former Iranian Judiciary Official, *supra* note 129.

135. *Id.*

136. MINORSKY, *supra* note 48, at 60.

137. Anonymous Former Iranian Judiciary Official, *supra* note 129.

138. MINORSKY, *supra* note 48, at 60.

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.* at 63.

143. *Id.*

144. *See infra* sections B–E.

145. *Id.*

22 forbade spectators from attending proceedings so that the parties to the proceedings would not be influenced by outsiders seeking to intimidate them.¹⁴⁶ Article 8 described the procedure of executing a divorce.¹⁴⁷ A court entered judgment by granting a Certificate of Irreconcilability to the requesting party.¹⁴⁸ Under Article 21, a certificate must be taken to a divorce notary within three months to finalize the divorce.¹⁴⁹ The provision was designed to allow parties to reconsider their divorce before it was finalized.¹⁵⁰ In traditional Shi'a law, a husband could unilaterally repudiate his wife anytime during the *'idda*, a period comprising of either the first three menstrual cycles of a non-pregnant woman after marriage or until a pregnant woman gives birth.¹⁵¹ The provision, therefore, attempts to reconcile the influence of Shi'a jurisprudence with modern divorce law, and provide both husband and wife with procedural rights to initiate divorce.¹⁵²

B. Spousal and Child Maintenance

Articles 9, 13, and 14 addressed spousal and child maintenance.¹⁵³ These reforms were heavily influenced by new scholarship on child psychology and welfare, which was in tension with previous practices in child custody.¹⁵⁴ Article 9 mandated that if arrangements related to child maintenance and custody broke down after the divorce, the child's parents, other relatives, or even the public Prosecutor could bring the matter to the attention of the Family Protection Court to find a new arrangement.¹⁵⁵ Article 14 reiterated that childcare arrangements could be rearranged if a parent, relative, or Public Prosecutor files for reconsideration.¹⁵⁶ Under Article 13, the court must decide on issues of custody and child maintenance before issuing a Certificate of Irreconcilability.¹⁵⁷ The Article stipulated that husbands are required to provide spousal maintenance and that both parents are eligible to pay child maintenance.¹⁵⁸ This showed a shift in Iran's

146. *Id.*

147. *Id.* at 60.

148. *Id.*

149. Doreen Hinchcliffe, *The Iranian Family Protection Act*, 17 INT'L & COMPAR. L.Q. 516, 520 (1968).

150. *Id.*

151. *Id.*

152. *See id.*

153. MINORSKY, *supra* note 48, at 58.

154. PAIDAR, *supra* note 2, at 158.

155. MINORSKY, *supra* note 48, at 61.

156. *Id.* at 62.

157. *Id.*

158. *Id.*

perceptions of women's participation in society, brought on by the women's movement and Reza Shah's modernization efforts. The FPL acknowledged women as income earners equally capable of taking care of their children.¹⁵⁹

C. Expansion of Women's Right to Divorce

Articles 10 through 12 expanded women's rights in family law. Article 10 invoked Article 4 of the Marriage Law of 1931, which allowed wives the right to initiate divorce, compared to before the FPL when husbands had the unilateral right to initiate divorce. If a husband and wife previously stipulated enumerated grounds for divorce in their marriage contract, a wife could initiate divorce on those grounds.¹⁶⁰ Article 10 of the FPL recognized this practice and authorized a wife to seek a Certificate of Irreconcilability if she was filing for divorce under the aforementioned procedure.¹⁶¹ Article 11 significantly expanded a woman's right to divorce, which previously was limited to only four circumstances.¹⁶² Article 11 added the following special circumstances: imprisonment for over five years, affliction with a pernicious habit, a husband taking another companion without his wife's consent, and abandonment of the family.¹⁶³ Article 12 granted either spouse the right to divorce if their spouse is convicted of a crime that detracts from the family's respectability.¹⁶⁴ However, the determination of "respectability" was to be made by the court.¹⁶⁵ Senator Manouchehrian's influence on this law is evident, even though its scope is not as ambitious as her draft.

D. Polygamy and Employment

Despite the many provisions of the FPL that advanced the women's cause and gender equality, several provisions continued to hold women back, namely Articles 15 and 16 which set limits on polygamy that were superficial in practice. Article 15 set limits on polygamy.¹⁶⁶ A husband seeking to marry a second wife must obtain permission from the Court.¹⁶⁷ The Court's permission was contingent on the man's financial ability to provide for his

159. PAIDAR, *supra* note 2, at 158.

160. MIR-HOSSEINI, *supra* note 54, at 55.

161. MINORSKY, *supra* note 48, at 61.

162. Rostam-Kolayi, *supra* note 35, at 168. The author lists a wife's grounds for divorce: "the husband's failure to provide maintenance; his insanity; his impotence; and his mistreatment of the wife." The code also named the husband as the head of the household and assigned the husband responsibility for his wife's maintenance.

163. MINORSKY, *supra* note 48, at 61.

164. *Id.*

165. *Id.* at 61–62.

166. *Id.* at 62.

167. *Id.*

wives and family.¹⁶⁸ If the first wife disagreed with the Court's assessment in granting her husband the right to marry another woman, she could file for divorce on these grounds.¹⁶⁹ A man who contravened the Court's decision and married a second wife would be subject to prosecution¹⁷⁰ and imprisonment for up to two years.¹⁷¹ While some scholars have argued that the Family Protection Law "virtually prevent[ed] polygamy,"¹⁷² a more honest evaluation argues that there were no restrictions if one could pay the price to engage in polygamy. That being said, polygamy was no longer an overwhelming practice among the population.¹⁷³ Therefore, it may not have been politically wise for the legislature to risk ruffling the clergy's feathers over a matter lacking statistical significance.¹⁷⁴

Article 16 similarly restricted women's rights in the family realm by allowing a husband to seek a Court to bar his wife from "engaging in any sort of employment which will be incompatible with the family's best interests or his own or the wife's respectability."¹⁷⁵ This provision was not unprecedented; the Civil Code gave the husband an absolute right to bar his wife from working.¹⁷⁶ The burden of proof was placed on the wife to show that her employment was not incompatible with the family's respectability.¹⁷⁷ While the FPL did not do away with this misogynistic provision, it did shift the burden of proof to the husband to show that his wife's work is incompatible with the family's interests and reputation.¹⁷⁸ The quantitative impact of shifting the burden of proof is not known at this time.

E. Marriage Contracts

The final relevant provision of the FPL was Article 19, which amended

168. *Id.*

169. PAIDAR, *supra* note 2, at 155.

170. MINORSKY, *supra* note 48, at 63.

171. *Id.* at 63–64 n.12. The author explains that under Article 5 of the Marriage Law of 1931 and 1937, a penalty ranging from six months to two years imprisonment would be imposed on a spouse who committed marriage fraud, did not comply with state registration regulations, or married a spouse below the minimum age.

172. *Id.* at 47.

173. *Id.* at 55. The author explains that in 1964 there were only 74,000 estimated total 'co-wives' in Iran. *See also* KASHANI-SABET, *supra* note 47, at 57. Further, in 1911, only two percent of the population were estimated to engage in polygamy. *See also* PAIDAR, *supra* note 2, at 87. The author explains that a decline of polygamy and temporary marriages was observed after the Marriage Law of 1931 was brought into force.

174. *See* PAIDAR, *supra* note 2, at 156.

175. MINORSKY, *supra* note 48, at 63.

176. Hinchcliffe, *supra* note 149, at 521.

177. *Id.*

178. *Id.*

the substance of marriage contracts.¹⁷⁹ In effect, the substance of Articles 11, 12, 15, and 18 was incorporated *ex ante* into marriage contracts, essentially stipulating all the scenarios in which a wife could request a divorce.¹⁸⁰ This was done so that the FPL would follow Shari'a law.¹⁸¹ In Shari'a law, divorce is the exclusive right of the husband, and he may grant his wife certain grounds to divorce *ex ante*.¹⁸² Therefore, the reforms of the FPL "were given an Islamic appearance," while advancing women's rights in the marital realm.¹⁸³ The FPL did not touch on discriminatory inheritance practices, most likely because such reforms could not be reconciled with Islamic principles.¹⁸⁴ It also did not address whether a husband must repay his wife's dowry in the case of divorce.¹⁸⁵

VI. THE IMPACT OF THE LAW

The Family Protection Law was viewed as one of the most progressive reforms of family law in the Middle East¹⁸⁶ and "put Iran into the forefront of the movement for law reform in the [Middle East]."¹⁸⁷ The law emboldened women to seek attention from Family Protection Courts, whereas previously their requests were often overlooked by the judiciary.¹⁸⁸ Its most significant and unprecedented reform was limiting a husband's arbitrary and unilateral right to divorce, while also expanding women's rights to seek divorce.¹⁸⁹

There was no immediate significant opposition to the FPL.¹⁹⁰ A spike in divorces before its official enforcement was observed "as husbands made haste to repudiate unwanted wives while they could still do so under the old law."¹⁹¹ In response, the government closed divorce registries shortly before the law took effect to prevent husbands from bypassing their legal

179. MINORSKY, *supra* note 48, at 63.

180. *Id.* (recalling that Articles 11 and 12 expanded grounds for divorce, Article 15 set limits on polygamy and established that divorces that comply with the Family Protection Law are irrevocable).

181. MIR-HOSSEINI, *supra* note 54, at 55.

182. *Id.*

183. *Id.*

184. MINORSKY, *supra* note 48, at 55. The author discuss the religious and discriminatory approach to inheritance: "A widow who was the only wife receives one eighth of the estate, or one-quarter if childless (Civil Code art. 913, 927, 938); co-wives receive proportionally less."

185. Naqvi, *supra* note 87, at 243.

186. MIR-HOSSEINI, *supra* note 54, at 24.

187. Hinchcliffe, *supra* note 149, at 517.

188. Behnaz Pakizegi, *Legal and Social Positions of Iranian Women*, in *WOMEN IN THE MUSLIM WORLD* 216, 221 (Lois Beck & Nikki Keddie eds., 1978).

189. *Id.*

190. MINORSKY, *supra* note 48, at 47.

191. *Id.*

obligations as laid out in the Family Protection Law.¹⁹²

The scholarship is unclear as to the statistical impact of the FPL on divorce. According to one estimate, the divorce rate before the passage of the law was 10%, followed by 20% in 1969, and then approximately 30% in 1974.¹⁹³ This would suggest that the law empowered women to seek a divorce, and women took advantage of their new legal rights. Another estimate finds that the divorce rate in 1966 was 16.5% and went down to approximately 10% in the following years.¹⁹⁴ This potentially implies that limits on a husband's arbitrary right to divorce cut divorce rates – either because divorces were not granted by the court or because men hesitated before initiating divorce proceedings.¹⁹⁵

Even though the FPL was passed, advocates say that the government did not put sufficient resources into implementing the law.¹⁹⁶ The Ministry of Justice did not take the law as seriously as it did other reforms and was reluctant to invest in the judicial infrastructure to make Family Protection Courts successful.¹⁹⁷ For example, female judges were often assigned to Family Protection Courts more than their male counterparts.¹⁹⁸ The reason given was that they are better suited to preside over matters involving women and children.¹⁹⁹ However, the judiciary was only opened to women in 1966.²⁰⁰ As such, one must question how many women had advanced to the judiciary by the passage of the FPL in 1967.

Political reactions to the FPL were mixed. Women's advocates and leftists argued that it did not go far enough to protect women, but rather acted as a band-aid solution.²⁰¹ They found that the FPL did not adequately address the minimum age to marry, temporary marriage, dowries, duties of spouses toward each other, inheritance, women's right to employment, custody, and guardianship.²⁰² Meanwhile, Ruhollah Khomeini, who would go on to become the founder of the Islamic Republic of Iran and Iran's first Supreme Leader, attacked the FPL while he was in exile.²⁰³ He claimed that it was

192. *Id.*

193. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 284–85.

194. PAIDAR, *supra* note 2, at 156.

195. *See id.*

196. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 283.

197. *Id.* at 280.

198. Anonymous Former Iranian Judiciary Official, *supra* note 129.

199. *Id.*

200. PAIDAR, *supra* note 2, at 158.

201. KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 281.

202. *Id.* at 298–309.

203. *Id.* at 281.

opposed to Islam and would destroy Muslim family life.²⁰⁴

From 1971 to 1973, women's groups sought to keep the momentum on family law reforms going.²⁰⁵ The Women's Organization of Iran partnered with the Ministry of Health to hold a weeklong conference on women's family planning.²⁰⁶ At the conference, recommendations were made on raising the legal age of marriage for women.²⁰⁷ The Women's Organization of Iran also established a committee for reviewing the Family Protection Law of 1967.²⁰⁸ In 1972, the committee submitted recommendations to amend the FPL with regard to child custody, division of family assets, and alimony.²⁰⁹ The Association of Women Lawyers campaigned for further reforms in curtailing polygamy, and drew attention to the absence of protections for women whose husbands suffered from venereal disease.²¹⁰

A. The Family Protection Law of 1975

The Family Protection Law was amended less than ten years after its passage.²¹¹ In 1974, the amendments were presented to the Senate and passed because of increased public support in the wake of the FPL and support from the Shah. The Family Protection Law of 1975 (the "amendments") added four articles to the FPL and amended certain existing provisions. As a matter of procedure, it explicitly repealed all prior laws that would conflict with its provisions, be it the Civil Code, Marriage Law, etc.²¹² The substantive changes addressed polygamy, the legal age of marriage, grounds for divorce, custody and financial maintenance, and limitations on a spouse's employment.

First, the 1975 amendments finally stipulated that a husband could not take a second wife without the consent of his first wife, adopting Senator Manouchehrian's position. This was an apparent victory, as women's advocates wanted to ban polygamy but conceded that this approach was more politically feasible.²¹³ Of course, an outright ban would have been more

204. *Id.*

205. *See* PAIDAR, *supra* note 2, at 155.

206. *Id.*

207. *Id.*

208. *Id.*

209. *Id.*

210. *Id.*

211. *See id.*

212. MIR-HOSSEINI, *supra* note 54, at 24–25. *See also* MINORSKY, *supra* note 48, at 57. The authors explain that the Family Protection Law of 1967 Law did not explicitly repeal any articles of the Civil Code, but the Ministry of Justice announced that it would prevail in any conflict with the Civil Code.

213. *See supra* note 106 and accompanying text, noting that Senator Manouchehrian had made this suggestion in the early 1960s.

effective. Scholars have questioned the efficacy of this compromise because a husband could pressure or even coerce his wife, including by threatening divorce, to agree to polygamy.²¹⁴ In sum, it appears likely that the first wife would almost always consent to a second wife because of financial, social, and reputational pressures.²¹⁵

Second, the laws on the legal age of marriage similarly pushed toward and pulled away from progress. The amendments raised the legal age of marriage from eighteen to twenty for men,²¹⁶ and fifteen to eighteen for women.²¹⁷ However, the law did authorize the Family Protection Courts to seek petitions from women over fifteen but under eighteen to get married.

Third, the amendments further expanded grounds for divorce. The law now enumerated twenty legal grounds for divorce, and a husband was now required to base his petition for divorce on one of these grounds.²¹⁸ This was a major milestone for gender equality in Iran: not only did women have more means of leaving marriages, but their husbands would also be held to equal account by the court.²¹⁹ The amendments also advanced equality between spouses with regard to employment. Unlike the 1967 FLP which only gave a husband the right to stop his wife from working, the 1975 amendments allowed both men and women to petition the court on employment matters.²²⁰ That being said, the standard to bar a man from working was higher than it was for women: the court had to find that the financial needs of the family would not be disrupted if they ruled against a man.²²¹

Fourth, the amendments expanded women's rights regarding custody and maintenance. A spouse who filed for divorce could be liable for post-marital financial maintenance in the event of their ex-spouse's indigence.²²² The amendments expanded a woman's right to take custody of her child.²²³ Previously, only the father would be designated as the permanent guardian once his children could be independent of their mother.²²⁴ Women were granted custody only up to when they were essentially no longer needed. A mother had custody of her son until he was two years old and had custody of

214. *Id.*

215. *Id.*

216. MIR-HOSSEINI, *supra* note 54, at 24.

217. PAIDAR, *supra* note 2, at 154.

218. MIR-HOSSEINI, *supra* note 54, at 49.

219. *See id.*

220. PAIDAR, *supra* note 2, at 154.

221. *Id.*

222. Yassari, *supra* note 17, at 50.

223. *Id.*

224. Naqvi, *supra* note 87, at 248.

her daughter until she was seven years old.²²⁵ If the father was not present, the right of guardianship would pass to the children's paternal grandfather.²²⁶ Now, a court could grant the mother full custody in the event of the father's absence.²²⁷ This was revolutionary not just because it extended mothers' rights, but also because "for the first time the concept of the best interest of the child was introduced in child law."²²⁸

B. Abortion

The only issue that had not been reformed by either Reza Shah or Mohammad Reza Shah was abortion.²²⁹ The political obstacles to codifying abortion rights were substantial, especially those posed by the clergy.²³⁰ However, by the 1970's, population control became a major concern for the government and Mohammad Reza Shah.²³¹ To that end, abortion was finally made legal under limited circumstances in 1977.²³² If the child would be born with an incurable disease, the mother's request for an abortion would be granted.²³³ Otherwise, to obtain an abortion, the physician must approve the request on humanitarian grounds, the fetus must be under twelve weeks, and the abortion must not threaten the mother's life.²³⁴

C. Impacts of Further Reforms

Because the Islamic Revolution broke out only three years after the passage of the amendments and only one year after the passage of the Abortion Law, the effects of these reforms were not adequately evaluated.²³⁵ In particular, there is no scholarship on how Family Protection Courts operated. It is speculated that the Family Protection Courts were not prone to intimidation and corruption.²³⁶

225. *Id.*

226. *See* ENAYAT, *supra* note 6, at 138.

227. Yassari, *supra* note 17, at 50.

228. *Id.*

229. PAIDAR, *supra* note 2, at 154.

230. *See* KHURĀSĀNĪ & ARDALĀN, *supra* note 93, at 281. Recall that Mohammad Reza Shah appeased the clergy's reservations about the Family Protection Law of 1967 by assuring there would be no provisions on abortion or contraception.

231. PAIDAR, *supra* note 2, at 155.

232. *Id.*

233. *Id.*

234. *Id.*

235. Navqi, *supra* note 87, at 50.

236. *See* MINORSKY, *supra* note 48, at 59 (explaining that courts in Iran holistically have maintained high standards of integrity).

D. Family Law after the 1979 Islamic Revolution

The Family Protection Law was nullified by Ayatollah Khomeini on February 26th, 1979 because of its supposed conflict with Islamic laws, only two weeks after he was brought to power. This demonstrates the power of this law and how opponents of women's advancement feared its implications.²³⁷ However, the Islamic Republic maintained Family Protection Courts for about six months after the Revolution, until the enactment of the Special Civil Court.²³⁸ It is also suspected that urban citizens enjoyed Family Protection Courts more than their rural counterparts.²³⁹

VII. CONCLUSION

Despite the gaps in the historical record, scholars have noted that the law was a success in “curbing the excess of male power in the family rather than fundamentally shifting it.”²⁴⁰ This case study highlights a progressive social movement in what the mainstream would dub an “unlikely place,” painting a different picture of Iran than what is often portrayed in media and scholarship. While the status of women's rights in Iran today is very grim, scholars have forgotten a relatively recent rigorous overhaul of women's rights in the marital realm. Therefore, this case study not only adds nuance and perspective to perceptions of Iran, but also begs the question: will the women of Iran will ever again enjoy the rights they had not so long ago?

237. FARZANEH, *supra* note 22, at 49.

238. See MIR-HOSSEINI, *supra* note 54, at 25 (explaining that “[t]he ‘Special’ in its title is indicative of its freedom from the law of evidence and procedure contained in the Civil Procedure Code”).

239. *Id.*

240. PAIDAR, *supra* note 2, at 157.