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COMMENTS

WOMEN’S HUMAN RIGHTS IN IRAN: WHAT CAN THE INTERNATIONAL HUMAN RIGHTS SYSTEM DO?

Maryam Javaherian*

I. INTRODUCTION

After Iran defeated the United States in the 1998 World Cup, Iranians in Iran celebrated, “with women dancing in the streets with men in an unprecedented public show of joy around the country.”

As soon as the final whistle blew confirming Iran’s 2-1 victory over the [United States] team, thousands of young Iranians poured into the streets of cities across the country to give vent to high spirits in ways unimaginable just a year ago... boys and girls—the girls in makeup and with their scarves pushed far back on their heads—danced atop cars blaring disco music.

“Thousands of police deployed across the city did not interfere with the celebrations, smilingly accepting flowers offered by fans.” The celebration went beyond a mere victory in a soccer match, the unprecedented display of jubilation involving

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all Iranians signified the changes taking place in Iran. As one of the celebrators described, "[t]his is the first time in [eighteen] years we've had a chance to express our view like this."  

Most Americans take the freedom to express their views and opinions for granted. In Iran, the situation is much different. Such open displays of excitement, especially with men and women together, are extremely rare. To preserve the teachings of Islam, which is the basis of law in Iran, the government strictly limits the freedom of all Iranians—especially women. Even after the establishment of international human rights standards and Iran's ratification of legally binding international human rights agreements, injustices continue.

Part II of this comment briefly reviews the status of human rights, especially women's rights, throughout Iran's modern history. Part II also addresses the establishment of international human rights laws. Part IV analyzes whether the status of women's rights in Iran constitutes a violation of international human rights law, and whether the United Nation's attempts at monitoring and improving such conditions have been effective. Finally, Part V proposes legal and social techniques, such as restructuring the existing international human rights system and promoting the development of non-governmental organizations in Iran, that together may improve the status of women's rights in Iran.

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5. See infra Part II.A.
6. See infra Part II.A.
7. See infra Part II.A.
8. See infra Part II.A.
9. See infra Part II.A.
10. See infra Part II.A.
11. See infra Part II.B.
12. See infra Part IV.A.
13. See infra Part IV.B.
14. See infra Part V.
II. BACKGROUND

A. Women’s Rights in Iran

1. Historical Review

To better understand the human rights situation in Iran, this section discusses Iran’s turbulent political and social modern history. Islam was introduced in Iran in the seventh century during the Sasanian Dynasty. In the sixteenth and seventeenth centuries, during the Safavid Dynasty, Shia Islam officially replaced the Zoroastrian religion as the official religion of the country. Since the influx of Islam, the “wedding” of the Persian culture and Islamic religion has come to define Iran as a nation.

In 1926, during a period of economic and political turmoil, military commander Reza Pahlavi rose to power as the Shah of Iran, starting the Pahlavi Dynasty. Reza Shah intended to revitalize the Iranian economy and bring Iran into the twentieth century in terms of cultural and social issues. Reza Shah attempted to implement western ways by mandating western-style dress, replacing dirt roads with “boulevards,” and building a national railroad. Reza Shah specifically impacted the status of women by making the wearing of a veil (which is required by Islam) against the law, and opening up the educational system to women.

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15. The history of Iran, formally known as Persia, dates back to fifth century B.C. An analysis of this ancient history is beyond the scope of this comment. Therefore, this comment addresses Iran’s social modern history, starting in the seventh century.
17. See id. at 67–90 (discussing how Islam played a dominant role in the development of Iran during the Safavid Dynasty).
18. See id. at 65.
19. See id. at 170.
20. See id. at 172–86.
21. See id. at 172
22. See MACKEY, supra note 16, at 173.
23. See id.
24. See id. at 181–82.
25. See id. at 179.
In the mid-1940s, Mohammad Reza Pahlavi replaced his father as the Shah of Iran. Mohammad Reza Shah ruled Iran until the Islamic Revolution of 1979. Following his father’s pursuit of the “Great Civilization,” Mohammad Reza Shah continued to open the doors of Iran to westerners, spending time, energy, and money to modernize the image of Iran. With this growing relationship with the West came a rapid modernization and westernization of Persian culture.

During the Shah’s reign, women’s rights continued to reach new heights. In 1963, women obtained the right to vote and the right to run for Parliament. With Iran’s economic boom, women received new opportunities in the work force and greater access to education. Perhaps women’s greatest stride towards equality came with the enactment of the Family Protection Act in 1967, which gave Iranian women the power to sue for divorce, deny their husband a second wife, and win custody of their children after divorce. The Act also raised the minimum female marrying age from thirteen to fifteen years old.

Behind the vast modernization of Iran, however, human rights violations and poverty ran rampant. Although the Shah gained financial success through the oil industry, most Iranian citizens’ necessities were not met. While the Shah spent tremendous amounts of money upgrading the image of Iran, the disparity of wealth widened—the rich grew richer as

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26. See id. at 188.
27. See id. at 266.
28. See MACKEY, supra note 16, at 240. “Great Civilization” is the term commonly used to refer to the Pahlavi Dynasty’s movement towards westernizing and modernizing Iran.
29. See id. at 239–68.
30. See id. at 250. American corporations such as Allied Chemical, Amoco, and BF Goodrich came to Iran for the economic advantages. See id. These companies brought not only economic development, but a cultural invasion, such as neon Coca-Cola and Pepsi signs, western contemporary architecture, and western goods. See id.
32. See id. at 29 (discussing women’s access to secondary and higher education abroad, and exposure to urban life and political ideals).
33. See MACKEY, supra note 16, at 261; see also ESFANDIARI, supra note 31, at 29–30.
34. See ESFANDIARI, supra note 31, at 30.
35. See MACKEY, supra note 16, at 258.
36. See id.
the poor grew poorer.\textsuperscript{37} The Shah invested little money in “basic human services such as rural electrification, agricultural development or public health.”\textsuperscript{38} Furthermore, the Shah continued to deny Iranian citizens certain basic human rights, such as the freedom of expression.\textsuperscript{39} The Shah’s controversial relationship with the West led to a growing opposition group who “feared ‘the drowning of [the] ancient Persian culture in a mindless imitation of the West.’”\textsuperscript{40} In response, the Shah established \textit{Savak}, an internal security force, which was responsible for spying, reporting, arresting, and torturing political dissidents.\textsuperscript{41}

In the area of women’s rights, despite the passage of the Family Protection Act, the people of Iran knew “the [S]hah’s efforts [on] behalf of women’s rights had little to do with any principal of equality of the sexes and everything to do with his policy of modernization.”\textsuperscript{42} Instead of taking advantage of the new opportunity, many women, especially the lower and lower-middle classes, doubted the benefits of liberalization and instead preferred the protection and security of Islamic ideology.\textsuperscript{43} For example, only thirteen percent of women were employed.\textsuperscript{44} Further, although more women attended schools and universities, the proportion of women receiving education still represented a small percentage of the total female population.\textsuperscript{45} Most significantly, young women from traditional

\begin{itemize}
    \item \textsuperscript{37} See id.
    \item \textsuperscript{38} Id.
    \item \textsuperscript{39} See id. at 256, 263.
    \item \textsuperscript{40} Id. at 253 (footnote omitted) (quoting SATTAREH FARMAN FARMAIAN, DAUGHTER OF PERSIA: A WOMAN’S JOURNEY FROM HER FATHER’S HAREM THROUGH THE ISLAMIC REVOLUTION 274 (1992)).
    \item \textsuperscript{41} See MACKEY, supra note 16, at 213.
    \item \textsuperscript{42} Id. at 261.
    \item \textsuperscript{43} See id. at 262.
    \item \textsuperscript{44} In concrete terms, the wages of working class women never reached a level that provided enough financial independence to enable them to moderate or escape the constraints of the patriarchal family. Consequently, females who had been declared forces of production by the [Shah] also were required by their families to function as traditional homemakers and mothers.
    \item \textsuperscript{45} See Akram Mirhosseini, After the Revolution: Violation of Women’s Human Rights in Iran, in WOMEN’S RIGHTS, HUMAN RIGHTS 72, 73 (Julie Peters & Andrea Wolper eds., 1995).
    \item \textsuperscript{46} See Patricia J. Higgins & Pirouz Shoar-Ghaffari, Women’s Education in the Islamic Republic of Iran, in IN THE EYE OF THE STORM 19, 23–24 (Mahnaz Afkhami & Erika Friedl eds., 1994).
\end{itemize}
families were not among the new females receiving education.\(^4\) In essence, the Shah's modernization did not successfully improve the status of all women and instead displaced many women.

The extreme poverty and human rights violations led to unrest.\(^47\) In 1978, the masses, "powered by the political, economic, and social inequalities of [the Shah's] Iran and driven by nationalism,"\(^48\) revolted. The intellectual socialist revolutionaries and the lower classes, inspired to political action by religious leaders, joined forces to overthrow the Shah's government.\(^49\) The combination of religious leaders and socialist revolutionaries succeeded in unseating the Shah. However, the Islamic sect, not the socialists, took control.\(^50\) Thus, while Iranians from many walks of life came together to revolt for equality, the Revolution resulted in a government ruled solely by Islam.

On February 1, 1979, Ayatollah Khomeini arrived in Iran from exile and completely remodeled the political and social structure of Iran.\(^51\) Rather than basing laws on the needs of the people of Iran, Khomeini set up a government which "adhere[d] to the standards and demands specified in the Koran and in the traditions of the Prophet.\(^52\) The new regime started by executing the remaining supporters of the previous regimes and all others accused of violating Islamic law.\(^53\) In the first nine months after the revolution, Khomeini executed

\(^{46}\) See ESFANDIARI, supra note 31, at 36 (explaining that many traditional families refused to send their daughters to school because they objected to the degree of modernization and westernization).

\(^{47}\) See MACKEY, supra note 16, at 258.

\(^{48}\) Id. at 272.

\(^{49}\) See id. at 272. "[C]ultural confusion and alienation joined the lack of justice to bond the poor of the country and city to the not so poor among the educated, resentful of their exclusion from the privileges of [the Shah's] Iran.” Id. at 263.

\(^{50}\) See id. at 271–300. Between 1979, when the Shah’s movement collapsed, and 1981 there was a struggle for power in Iran between the socialist movement and the Islamic movement. See id. But “[f]rom that struggle, Iran emerged as the Islamic Republic committed to the preservation of traditional Shia culture, governed by a new elite composed of the Shia clergy, and ultimately ruled by a Shia authority figure—Ayatollah Ruhollah Khomeini.” Id. at 272.

\(^{51}\) See id. at 271.

\(^{52}\) Id. at 290–91.

\(^{53}\) See MACKEY, supra note 16, at 286.
almost 600 Iranians.  
Khomeini developed a Constitution and laws based on the teachings of the Koran and Islam. This body of law imposes the *hejab*, which requires all women to cover their hair with a scarf and wear a neck-to-ankle robe. Further, Khomeini regulated expression, banned the sale of records and tapes from the West, and reinstated stoning as the punishment for adultery. *Komitehs*, or revolutionary guards, were established to enforce these new regulations. "As guardians of a revolution they saw only in terms of Islam, they invaded private homes to seize Western music, pour out liquor and confiscate anything that offended their Islamic sensitivities." To prevent dating and any other violations of Islamic law, the *Komitehs* stopped couples on the streets, arresting any non-related males and females who were together.

These strict Islamic laws adopted by the government have substantially effected Iranian women's basic human rights. Under Islamic law, a woman is treated as half of a man; women's dress is regulated; women's access to employment is considerably limited; and force is commonly used to enforce strict behavioral regulations.

2. Current Status

While Khomeini and his successors continue to rule Iran in this manner, recent developments suggest a relaxing of the strict Islamic law. Most recently, hope for improvement came with the 1997 election of a relatively moderate president, Mohammad Khatami. Khatami won the election with an unprecedented appeal to the public by running a “Western-
style people's campaign, traveling around the country, giving lengthy interviews and addressing many of his remarks to young people and women.\textsuperscript{65} Most significantly, Khatami talked openly about the importance of freedom of expression and tolerance for opposing views.\textsuperscript{66} While Khatami continues to operate within the Islamic regime,\textsuperscript{67} he has successfully loosened some restrictions on women's attire, the press, and the arts.\textsuperscript{68} Since his election, traditionally "taboo" topics "are being gradually introduced into the debate—from human rights and civil society, to questions of separation of state and religion, to the will of the people being the source of power."\textsuperscript{69}

Khatami attempts to relax some of the restrictions against women and provide a forum for discussion of these issues. However, as further discussed in Part IV.A., Iran has seen little actual change. For example, under the law, the value of a woman is half that of a man.\textsuperscript{70} Many sectors of society are segregated based on gender.\textsuperscript{71} Furthermore, Islamic law grants women limited protection in marriage.\textsuperscript{72} The government still enforces the \textit{hejab}, although the severity of the punishment fluctuates.\textsuperscript{73} Women are also discriminated against in the workforce.\textsuperscript{74} In fact, after the revolution, most women were either fired or left their positions due to severe discrimination.\textsuperscript{75}

Since the 1976 revolution, only women's access to education appears to have improved.\textsuperscript{76} The number of females in


\textsuperscript{66} See id.

\textsuperscript{67} See generally id. (discussing the fact that Ayatollah Ali Khamenei, the successor to Ayatollah Khomeini, a more traditional cleric, continues to be the "supreme leader" of Iran and, therefore, has the final decision making power); see also Sadeq Saba, \textit{Analysis: Obstacles to Change} (visited Mar. 28, 2000) <http://news2.thls.bbc.co.uk/hi/english/world/middle_east/newsid_651000/651016.stm> (discussing the obstacles that Khatami faces in implementing reforms).

\textsuperscript{68} See Sciolino, supra note 65.


\textsuperscript{70} See infra Part IV.A.1.a.

\textsuperscript{71} See infra Part IV.A.1.a.

\textsuperscript{72} See infra Part IV.A.1.e.

\textsuperscript{73} See infra Part IV.A.1.a–d.

\textsuperscript{74} See infra Part IV.A.2.a.

\textsuperscript{75} See infra notes 243–46 and accompanying text.

\textsuperscript{76} See infra Part IV.A.2.b.
schools has increased, as has the literacy rate of women. More women are also enrolled in college, although they are restricted from certain concentrations and the quality of their education may not be equal to that of males. Except for this sole area, the status of women’s rights in Iran continues to be poor. Although the election of Khatami signals hope for improvement, the current situation for women in Iran remains inadequate and troubling.

B. International Human Rights Law

After World War II and the implications of the Holocaust, the promotion and protection of human rights became a significant international concern. International human rights law has expanded dramatically since the Holocaust, with many countries adopting international instruments regarding human rights. However, there is no international legislature with the power to enact laws that directly bind all countries. "Instead, states establish legally binding obligations among themselves in other ways, principally by expressly consenting to an obligation by ratifying a treaty or other international agreement." These treaties and agreements are the basis of international human rights law.

Even after countries create legally binding obligations via treaties, there are few effective enforcement mechanisms. The international courts play a limited role in international human rights law, especially pertaining to women’s rights.

77. See infra notes 271–77 and accompanying text.
78. See infra notes 278–83 and accompanying text.
79. See Richard B. Bilder, An Overview of International Human Rights Law, in GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE 3, 5 (Hurst Hannum ed., 1992). The original basis of international human rights law was custom. See HENRY J. STEINER & PHILIP ALSTON, INTERNATIONAL HUMAN RIGHTS IN CONTEXT 27–28 (1996). "Custom" is defined as "conduct, or the conscious abstention from certain conduct, of states that becomes in some measure a part of international legal order." Id. at 28.
80. Countries have adopted treaties, resolutions, and recommendations. See Bilder, supra note 79, at 6–7. A comprehensive review of international human rights law is beyond the scope of this comment. This comment focuses on the sources of international human rights law that apply to Iran and specifically the protection of women’s rights in Iran.
81. See id. at 9. Resolutions adopted by the United Nations are not legally binding, but rather serve only as recommendations. See id.
82. Id.
83. See id. at 9–10.
84. See id. at 11–12.
The primary judicial organ of the United Nations is the International Court of Justice. Any rulings by the International Court of Justice are binding on United Nations member states, including Iran. However, the International Court of Justice only has jurisdiction over member states, not individuals or non-governmental organizations. Therefore, individuals and organizations cannot bring suits in the International Court. Furthermore, the majority of cases decided by the International Court have not addressed human rights issues.

Beyond the International Court of Justice, there are also regional courts, such as the European Court on Human Rights and the Inter-American Court of Human Rights, that enforce international human rights laws. However, these courts only have jurisdiction over states in their region that are parties to the respective agreements. No such regional court has jurisdiction over the Middle East. Therefore, no single judicial body covers the spectrum of international human rights law.

Due to this lack of an effective judicial enforcement mechanism, implementing human rights standards requires the compliance of each country to "incorporate international obligations expressed in human rights treaties in their domestic law." Iran is a party to some of these human rights treaties, including the International Bill of Rights and other

86. See U.N. Charter art. 94, para. 1 ("Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.").
87. See Schwebel, supra note 85, at 146.
88. See id.
89. See id. Although the few cases that have addressed human rights questions have significantly influenced international law, these cases have not dealt with the provisions in question here. See id. at 147–68.
92. Bilder, supra note 79, at 11. As a party to these international human rights treaties, states must implement laws and mechanisms in their state to guarantee human rights protection. See id.
United Nations mechanisms for monitoring human rights internationally. This section addresses these devices and specifically how they apply to Iran.

1. International Bill of Rights

After the Holocaust and other international denials of human rights, "the nations of the world decided that the promotion of human rights and fundamental freedoms should be one of the principal purposes of the new United Nations organization." Thus, in 1946, the U.N. Economic and Social Council established the Commission on Human Rights "for the promotion of human rights." As its first action, the Commission on Human Rights prepared a declaration on fundamental human rights and freedoms. Realizing that it was easier to agree on the text of a persuasive declaration than on the wording of a legally binding treaty, "[t]he Drafting Committee decided to prepare two documents: one in the form of a declaration, which would set forth the general principles or standards of human rights; the other in the form of a convention, which would define specific rights and their limitations." The Commission's work culminated in the International Bill of Rights. The International Bill of Rights—which consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights—serves as the foundation for international human rights law today.

93. Id. at 5.
95. See id.
96. Id. at 4.
a. **Universal Declaration of Human Rights**

The Universal Declaration of Human Rights ("UDHR"), adopted in 1948, was the first of the documents created by the Commission on Human Rights. The UDHR is not a legally binding instrument, but rather "a recommendation by the General Assembly to member states . . . that . . . exert[s] a moral and political influence on states." The UDHR protects many human rights, including protection against racism, sexism, torture, and arbitrary arrest. It has been recognized over the years "as the expression of a general standard on human rights.

Article 2 of the UDHR states that "[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, [color], sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Articles 3 to 21 grant civil and political rights to all individuals. These rights include protection against torture or "cruel, inhuman or degrading treatment or punishment"; protection against arbitrary arrest, detention, or exile; protection against arbitrary interference with privacy, family, home, or correspondence; the freedom of expression; the freedom of thought, conscience, and religion; the right to be presumed innocent; and the right to a fair public trial. Further, the UDHR grants all men and women of full age the right to marry, with "equal rights as to marriage, during marriage and at its dis-

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102. *Steiner & Alston, supra* note 79, at 119. Since the Declaration was not submitted to states for ratification, it is not a legally binding agreement. *See id.*

103. *See Universal Declaration of Human Rights, supra* note 97. The UDHR sets a standard for civil and political rights, *see id.* arts. 3–21, as well as economic, social, and cultural rights, *see id.* arts. 22–27.


105. *Universal Declaration of Human Rights, supra* note 97, art. 2. Therefore, all of the rights granted by the UDHR must be applied to males and females alike. *See id.*

106. *Id.* art. 5.

107. *See id.* art. 9.

108. *See id.* art. 12.


110. *See id.* art. 18.

111. *See Universal Declaration of Human Rights, supra* note 97, art. 18.

112. *See id.*
solution.”

Articles 22 to 27 grant economic, social, and cultural rights. Most significantly, these articles grant protected individuals the right to work (with “equal pay for equal work”) and to receive an education. The education rights provide for free fundamental education and equally accessible higher education based on merit. The concluding articles of the UDHR provide that these rights and freedoms may only be subject to limitations that “are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

Although the UDHR is not a legally binding instrument, it has played a fundamental role in “national and international efforts to promote and protect human rights and fundamental freedoms.” It established the framework for “all subsequent work in the field of human rights, and has provided the basic philosophy for many legally binding international instruments designed to protect the rights and freedoms which it proclaims.”

b. International Covenants on Human Rights

The United Nations created the UDHR to serve as a “springboard” for detailed treaties to be created, submitted to states for ratification, and become binding legal agreements. After adoption of the UDHR in 1948, the Human Rights Commission prepared these legally binding agreements. The first two of these treaties are the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural

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113. Id. art. 16.
114. See id. art. 23.
115. Id.
117. See Universal Declaration of Human Rights, supra note 97, art. 26.
118. See id.
119. Id. art. 29.
120. FACT SHEET NO. 2, supra note 94, at 8.
121. Id.
122. See STEINER & ALSTON, supra note 79, at 120.
123. See FACT SHEET NO. 2, supra note 94, at 4.
124. ICCPR, supra note 98.
Rights ("ICESCR")\textsuperscript{125} (together, "the Covenants"). The United Nations General Assembly adopted these Covenants and opened them for signature in 1966.\textsuperscript{126} However, the Covenants did not take effect until thirty-five states—the number necessary to make the Covenants binding—ratified them in 1976.\textsuperscript{127} Iran ratified both Covenants in June of 1975,\textsuperscript{128} and is therefore legally bound to meet the obligations under each Covenant.\textsuperscript{129}

The ICCPR protects and expands on the civil and political rights covered under the UDHR, while the ICESCR protects and expands on the economic, social, and cultural rights provided for in the UDHR.\textsuperscript{130} Unlike the UDHR, the Covenants are binding international legal instruments. States that become party to the Covenants are "willfully accepting a series of legal obligations to uphold the rights and provisions established under the text in question."\textsuperscript{131} Therefore, state parties must ensure that all persons are granted the rights recognized by each Covenant. These legal obligations include adopting legislation or other measures that guarantee effective remedial and enforcement mechanisms for violations of the Covenants.\textsuperscript{132}

\textbf{i. Monitoring and Reporting Measures}

The Covenants also establish monitoring and reporting measures, which were not part of the UDHR.\textsuperscript{133} First, both Covenants contain a mandatory state reporting procedure requiring all state parties to submit periodic reports regarding the progress made in implementing the Covenants, as well as

\begin{itemize}
\item \textsuperscript{125} ICESCR, supra note 99.
\item \textsuperscript{126} See STEINER & ALSTON, supra note 79, at 120.
\item \textsuperscript{127} See id.
\item \textsuperscript{128} See For the Record 1997, supra note 9.
\item \textsuperscript{129} See STEINER & ALSTON, supra note 79, at 32–33.
\item \textsuperscript{130} The Covenants describe the rights granted in the UDHR in greater detail and also establish obligations that the state parties must meet. See Universal Declaration of Human Rights, supra note 97; see also ICCPR, supra note 98; ICESCR supra note 99.
\item \textsuperscript{131} U.N. CENTRE FOR HUMAN RIGHTS, THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, FACT SHEET No. 16 (REV. 1) at 3 (1996) [hereinafter FACT SHEET No. 16 (REV. 1)].
\item \textsuperscript{132} See ICCPR, supra note 98, art. 2; see also ICESCR, supra note 99, art. 2.
\item \textsuperscript{133} See ICCPR, supra note 98, arts. 28, 40; see also ICESCR, supra note 99, art. 16.
\end{itemize}
any difficulties with implementation. Second, both Covenants establish monitoring procedures. The ICCPR creates a quasi-judicial body, the Human Rights Committee, to monitor the implementation of the ICCPR. Similarly, the U.N. Economic and Social Council established the Committee on Economic, Social and Cultural Rights to monitor the implementation of the ICESCR.

Each monitoring committee is comprised of eighteen members who are “persons of high moral character [with] recognized competence in the field of human rights.” The state parties to the ICCPR elect members of the Human Rights Committee for a four-year term. Members of the Committee on Economic, Social and Cultural Rights are elected by the U.N. Economic and Social Council, based on a list of nominees proposed by the state parties to the ICESCR. The monitoring committees meet periodically each year to review the reports submitted by state parties. The committee members review the reports submitted by the state parties in public meetings, with a representative from the state being considered attending the meeting to respond to questions by the committee members. At the end of their sessions, the monitoring committees adopt concluding observations that summarize their concerns and make recommendations regarding the implementation of the respective Covenant. The monitoring committees also submit annual reports, which include their activities and recommendations, to the

134. See ICCPR, supra note 98, art. 40; see also ICESCR, supra note 99, art. 16.
135. See ICCPR, supra note 98, art. 28.
136. See FACT SHEET No. 16 (REV. 1), supra note 131, at 23.
137. U.N. CENTRE FOR HUMAN RIGHTS, CIVIL AND POLITICAL RIGHTS: THE HUMAN RIGHTS COMMITTEE, FACT SHEET No. 15, at 3 (1991) [hereinafter FACT SHEET No. 15]; see also FACT SHEET No. 16 (REV. 1), supra note 131, at 23.
138. See FACT SHEET No. 15, supra note 137, at 3.
139. See FACT SHEET No. 16 (REV.1), supra note 131, at 24.
140. The Human Rights Committee holds three sessions a year, with each session lasting three weeks. See FACT SHEET No. 15, supra note 137, at 4. The Committee on Economic, Social and Cultural Rights holds two sessions a year; each lasts three weeks. See FACT SHEET No. 16 (REV.1), supra note 131, at 23.
141. See Sandra Coliver, International Reporting Procedures, in GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE, supra note 79, at 173, 177.
142. See id. at 178; see also FACT SHEET No. 16 (REV. 1), supra note 131, at 27; FACT SHEET No. 15, supra note 137, at 4–5.
143. See FACT SHEET No. 16 (REV. 1), supra note 131, at 27–28; FACT SHEET No. 15, supra note 137, at 5.
Economic and Social Council and the General Assembly.144

ii. Optional Procedures of the ICCPR

The ICCPR also includes two optional procedures by which the Human Rights Committee can consider complaints against a state party.145 Article 41 of the ICCPR establishes an optional procedure whereby a state party can submit a complaint asserting that another state party is not fulfilling its obligations under the ICCPR.146 However, the Human Rights Committee may only hear such complaints if both the complaining state party and the accused state party recognize the Human Rights Committee's competence to receive and review such complaints.147 Furthermore, to date, no state has ever submitted such a complaint.148 Therefore, this optional procedure is completely ineffective in reducing violations of the ICCPR.

The second optional procedure, the First Optional Protocol ("Protocol") to the ICCPR, enables the Human Rights Committee to consider complaints from alleged victims of ICCPR violations by a state party.149 An individual who makes such a claim, after exhausting all available domestic remedies, may submit a written communication to the Human Rights Committee for review and consideration.150 The Human Rights Committee then notifies the state party in question of the allegation, who in turn has six months to submit a report to the Committee.151 This report provides an explanation or clarification, and the remedy, if any, taken by the state.152 The Committee then considers all these communications in private meetings and reports its views both to the state party and the individual.153 However, this Protocol is also limited because state parties are not required to adopt

144. See FACT SHEET NO. 16 (REV. 1), supra note 131, at 28; FACT SHEET NO. 15, supra note 137, at 5.
146. See ICCPR, supra note 98, art. 41.
147. See id.
148. See FACT SHEET NO. 15, supra note 137, at 10.
149. See Optional Protocol, supra note 145, art. 1.
150. See id. art. 2.
151. See id. art. 4.
152. See id. art. 4.
153. See id. art. 5.
2. Extra-Conventional Mechanisms

In addition to the UDHR and the Covenants, the U.N. Commission on Human Rights and the U.N. Economic and Social Council established extra-conventional mechanisms to aid in the protection of human rights. These mechanisms come in two forms: (1) thematic reports that monitor major phenomena of human rights violations worldwide; and (2) country reports that monitor human rights situations in specific countries. Currently, there are fifteen country and nineteen thematic mandates. Thematic reports address internal human rights issues throughout a number of countries, such as the 1998 report on arbitrary imprisonment and detention. Country reports focus on human rights violations that occur in a specific country. As one of the country mandates, in 1984, the U.N. Commission on Human Rights appointed a Special Representative to monitor the situation of human rights in Iran. The Commission has renewed this mandate annually.

Special Representatives, such as the one appointed to Iran, must

Inter into constructive dialogues with governments and... seek their cooperation with regard to concrete situations, incidents and individual cases, which they ex-
amine and investigate in an objective manner with a view to understanding the situation and recommending to governments solutions to overcome the problems of securing respect for human rights.\(^{163}\)

The Special Representatives then submit reports to the Commission on Human Rights, which in turn adopts resolutions regarding the status of human rights in the country in question.\(^{164}\)

In conclusion, there are many mechanisms addressing human rights in Iran. Iran is party to the International Bill of Rights, which includes the UDHR, ICCPR, and ICESCR. Incorporated in the two Covenants resulting from the International Bill of Rights are the reporting and monitoring mechanisms of the Human Rights Committee and Committee on Economic, Social and Cultural Rights. However, the ICCPR optional procedures do not apply to Iran. Finally, the extra-conventional mechanisms, which include thematic and country reports, may also be used to report and monitor the status of women’s rights in Iran.

### III. IDENTIFICATION OF THE PROBLEM

The Covenants and other human rights mechanisms provide the basis for evaluating the status of women in Iran. Comparing the situation for women in Iran with the principles of the applicable international human rights treaties raises the question of whether the Iranian government is meeting its obligations under international human rights law. Further, if the Iranian government does not meet its obligations, the question arises: does the existing system have the mechanisms to enforce the international human rights standards set forth in the Universal Declaration of Human Rights?

\(^{163}\) Country and Thematic Special Rapporteurs, supra note 157.

\(^{164}\) See id.
IV. ANALYSIS

The following analysis compares the applicable provisions of international human rights laws with the treatment of women in Iran. This section describes both the laws of Iran and the practices of the current Iranian regime, in order to accurately evaluate the status of women's rights in Iran. This section also examines the effectiveness of the steps taken by the existing international human rights system to monitor and enforce human rights standards in Iran.

A. Women’s Rights in Iran and Violations of International Human Rights Law

1. Civil and Political Rights

The civil and political rights analyzed in this section are those protected under the UDHR and the ICCPR. Civil and political rights are often defined as the most “fundamental.” They include, the right to (a) equal treatment under the law, (b) protection against torture, (c) due process, (d) freedom of expression and religion, and (e) equality in marriage.

   a. Equal Treatment Under the Law

   Article 2 of the UDHR and Article 2 of the ICCPR protect every person's human rights “without distinction of . . . sex.” Article 20 of the Constitution of Iran also proclaims equal treatment regardless of gender: “All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, social and cultural rights, in

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165. The sources of international human rights law considered here are those that Iran is a party to the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights. See For the Record 1997, supra note 9.
166. See supra Part II.B.
167. See infra Part IV.A.
168. See infra Part IV.B.
169. See Universal Declaration of Human Rights, supra note 97, arts. 3–21.
170. See ICCPR, supra note 98.
172. Universal Declaration of Human Rights, supra note 97, art. 2.
conformity with Islamic criteria."  

Although equality exists theoretically, in reality, women in Iran continue to suffer discrimination. Under the Islamic law, a woman's value is half that of a man. This unequal status has repercussions in numerous facets of society. For example, a woman's testimony in court is given half the credibility of a man's, making it difficult for women to obtain legal redress for wrongs committed against them. Also, women inherit only half as much as men. The unequal treatment of women also effects the penalty for murder. In Iran, the family of a murder victim is compensated by the payment of "blood money" by the assailant. Since the value of a woman's life is half that of a man's, the blood money for the murder of a female is half the amount for the murder of a male. Therefore, a murderer's penalty is less for killing a woman than a man. Women are also granted inferior rights in marriage and their attire is unequally regulated.

As another sign of inequality, Iran segregates men and women in many places of society. For example, women must sit in the back of public buses while men sit in the front. Most significantly, the education system also segregates women and men. Schools require boys and girls to be in different classes. In fact, a recent law bans female instructors from teaching schoolboys over the age of ten and male instructors from teaching schoolgirls over the age of ten. With boys and girls in different classes with different teachers, there is no guarantee that the quality of education females receive is equal to the quality received by males. Fur-

173. IRAN CONST. art. 20.
174. See Mirhosseini, supra note 44, at 72.
175. See id.
177. See Mirhosseini, supra note 44, at 72.
178. See id.
179. See id.
180. See discussion infra Part IV.A.1.e.
181. See discussion infra Part IV.A.1.b.
182. See ESFANDIARI, supra note 31, at 40.
183. See Mirhosseini, supra note 44, at 74.
ther, women may not even have access to education if there is a shortage of female teachers. Even more troubling than segregated education is the recent law segregating the sexes in medical care.\textsuperscript{185} Only female doctors may treat female patients.\textsuperscript{186} Under this law, the quality of medical care that women receive may be inferior because of the shortage of adequately trained and licensed female physicians and specialists.\textsuperscript{187}

While the Constitution of Iran guarantees equality for all sexes, women are still treated as second class citizens by the government of Iran. Thus, the Iranian government is not meeting their obligations of equal treatment under law required by both the UDHR and the ICCPR.

b. \textit{Protection Against Torture and Cruel Treatment or Punishment}

Article 5 of the UDHR and Article 7 of the ICCPR protect against torture and cruel, inhuman, or degrading treatment or punishment.\textsuperscript{188} The government of Iran violates these provisions by subjecting women to whippings and stonings for violating Islamic law.

The requirement of the \textit{hejab} has continued since the Islamic Revolution.\textsuperscript{189} Officially, a woman’s punishment for showing her hair or otherwise violating the \textit{hejab} is seventy lashes.\textsuperscript{190} Over the years, women—especially young girls—"subtly undermine the dictates of the Islamic dress code: a scarf tossed loosely around the head and shoulders, a robe a few inches shorter than regulations require, a brightly colored headdress, a hint of lipstick, manicured nails."\textsuperscript{191} Further, during the 1998 World Cup celebrations, women and men in Iran mixed in public and the dress code was openly disobeyed.\textsuperscript{192}

\begin{footnotesize}
\begin{itemize}
\item 185. See U.S. Department of State, supra note 176.
\item 186. See id.
\item 187. See id.
\item 188. See Universal Declaration of Human Rights, supra note 97, art. 5; ICCPR, supra note 98, art. 7.
\item 189. See ESFANDIARI, supra note 31, at 48–50. See generally supra note 55 and accompanying text.
\item 190. See id. at 41.
\item 191. Id. at 49.
\end{itemize}
\end{footnotesize}
Despite these efforts to undermine it, the law requiring the *hejab* is still in place. Therefore, women who resist the dress code risk cruel punishments, such as lashings. Occasionally the government will seize an opportunity to remind women of the implications of violating the *hejab*.

For example, during holy periods, such as *Moharram* and *Ramadan*, detentions for violations of the *hejab* increase, with the government handing down severe punishments, including lashings, for the slightest violations. Women react by putting aside the modern practices and returning to the more traditional attire (e.g., bringing scarves over their foreheads) until the authorities relax the enforcement once again. Therefore, while the enforcement of the law fluctuates, the government still dictates women's attire and arbitrarily enforces the *hejab*.

The Islamic government has also reinstated stoning as the punishment for committing adultery. In August 1998, a woman was reportedly arrested, charged with having sexual relations outside marriage, and sentenced to death by stoning. She was buried up to her waist in a ditch and stoned within [twenty-four] hours of her arrest. She was reportedly confirmed dead by doctors, but revived in the morgue and was taken to [the] hospital.

Although the punishment of stoning applies to men as well, it is applied in greater proportion to women. For example, in 1998, out of the seven people reportedly sentenced to death by stoning, five were women. Furthermore, men are rarely punished for adultery because they can easily claim that they were “temporarily married.” “Temporary marriages” are

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197. *Id.*
200. *See id.*
201. *See* Women's Rights are Human Rights, *supra* note 198. *See also infra*
marriages for a specific period of time (usually a short period), where a man and woman may lawfully have sexual relations but the wife is not entitled to support from the husband and cannot inherit from him. Claiming a temporary marriage permits sexual relations outside of formal marriage. Men can more easily claim a temporary marriage because they may have multiple wives, allowing them to be both formally married and temporarily married at the same time. On the other hand, women cannot have multiple spouses, thus making stonings, the punishment for adultery, more likely for women than men.

The Human Rights Committee interpreted the provisions of the ICCPR that protect against cruel and inhuman treatment to limit capital punishment to only the most serious crimes, which do not include adultery. Furthermore, the United Nations Commission on Human Rights determined that stoning is a violation of international norms against cruel and inhuman treatment.

Therefore, even though the current environment appears more lenient in Iran, as long as these laws exist, women constantly risk being subjected to inhuman punishments. By allowing whippings for dress code violations and lethal stonings for adultery, Iran is clearly violating the cruel and inhuman punishment clauses of the ICCPR and UDHR.

c. Protection Against Arbitrary Arrest, Presumption of Innocence, and Right to a Fair Public Trial

The UDHR and the ICCPR protect the fundamental due process rights of freedom from arbitrary arrest, the presumption of innocence, and the right to a fair public trial. Iran

Part IV.A.1.e.

206. See Universal Declaration of Human Rights, supra note 97, arts. 9–11; see also ICCPR, supra note 98, arts. 9, 14.
continually deprives women of each of these fundamental rights during prosecutions for dress code infractions. When women expose a piece of hair, wear makeup, or have any other slight violation, the police have the authority to arrest, sentence, and punish them immediately, without any legal proceeding. According to Iranian law, violations of the hejab are self-evident and, therefore, do not require court proceedings. Furthermore, since enforcement of the dress code varies on the whim of the government, or even the individual officer, such prosecutions are completely arbitrary. These arbitrary arrests, convictions without a hearing, and swift punishments violate the explicit due process obligations under the ICCPR and UDHR.

d. Freedom of Expression, Thought, Conscience, and Religion

The UDHR and the ICCPR grant every person the right to hold and express opinions and thoughts, as well as the freedom to choose and practice religion. The laws of Islam,

208. See id.
209. See supra notes 193–95 and accompanying text (discussing how the Iranian government will crack down and severely punish violators of hejab during certain time periods, for example during holy periods, and be more relaxed at other times).
210. See Universal Declaration of Human Rights, supra note 97, arts. 18–19; see also ICCPR, supra note 98, arts. 18–19. Articles 18 and 19 of the UDHR provide that:

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Universal Declaration of Human Rights, supra note 97, arts. 18–19.

In addition to the UDHR articles, Article 18 of the ICCPR provides that the "[f]reedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." ICCPR, supra note 98, art. 18(3). Furthermore, Article 19 of the ICCPR provides that the right to freedom of expression may "be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputations of others; (b) for the protection of na-
which govern Iran, deprive women of these fundamental freedoms.

First, the UDHR and the ICCPR specifically guarantee the freedom of religion, including the right to worship, practice, and observe the individual’s religion “alone or in community with others and in public or private.”211 In Iran, the requirement of the hejab is not only mandatory for Muslims, but for all women in Iran, regardless of their religion or beliefs.212 Women do not have a choice: either abide by the regulations or suffer punishment.213

Religious beliefs and ideals are also a measure of qualification for obtaining secondary education and jobs in Iran.214 For example, although women are gaining higher-ranking positions in the government, most of these women are relatives of the officials and clerics in power.216 The government has also established new acceptance standards for higher education, based primarily on religious knowledge and political screening.216 The necessary college entrance exams focus on religious knowledge.217 Furthermore, the government completes background checks to ensure the applicant sufficiently follows the teachings of Islam.218 Therefore, for women to gain access to education and their jobs, their religious expressions must be in accordance with the beliefs of the government. As a result of these requirements, women in Iran do not have the freedom to choose what religion they practice or observe, as required by international law.219

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211. Universal Declaration of Human Rights, supra note 97, art. 18.
212. See supra Part IV.A.1.b.
213. See id.
214. See infra notes 285–88 and accompanying text; see also infra note 261 and accompanying text.
215. See infra note 261 and accompanying text.
216. See Higgins, supra note 45, 32–33.
217. See id. at 287.
218. See id.
219. See Iran Human Rights Watch Group, Statement: Social and Cultural Restrictions in Iran Violate Universal Human Rights (last modified May 26, 1998) <http://www.ihrwg.org/hrac2.html> (“Iranian women have the right to decide whether or not they want to conform to a particular dress code prescribed by any religion. Similarly, all Iranian citizens have the right to decide whether or not to follow a particular religious teaching on social behavior.”).
Second, the ICCPR and UDHR guarantee that the freedom of expression includes the right “to seek, receive and impart information and ideas through any media and regardless of frontiers.” Women in Iran do not have this right. The government retains control over most media, strictly limiting speech pertaining to women’s rights. Reportedly, the government passed a new law in 1998 which forbids “commercial use of women’s image and texts declaring women’s issues, humiliation, insult, propagation of formality, use of ornaments, and defending women’s [rights] beyond the bounds of legal and religious law.” This law allows the government to arrest authors who criticize the treatment of women in Iran. Beyond women’s rights issues, the government regularly shuts down magazines and newspapers that publish anything negative about the Islamic government.

Although many laws and practices limit women’s freedom of expression, there are some recent signs of improvement. There are reportedly now some seventy daily and periodic publications which, generally or specifically, address women’s issues, most of them run by women editors and managers. Furthermore, since taking office, President Khatami has repeatedly promised to further the freedom of expression. Therefore, while the laws continue to limit women’s freedom of expression and religion, there certainly are signs of improvement.

220. Universal Declaration of Human Rights, supra note 97, art. 19.
221. See U.S. Department of State, supra note 176.
222. Association of Iranian Women, Iranian Women’s Brief #2 (September 1998) <http://www.aiwusa.org/iwb/iwb2.html>. Other sources refer to the law as only “restricting the publication of pictures of women in the Iranian print media, including pictures of foreign women, unless fully covered as prescribed by the Islamic Dress Code.” U.S. Department of State, supra note 176, § 5.
226. See id. at III.B.14. The most promising indication of improvement is that the people of Iran have once again gained the courage to speak out against human rights violations. See id.
e. Equal Rights as to Marriage

As a party to the ICCPR, Iran must "take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution." However, marriage is another great source of inequality in Iran.

The Islamic government repealed the Family Protection Act at the beginning of the Islamic Revolution, "once more permit[ting] men to divorce their wives at will, engage in polygamy, automatically secure the custody of children, and, through divorce, repudiation, and similar measures, threaten the economic security of all women, regardless of class or social standing." Under Islamic law, a husband may have up to four wives if he establishes the ability to treat all of his wives fairly. Further, temporary marriages (i.e., marriages for a specific period of time) permit men to have extramarital relationships with a temporary wife, who is not entitled to support from the husband or inheritance rights.

More than twenty years after the revolution, some aspects of women's rights regarding marriage are slowly showing signs of improvement. Presently, special courts exist to deal with divorce and child custody. A new law allows a woman to gain custody of her children after a divorce if she demonstrates that her ex-spouse is an unfit father. The presumption still calls for the father to receive custody upon divorce, and therefore, the woman has the burden of proving that the father is unfit. The Iranian government also enacted laws limiting a man's power to divorce his wife. Further, a divorced woman has the right to compensation for the years she worked in her husband's home. New practices grant women at least a limited right to divorce and protection.

227. ICCPR, supra note 98, art. 23 (emphasis added); see also Universal Declaration of Human Rights, supra note 97, art. 16.
228. See supra notes 33–34 and accompanying text.
229. ESFANDIARI, supra note 31, at 40.
230. See Pakzad, supra note 202, at 175.
231. See id.
232. See id. at 172; see also supra text accompanying notes 201–03.
233. See ESFANDIARI, supra note 31, at 43.
235. See id.
236. See ESFANDIARI, supra note 31, at 43.
237. See id.
The government created a printed model marriage contract providing women with twelve different grounds for divorcing their husbands, and the right to half the property acquired during marriage if the husband divorces the wife without fault. This marriage contract is available for couples; however, there is no obligation to use it. Without such provisions in their marriage contract, women are granted limited protection under the law.

By allowing men to have multiple wives, greater power upon divorce, the absolute right to divorce, and a presumption for custody of children upon divorce, Iran grants men inequitable rights in marriage. Therefore, Iran again fails to meet its obligations under the UDHR and the ICCPR to ensure equality in marriage, during marriage, and at its dissolution.

2. Economic, Social, and Cultural Rights

The economic, social, and cultural rights analyzed in this section include the applicable provisions of the UDHR and the ICESCR. These rights include (a) the right to work, and (b) the right to an education.

a. Right to Work

Under the ICESCR, the right to work is defined as “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.” A woman’s right to work in Iran has been inconsistent. While the sheer number of women working has increased in the last decade, many of the positions are predicated on another form of governmental discrimination. Furthermore, women are not guaranteed to have equal authority as men in similar positions.

After the Islamic Revolution, the government displaced most female workers. The Islamic government “insisted that the physical and mental weakness of women made them incapable of taking up certain jobs.” For example, immedi-
ately after the Islamic Revolution, the majority of women in government positions were fired. Those women that remained in the workforce faced scant promotion opportunities, and were not given managerial or supervisory positions.

Recently, the relative position of women in the workforce has shown signs of improvement, with many women working for the government, as well as in the private sector. In the private sector, women are starting their own businesses, working as teachers, and becoming doctors. In the government, more women have been elected to the president’s cabinet, the parliament, local government positions, and judicial positions. In 1995, the government appointed its first female deputy minister, as the deputy minister of health. In 1997, the government appointed the first female vice president, as Vice President of Environmental Protection. A woman also serves as a district mayor of Tehran (the capital of Iran) and as the President’s Advisor for Women’s Affairs. Furthermore, of 270 members of the Majlis, Iran’s parliament, nine were women in 1995. In 1997, the number of female members of the Majlis increased to thirteen. The
number of women in local government positions has also increased. For example, in 1999, 300 women were elected for district positions, 114 of which received the highest or second highest number of votes in their constituencies.\(^\text{257}\) Furthermore, after twenty years of being barred from becoming judges, eighteen women were appointed to the bench in September 1998 and ninety-nine women current serve as judges in Iran.\(^\text{258}\) In October 1998, for the first time since the Islamic Revolution, forty women were admitted to judicial college for training as judges.\(^\text{259}\)

However, the circumstances surrounding women's increasing access to employment makes it apparent that women are still far from equal in the work force. For example, women have more opportunities in certain professions, such as teaching and medicine, because of the requirement of segregating the sexes.\(^\text{260}\) Further, women who hold positions in various organizations and the government are often wives and sisters of the officials and clerics in power.\(^\text{261}\)

The increasing number of women in the government is also misleading. For example, based on the 1997 statistics, women only comprised five percent of Iran's parliament.\(^\text{262}\) Furthermore, because of the required dependence on men, the women in government may have a limited ability effectuate change. "Politics is still the man's domain, and the only women who enter the field are related, by blood or marriage, to prominent men. As such, most women politicians are hostages, vulnerable to the political fortunes of these men, and only a few have managed to break free."\(^\text{263}\) The level of

\(\text{See Interim Report, supra note 225.} \)
\(\text{See Iran Human Rights Watch Group, Digest on Human Rights in Iran, 1 IRAN HUM. RTS. CHRON. 1 (Nov. 1998) <http://www.ihrwg.org/ihrc1.html>}. \)
\(\text{See id.} \)
\(\text{See supra note 31, at 45. See supra text accompanying notes 183–87.} \)
\(\text{See Espandiari, supra note 31, at 45. For example, these women are} \)
\(\text{heads of the Society for Women's Solidarity, National Council of Women's} \)
\(\text{Sports Organizations, Iran's Olympic Committee, and Women's Society of the} \)
\(\text{Islam Republic. See id.} \)
\(\text{See National Report on Women 1997, supra note 255.} \)
\(\text{Ziba Mir-Hosseini, Women and the Elections in the Islamic Republic of} \)
\(\text{Iran (visited Mar. 28, 2000) <http://www.iranmania.com/elections/articles/} \)
\(\text{women.asp>.} \)
authority granted to female judges is also suspect. There is concern that women judges do not have the same level of authority as their male counterparts. According to one source, female judges only serve as “Inquiry Judges.” Inquiry Judges essentially function as paralegals, assisting the prosecutor and, therefore, they do not have the power to issue verdicts on any cases. One commentator noted that “Inquiry Judges’ is nothing but a fake terminology and propaganda tool.” Thus, while initially it appears that women’s access to employment is increasing, a deeper examination shows that women in Iran still face discrimination and inequality in the work force.

b. Right to Education

The right to education is defined in the ICESCR on several levels: (1) primary education should be compulsory and available free to everyone; (2) secondary education should be generally available and accessible to all by every appropriate means; and (3) higher education should be equally accessible to all. Unlike the fundamental rights violations and the inconsistency in women’s right to work, educational opportunities for women have actually improved in some forms since the Islamic Revolution.

Education is one of the Islamic government’s most important goals. The current government spends a greater percentage of the country’s resources on education than did the previous regime. The government provides free education for all citizens up to the secondary level, without differentiation between males and females. Although schools remain segregated, the proportion of school-age children attending school, both male and female, is increasing in the elementary

264. See Iran Human Rights Watch Group, supra note 258, at 1.
266. See id.
267. Id.
268. See ICESCR, supra note 99, art. 13(2).
269. See Higgins, supra note 45, at 21.
270. See id.
271. See id. (identifying that, despite segregation based on gender, the curriculum for boys and girls and the books used are the same).
272. See Mirhosseini, supra note 44, at 74. See supra text accompanying notes 183–84.
Because of the increase in expenditures on education and the availability of education for both males and females, "the gap between male and female school participation rates is declining." According to the Iranian Embassy in Canada, the number of females in primary and secondary schools has more than doubled from 1976 to 1991. The most significant increase in access to education is in the rural areas, where the literacy rate for rural women has doubled during the Islamic government's regime. Therefore, "rather than experiencing decreased access to education, women in less developed, more ethnic, and rural regions of the country have greater access to at least elementary education in 1986 than they did in 1976."

Access to secondary education has also increased, with universities accepting twice as many freshmen in 1987 than they did in 1976. "[T]he larger number of students meant that in absolute terms more women were enrolled in most fields in 1990-91 than in 1977." These increases continued during the last decade. The Iranian Embassy reports that the number of females in most areas of study has almost doubled between 1988 and 1992. Further, there are more female students enrolling in university than male students. "In 1998 [fifty-one percent], and in 1999 [fifty-seven percent] of [u]niversity entrants were female." Despite these statistics, women are excluded from seventy-nine out of the 157 majors offered at Iranian universities.

274. Id. at 24.
276. See Higgins, supra note 45, at 26. In 2000, eighty percent of women are literate. See Mir-Hosseini, supra note 263.
277. Higgins, supra note 45, at 27.
278. See id. at 30.
279. Id. at 32.
282. Mir-Hosseini, supra note 263.
283. See Mirhosseini, supra note 44, at 74. These majors include agriculture, veterinary science, and some engineering fields. See ESFANDIARI, supra note 31, at 41.
The increased opportunities for education at universities includes substantial participation by the poorer population. The Islamic government established new criteria for acceptance into universities, which includes religious knowledge, political screening, and quotas based on service to the state and family of war veterans. These new policies have "redis- tribut[ed] educational opportunities away from the urban upper and middle class toward rural and urban lower-class populations." Therefore, the Islamic government has increased women's access to education by giving the religious, lower-middle class women an opportunity for education. "Today it is mothers—and fathers—from traditional families who avidly desire for their daughters one of the limited and keenly sought after places at the university or the opportunity for employment and a career."

The improvement in women's access to education, unlike the other human rights protected under the ICCPR and the ICESCR, appears to be bona fide. However, there are issues in Iran's education policy that raise questions of inequality. For example, restricting majors based on gender clearly limits a woman's ability to choose a career, making the education she receives unequal to a man's. Further, segregating classes for males and females makes it more possible for women to receive a lower quality education than men. Although questions of true equality still remain, Iran has made great strides in meeting their obligations under the ICESCR and the UDHR to guarantee the right to an education.

3. Summary

Under the ICCPR and the ICESCR, Iran must implement laws and practices that protect the rights granted by these agreements. The above analysis demonstrates that Iran fails to provide the fundamental civil and political rights guaranteed to all Iranians under the UDHR and the ICCPR. Women suffer from unequal treatment under the

284. See Higgins, supra note 45, at 32–33.
285. See id.
286. Id. at 33.
287. See id.
288. ESFANDIARI, supra note 31, at 214.
289. See supra Part II.B.1.b.
290. See supra Part IV.A.1.
law, inhumane punishment, due process violations, inequality in marriage, and an extreme lack of freedom of expression and opinion. However, by improving women’s access to employment and education, the government of Iran appears closer to meeting its obligations of ensuring the economic, social, and cultural rights, under the UDHR and the ICESCR.

B. Effectiveness of the International Human Rights System

1. Universal Declaration of Human Rights and the International Covenants

Iran is clearly in violation of the civil and political rights guaranteed in the ICCPR. Although Iran has made strides in meeting its obligations under the ICESCR, it must overcome inequalities in education and the workforce to achieve compliance with the Covenant. The ICCPR and ICESCR, unlike the UDHR, are legally binding agreements. Iran, as a party to the ICCPR and the ICESCR, is legally responsible for meeting the obligations set under these Covenants. Since Iran clearly fails to meet their legal obligations, the enforcement provisions of the Covenants must be scrutinized to determine whether the current international human rights system is capable of addressing the problems facing women in Iran.

The ICCPR contains a number of monitoring and enforcement provisions whereby the Human Rights Committee reviews reports and complaints involving state parties. The first of these measures requires all state parties to submit periodic reports regarding their implementation of the Covenant. Iran, like many other state parties, has not submitted the required reports consistently. In 1992, ten years after its first report, Iran submitted its second ICCPR periodic report to the Human Rights Committee.

291. See supra Part IV.A.1.
292. See supra Part IV.A.2.
293. See supra Part IV.A.1.
294. See supra Part IV.A.2.
295. See supra Part II.B.1.
296. See supra notes 128–29 and accompanying text.
297. See supra Part II.B.2.
298. See supra Part II.B.1.b.i.
299. See Concluding Observations, supra note 204, ¶ 4.
The Human Rights Committee responded to Iran’s 1992 ICCPR report in 1993. The Committee addressed its concerns about women’s rights in just one paragraph. The Committee concluded that the discrimination against women, including the punishment and harassment they suffer, are “incompatible” with the ICCPR. As its recommendation, the Committee merely stated, “active measures should be taken to enhance the status of women in the Islamic Republic of Iran in accordance with articles 2, 3[,] and 23 of the Covenant and to guarantee their equal enjoyment of rights and freedoms.” The Committee also recognized that the government of Iran needs assistance in bringing Iranian laws and practices in line with the ICCPR. However, the Committee does little to give such assistance. By merely stating that Iran should “enhance the status of women,” the Committee does no more than recognize a patently obvious violation of human rights.

As required by the ICESCR, Iran also submitted its ICESCR periodic report to the Committee on Economic, Social and Cultural Rights in 1992. Like the Human Rights Committee, the Committee on Economic, Social and Cultural Rights also said very little about women’s rights, except to state that Iran’s practices constitute “non-performance” of its obligations under the ICESCR. As for recommendations, the Committee merely suggested that Iran should take the necessary steps to ensure compliance with the rights granted in the Covenant.

The ICCPR has two additional optional procedures: the optional procedure for state to state complaints and the optional protocol for individual complaints. Iran is not a party to either of these optional protocols. Therefore, these two procedures cannot be employed against Iran.

300. See id. ¶ 1.
301. See id. ¶ 13.
302. See id.
303. Id. ¶ 21.
304. See id. ¶ 4.
306. See id. ¶ 6.
307. See id. ¶ 8.
308. See supra Part II.B.1.b.ii.
309. See FACT SHEET NO. 2, supra note 94.
2. Extra-Conventional Mechanisms

The U.N. Commission on Human Rights and the Economic and Social Council also established additional monitoring mechanisms via thematic and country reports.\footnote{310}{See supra Part II.B.2.} Since 1984, a Special Representative has been monitoring the human rights situation in Iran and submitting periodic reports to the U.N. Commission on Human Rights.\footnote{311}{See For the Record 1997, supra note 9.} The Special Representative’s reports describe areas of improvement as well as areas that need immediate attention.\footnote{312}{See Country and Thematic Rapporteure, supra note 157.} Although most of the studies have been conducted from abroad, the Special Representative visited Iran in 1996.\footnote{313}{See Report on the Situation of Human Rights in the Islamic Republic of Iran, U.N. GAOR, 51st Sess., Agenda Item 110(c), ¶ 2, U.N. Doc. A/51/479/Add.1 (1996).} After his visit to Iran, the Special Representative hoped to return the following year.\footnote{314}{See id.} However, because of the resolution adopted by the Commission on Human Rights after the Special Representative’s report, the Iranian government rescinded its invitation for another visit.\footnote{315}{See Report on the Situation of Human Rights in the Islamic Republic of Iran, U.N. ESCOR, Comm’n on Hum. Rts., 53rd Sess., Agenda Item 10, ¶ 9, U.N. Doc. E/CN.4/1997/63 (1997).} The Iranian government believed the resolution adopted by the Commission failed to consider the culture of Iran, and was politically motivated.\footnote{316}{See id.} Iran also criticized the Special Representative for giving too much weight to high profile incidents as opposed to the positive developments that occur in everyday life in Iran.\footnote{317}{See id.}

The Special Representative continues to monitor various human rights issues in Iran, including the status of women, and submits periodic reports to the Commission on Human Rights.\footnote{318}{See Interim Report, supra note 225.} In the Special Representative’s most recent report, he clearly attempts to improve his relationship with Iran by specifically recognizing the Iranian government’s progress.\footnote{319}{See id.} The Special Representative’s reports and the Commission on Human Right’s resolutions suffer the same ineffectiveness and deficiencies as the ICCPR and ICESCR reports. By
merely making brief statements of Iran's improvements and violations, without specific suggestions or methods for change, these reports do not help improve the status of women's rights in Iran.

3. Summary

Since many aspects of the international human rights system are voluntary, each individual country must take steps to improve the status of human rights in its country. For example, in order for the Human Rights Committee of the ICCPR or the Committee on Economic, Social and Cultural Rights of the ICESCR to fulfill its duty of monitoring the implementation of its respective Covenant, each state party must submit a complete and honest periodic report. In addition, the state party must positively respond to the resolutions or responses by the committees. Finally, for the Human Rights Committee to employ the two optional procedures under the ICCPR and accept individual or state-to-state complaints, each state party must voluntarily consent. Iran has failed to take any of these steps. Iran has not consistently submitted the required periodic reports under the ICCPR and ICESCR. Nor has Iran responded positively to the recommendations of the monitoring committees. Finally, Iran has not given the Human Rights Committee of the ICCPR the power to implement the optional procedures. Therefore, the current international human rights system lacks the necessary mechanisms to enforce Iran to meet their obligations under the Covenants.

The greatest reason for the international human rights system's ineffectiveness is the limited role the committees play in the monitoring and reporting process. When evaluating a state's report, the committees do not have adversarial or inquisitorial authority. Instead, the committee engages

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320. See supra Part II.B.1.b.i.  
321. See supra Part II.B.1.b.ii.  
322. See supra notes 299, 305 and accompanying text.  
323. See supra notes 315-17 and accompanying text.  
324. See supra notes 155-61 and accompanying text.  
325. See Makau wa Mutua, Looking Past the Human Rights Committee: An Argument for Demarginalizing Enforcement, 4 BUFF. HUM. RTS. L. REV. 211, 225 (1998). Although this article discusses the Human Rights Committee and the ICCPR specifically, the same analysis applies to the ICESCR and the Committee on Economic, Social and Cultural Rights.
in a “dialogue” with the state representative, asking questions and making recommendations. However, from the recent responses submitted by the committees regarding Iran, their recommendations consist of merely vague suggestions. The committees provide no detailed plans for reform to ensure Iran’s compliance with international law. As one commentator noted, “in recent years both sides just seem to go through the motions, even when the particular state in question is a serious violator.”

Furthermore, the committees have no enforcement power. Instead, “[s]ince there is virtually no follow-up until the next report five years hence, states now seem to think the most important thing is the preparation of a ‘good’ report, one that is comprehensive and admits to the problems well publicized for the state in question.”

Together, Iran’s failure to self-impose methods of fulfilling its obligations under the Covenants and the reviewing committee’s insufficient monitoring process make the current structure of the human rights system ineffective. The reviewing committees provide no incentive for Iran to remedy its violations. Without a change in the current system, women’s human rights in Iran will continue to suffer.

V. PROPOSAL

As the above analysis demonstrates, the current international human rights system has not been effective in improving the status of women’s rights in Iran. The Covenants and other procedures fail to provide adequate enforcement mechanisms. Even enabling the international human rights system to force Iran to change their ways would not prove sufficient. As the Islamic Revolution proved, forcing a country like Iran to drastically change and westernize their policies will send society and government in opposite directions. Instead, as proposed below, improving women’s rights in Iran requires legal and social factors working together. Only by both changing the international human rights system and

326. See id. at 227.
327. See supra Part IV.B.
328. Mutua, supra note 325, at 228.
329. Id. at 228.
330. See supra Part II.A.
331. Economic concerns obviously play an important role as well. However, a proper economic analysis is beyond the scope of this comment.
promoting the development of non-governmental organizations within Iran will the status of women's rights in Iran improve.

A. Changes to the International Human Rights System

Currently, the international human rights system lacks the capability to truly impact women's rights in Iran. There are a number of proposed changes to the human rights system that may potentially improve the situation. While many of these proposed changes are necessary, none will be sufficient alone.

Perhaps the most popular theory is to establish a permanent International Criminal Court to oversee and enforce the various international treaties. Generally, the proposed court would consist of eighteen judges elected by the state parties to the treaty. The judges would be nationals of different states and would serve a term of nine years. The proposed court would have jurisdiction over the following crimes: "genocide, aggression, serious violations of the law and customs applicable in armed conflict, crimes against humanity, [and] crimes, established under or pursuant to treaty provisions listed in an Annex to the statute which, depending on the conduct alleged, constitute exceptionally serious crimes of international concern." The proposed International Criminal Court would enforce international human rights law by prosecuting violators of the ICCPR and ICESCR. Most importantly, the court would theoretically deter future violations and enable victims to regain confidence in their environment.

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332. See supra Part IV.B.


334. See id.

335. Id. at 311.

336. See id. at 292.
Although the proposal could theoretically help the status of women's rights in Iran, its development alone is not enough. Generally, international courts function effectively when state parties have a common culture and similar beliefs regarding human rights. These common traditions and beliefs enable state parties to trust an international tribunal to make binding decisions. State parties that do not share customs and traditions are less "willing to privilege supranational legal rules[, such as decisions by an international criminal court,] over claims of national interest." Because Iran's strong Islamic traditions and culture differ from the majority of other countries, Iran is not likely to grant an international court the necessary jurisdiction. As the Islamic Revolution of 1979 demonstrated, forcing the people of Iran to abandon their rich culture and traditions may prove disastrous. Therefore, the proposed International Criminal Court is not the most effective measure for improving the status of women's rights in Iran.

Instead of an International Criminal Court, this comment proposes a redesign of the structure of the Covenant committees to better aid countries such as Iran. While the Iranian government is not likely to grant jurisdiction to an international court, it appears willing to open its doors to less formal influences of the international human rights system. The new president of Iran has communicated with the international world and encouraged discussion of various human rights issues—including women's rights. The Covenant committees should respond by taking a more active role in promoting women's rights in Iran. Instead of spending its resources on the many rounds of report writing and vague suggestions, committee members or special representatives should be assigned to specific countries, such as Iran. Unlike the current system, this international representative should be responsible for more than monitoring and investigating the status of human rights. Instead, the international representative should build an alliance with the violating country and

338. See Helfer & Slaughter, supra note 90, at 331–37 (discussing the factors that made the European Court of Human Rights and the European Court of Justice work).
339. See id. at 335–36.
340. Id. at 334.
341. See Bagher Zadeh, supra note 69.
play a hands-on role in making improvements. By developing this relationship, the international representative will gain a better understanding of the violating country's culture and traditions, which will therefore make the representatives suggestions more effective. Further, by understanding and appreciating the violating state's culture, the international representative most likely will gain the respect and trust of the violating state's government.

Obviously, this system will prove more effective with some countries than others, but given recent movement towards liberation and democracy in Iran, this is the perfect opportunity for the international representative to start building the much needed relationship with the government of Iran. While this comment does not fully develop the details of the international representative's new role, recognizing the need for a more integrated relationship between Iran and the international community is the first step towards achieving equal rights for women in Iran.

B. Developing the Social Movement

When evaluating countries that have successfully improved their status of human rights and women's rights, the factor most essential to their success was the support and involvement of society itself. Recent developments in Iran demonstrate the growing movement for women's rights. For example, there has been an increased discussion of human rights violations in Iran. More significantly, new women's organizations have been created in Iran. These developments, coupled with the general growing involvement of women in politics, create the ideal backdrop for developing internal Iranian women's non-governmental organizations to


344. See Bagher Zadeh, supra note 69.
deal specifically with women's rights issues. This comment proposes that a vital step in improving women's rights in Iran is promoting and encouraging the development of such organizations and programs. Allowing the women of Iran to develop their goals for improvement and determine which human right guarantees under the ICCPR and ICESCR are the most important is essential for successfully improving the status of women's rights in Iran. Although this development must take place primarily in Iran and within the internal non-governmental organizations themselves, the international human rights system and international non-governmental organizations should encourage and support the development of these organizations. With this international support, the growing movement for women's rights in Iran will continue to develop and play a vital role in improving the status of women's rights in Iran.  

V. CONCLUSION

In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights with great hopes of establishing a human rights system to protect people around the world from violations of their fundamental human rights. Fifty years later, these violations continue to occur in Iran. While there are recent signs of improvement, Iran's treatment of women violates in obligations under the ICCPR and the ICESCR. Moreover, the current system of enforcement and monitoring under the Covenants fails to adequately ensure Iran's compliance with its human rights obligations.

The international human rights system must work more closely with the Iranian government. Specifically, assigning an international representative to develop a trusting, active, and influential relationship with Iran will prove much more effective in improving women's human rights. Beyond this change, establishing internal non-governmental organizations is essential in garnering society's support for the changes to Iran's currently discriminatory treatment of women. Only with this proper balance between governmental

345. See Afra Afsharipour, supra note 342, at 129 (discussing how the developments in Bangladesh demonstrate that "women's NGOs can increase government accountability and implementation").

346. See supra Part II.B.1.

347. See supra Part IV.A.
and non-governmental action will women's human rights in Iran significantly change.