

CHAPTER 17

## Sexual Politics and Law in Iran: the Narrative Surrounding the 2013 Bills

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### Abstract

The struggle to control women's destinies and bodies through law is a well-known issue. The Islamic republic of Iran is no stranger to such an attempt, and in 2013 the conservative Majles introduced two bills: the Bill to increase Fertility Rates and Prevent Population Decline (Bill 446) and the Comprehensive Population and Exaltation of Family Bill (Bill 315). These bills were the outcome of the Guide Ayatollah Khomeini's decision that family planning should be reformed and that policies on population control should be lifted. Altogether, these laws challenge sexual and reproductive rights as guaranteed under several international law documents ratified by Iran. The purpose of this article is to look into the two Bills to extract the conservative Shia thought lingering behind them, and to critically examine it before moving to study the strategy to promote such views inside the republic. The overall focus will be that of the protection and implementation of women's rights from an Islamic and a universalist perspective, looking at traditional women's rights paradigms.

### Keywords

Iran – shiism – law – sexuality

### Introduction\*

The struggle to control women's destinies and bodies through State law is a well-known issue in the field of sexuality studies. The Islamic republic of Iran

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is no stranger to such an attempt.<sup>1</sup> In 2013 the conservative Iranian Majles introduced two bills: the Bill to increase Fertility Rates and Prevent Population Decline Bill (Bill 446) and the Comprehensive Population and Exaltation of Family Bill (Bill 315). These Bills were the outcome of the Guide Ayatollah Khamenei's decision that family planning should be reformed and that policies on population control should be lifted.<sup>2</sup> The overall purpose of these Bills is in the long-term, to increase population. Their content is highly controversial as they limit the use of contraceptives, outlaw voluntary sterilisation, ban information and education on sexual and reproductive health and ban the recruitment of single teachers. Together, these laws challenge sexual and reproductive rights as guaranteed under several international law documents ratified by Iran. The two Bills are also in conflict with decades of family planning and population control policies that have turned Iran into a model country. As it stands, the two pieces of legislation have not yet been adopted; the current obstacle to adoption and implementation is that the cost as the national plan cannot support such policy changes. Yet it appears that some of the discriminatory elements of the Bills have made their way into practice. For example, some sex education programs have already been deprived from funding.<sup>3</sup>

While these Bills have not yet been voted as law, and might never become law—just as the 2008 Polygamy Bill never came into legal existence—their content reveals an approach to Islamic law and the perception of the role of women in Shia Islam. The two Bills are indeed mostly the result of principalist readings of Shia Islam, a conservative trend that is deeply entrenched in Iran. The interpretations made of the sources of Islamic law by principalist scholars can be puzzling in a period of time when different international bodies such as the World Bank and the United Nations Development Program continue to promote family planning.<sup>4</sup> Yet, they fit into an Iranian landscape where political trends that are religiously-inspired have always opposed each other in the Parliament (*Majles*). Indeed, Bills have always been the opportunity for Iranian clerics to put forward their interpretations of Islamic law via a highly regulated instrument serving the nation-state and the rule of law, thereby abiding by the

1 Earlier attempts are analysed by Hassan Hakimian, 'From Demographic Transition to Fertility Boom and Bust: Iran in the 1980s and 90s' (2006) 37(3) *Development and Change*, 571-572.

2 The website of Ayatollah Khamenei, Speech before government officials (24 July 2012) <<http://farsi.khamenei.ir/speech-content?id=20534>>.

3 Amnesty International, *Annual Report 2017-18: Iran*, <<https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>>.

4 Tanni Mukhopadhyay, 'Women's Reproductive Rights are Human Rights' (*UNDP Human Developments Report*, 11 July 2017), <<http://hdr.undp.org/en/content/women%E2%80%99s-reproductive-rights-are-human-rights>>.

Islamic republic's standards while shaping the nation. Such principalists' views on women, views that aren't mainstream in Iran, are not intended to undermine the Islamic republic of Iran. Instead, in a branch of Islam that is known for its diversity, namely Shiism, presenting a bill at Majles is a way of legitimising interpretations of Islamic sources, seeking approval from State authorities.

The purpose of this article is to look into the two Bills to extract the conservative Shia thought lingering behind them, and to critically examine it before moving on to study the strategy to promote such views within the republic. The argument is that the 2013 Bills are part of a religious narrative promoted by some public and established figures, narrative that seeks to use women's bodies to advance a political program: these legislative proposals present norms to shape women's identity and social expectations in order to promote a broader agenda that focuses on the regulation of women's sexuality. The piece is therefore a contribution to the illustration of existing theories on state regulation of sexuality, looking at sexual politics as a means and not an end. The analysis is also context specific and linked to the governance system of Iran.

### Conservative Shia Perspectives on Women: a Tale of Subjection

Most of the frameworks designed for Iranian women—whether social, legal, political, health or others—have been context-based and driven by ideology. Iranian women have been subjected to ideas and proposals based in law that stem from a variety of interpretations of Islam in recent decades. This is due to the ending of the Imperial regime and the emergence of the Islamic republic. Some of these approaches to women and their rights find their origins in principalist understandings of Islam and Islamic law. While Iran cannot, and should not, be reduced to principalism, it is however a reality that the recurrent political tensions between reformism and principalism,<sup>5</sup> the two main trends, have a direct impact on laws, which in turn is the *raison d'être* of this article. Women have been placed at the heart of these tensions between principalism and reformism, with consequences on their rights. The submission of the 2013 Bills, but also the appointment of Shahindokht Molaverdi as the Vice-President for women and family affairs by President Rouhani, are two events that are to be read in this context of opposition between the two trends. It also has to be read against a broader backdrop, that of the survival of the Islamic

5 Reformism is a political faction seeking to reform Iran using a modern interpretations of Islam. Their goal is therefore to seek to change the Muslim political and legal narrative, by providing new readings. Principalism gathers Iranian conservatives and hard liners.

republic of Iran, as explained in the third part of this article. Iranian women are indeed an apple of discord in terms of their perceived roles in the Islamic republic, mainly because both sides (but also other religious and/or political trends), have linked women's destinies to the future of the Republic, whether addressing its continuation or its demise, stripping thereby women of agency. As stated by Weigl:

By considering especially the example of Iran I want to point at the political context, which often is a determinant for the role religion plays in a state as well as for understanding the way in which religious doctrine is interpreted. The relative flexibility of the text means that they can be used by the groups in power, and those in opposition, to legitimate different positions on women and populations issues.<sup>6</sup>

The tensions are consequently structured around the expectations set on Iranian women, either as subjected to principalist views or empowered by reformism. As the focus of this piece is on principalism, it is useful to understand how women are perceived by principalists, going back to two main sources, the writings of Shariati and Motahari.

### The Scholarly Narrative from the 70s and Its Modern Impact

Well before the 1979 Revolution, there was a scholarly effort to depict the perfect Shia Iranian woman. She was imagined by Shariati in his seminal work *Fatemeh is Fatemeh*: in the book, Shariati described women's roles and responsibilities in a rather conservative fashion, pressing Iranian women to adopt Fatemeh, the daughter of the Prophet, as their role model. He describes her as pious, reserved, shy and sexually pure, yet determined and resilient when it comes to defending Islam.<sup>7</sup> His book begins with the rejection of any moulds, especially Western narratives. Yet, Shariati has a prescriptive as he suggests that women should find themselves in Islam: 'She neither wants to be a product of her ethnic heritage nor to adopt a superficial façade. She cannot remain heedless of Islam, and she cannot remain indifferent to it.'<sup>8</sup>

6 Constanze Weigl-Jäger, *Reproductive Health Behavior and Decision-Making of Muslim Women* (Lit Verlag 2010) 224.

7 Kamran Talattof, *Modernity, Sexuality, and Ideology in Iran: The Life and Legacy of a Popular Female Artist* (Syracuse University Press 2011) 200.

8 Ali Shariati, *Fatemeh is Fatemeh* (Shariati Foundation 1981) 26.

While explaining to women that they should aspire to be like Fatemeh, Shariati describes himself as a reformist, as he seeks to break away from the narrative of the traditional woman. He claims to free women and does not reduce them to the private sphere, and instead publicises the private sphere: the family becomes a public matter, thereby allowing the woman to remain a mother and a wife while being a social actor.<sup>9</sup> Yet, he embraces another narrative, that of a woman who is an object of desire with no sexual will power, thereby de-sexualising her,<sup>10</sup> as he proceeds through what he calls a 'Freudian sexual liberation.'<sup>11</sup> Shariati's attempt at describing the perfect woman is only one of the many moulds crafted for Iranian women since the 70s. It is one that resonates in the context of the 2013 Bills as they too imagine a woman with no sexual desire while being hyper-sexualised by men's desire. Indeed, by prohibiting any form of regulation of fertility, the Bills ensure that women become receptacles of men's desires in order to procreate without considering their own sexual needs or wishes. Bill 446 restricts access to modern contraception and bans sexual education while Bill 315 erects barriers to employment and divorce; in both cases, women are reduced to their status as mothers and wives. The outcome of this de-sexualisation process is that women lose all control over their bodies and destinies, becoming 'baby machines,' as stated by Amnesty International, that 'shall procreate.'<sup>12</sup> Iranian scholars, politicians, lawyers and others have produced scholarly work denouncing the sexual empowerment of women coming from the West, thereby rejecting the *Gharbzadegi*, the one intoxicated by Occidentosis as advocated by Fardid<sup>13</sup> and Ahmad,<sup>14</sup> and encouraging women to fit into a more local mould. The 2013 Bills are, in their own way, yet another of these moulds applied to Iranian women: Ayatollah Khomeini himself denounced the risk of westernisation of Iranian women as he launched his campaign to have the two Bills ratified. This is very

9 Parvin Paidar, *Women and the Political Process in Twentieth-Century Iran* (Cambridge University Press 1997) 181.

10 Haideh Moghissi, *Populism and Feminism in Iran: Women's Struggle in a Male-Defined Revolutionary Movement* (Palgrave MacMillan 1996) 89; N.R. Keddie, *Women in the Middle East: Past and Present* (Princeton University Press 2006) 314.

11 Ali Shariati, 'Our Expectations of the Muslim Woman,' Lecture translated by L. Bakhtiar, available <[http://www.iranchamber.com/personalities/ashariati/works/expectations\\_of\\_muslim\\_woman.php](http://www.iranchamber.com/personalities/ashariati/works/expectations_of_muslim_woman.php)>.

12 Amnesty International, 'Iran: Proposed laws reduce women to 'baby making machines' in misguided attempts to boost population' (11 March 2015) <<https://www.amnesty.org/en/latest/news/2015/03/iran-proposed-laws-reduce-women-to-baby-making-machines/>>.

13 Ali Mirsepassi, *Transnationalism in Iranian Political Thought: The Life and Times of Ahmad Fardid*, (Cambridge University Press 2017) 249.

14 Jalal Al-e Ahmad, *Occidentosis: A Plague from the West* (Mazda 2012)

much in line with Shariati's views on women and sexuality,<sup>15</sup> as he promoted the wearing of the loose chador to hide any shapes and encourage youngsters to lead a pure life until marriage.<sup>16</sup> Decades later this influenced the 2013 Bills' content. The influence of Shariati and other conservative scholars, such as Khomeini who stated that 'a woman must surrender to her husband for pleasure',<sup>17</sup> is therefore obvious as the Bills are concerned with sexuality, but a sexuality emptied from its content when it comes to the woman.

The aim of the legislative proposals from 2013 is clearly to promote Fatemeh the pious and the pure as a model to denounce the behaviour of Iranians who engage in sexual activities, either without being married or outside marriage. This, challenges the republic's view on adultery: indeed Iranian women have been sexually emancipated thanks to the contraceptive pills,<sup>18</sup> sexual education,<sup>19</sup> hymenoplasty,<sup>20</sup> or what Mahdavi has called 'passionate uprisings'.<sup>21</sup> Therefore, such approach to the woman's body as reduced to a receptacle is not a novelty in principalism, as Shariati himself contributed to this de-sexualisation process when he condemned any attempt at promoting sexual empowerment, while praising the de-sexualised figure of Fatemeh as a role model.<sup>22</sup> His imprint is to be seen in Bill 466 but perhaps less in Bill 315 as he never intended to force women to stay at home. Bill 315 is more influenced by Motahari, who believed women should remain at home.

Motahari's attempts at regulating women's rights also pre-dates the 1979 Islamic Revolution and served as an inspiration for the Republic's approach to women's status in law and politics. He believed that the western feminist discourse provided Iranian women with an illusion, that of equality, when actually men and women complement each other through marriage. While Shariati was mostly concerned with the identity of the woman, Motahari focused

15 Paidar (n 9) 181.

16 Farzaneh Farahzad, 'Voice and Visibility: Fanon in the Persian Context' in Kathryn Batchelor and Sue-Ann Harding (eds.), *Translating: Frantz Fanon Across Continents and Languages* (Routledge 2017) 144.

17 Hammed Shahidian, *Women in Iran: Gender Politics in the Islamic Republic* (Praeger 2002) 179; Lamia Rustum Shehadeh, *The Idea of Women in Fundamentalist Islam* (University of Florida Press 2007); Maryam Poya, *Women, Work and Islamism: Ideology and Resistance in Iran* (Zed Book 2011) 158.

18 Pardis Mahdavi, *Passionate Uprisings: Iran's Sexual Revolution* (Stanford University Press 2008) 239.

19 Ibid. at 221; Talattof (n 7) at 33.

20 Azal Ahmadi, 'Recreating Virginity in Iran: Hymenoplasty as a Form of Resistance' (2016) 30:2 *Medical Anthropology Quarterly* 222.

21 Mahdavi (n 18).

22 Emira Derbel, *Iranian Women in the Memoir: Comparing Reading Lolita in Tehran and Persepolis* (Cambridge Scholar Publishing 2017) 154.

on the relationship between the woman and the private-public divide.<sup>23</sup> As stressed by Sadeghi, he had an important influence upon the development of an Iranian narrative on women anchored in private life:<sup>24</sup> his views were that a woman's main purpose was to serve her husband and mind her home. His main focus was therefore rejecting the westernisation of women and the idea of gender equality, while bringing woman back home.<sup>25</sup> His views permeated the Preamble of the Constitution that states:

The family is the fundamental unit of society and the main centre for the growth and edification of human being [...] This view of the family unit delivers woman from being regarded as an object or instrument in the service of promoting consumerism and exploitation. Not only does woman recover thereby her momentous and precious function of motherhood, rearing of ideologically committed human beings, she also assumes a pioneering social role and becomes the fellow struggler of man in all vital areas of life. Given the weighty responsibilities that woman thus assumes, she is accorded in Islam great value and nobility.

Motahari believed that western influence oppressed women while the Republic would free them. In his work, Motahari commodified female sexuality,<sup>26</sup> by rejecting love and encouraging marital harmony, stating:

Contemporary society, in the name of freedom for women – or to put it more boldly, freedom of sex – has corrupted the soul of young people. This kind of freedom, instead of assisting women to blossom their capabilities and potentials, has wasted human energies and capacities in unprecedented ways. Women have left the household, but where did they end up? In movie theatres, beaches, street corners, and parties!<sup>27</sup>

With such views, Motahari stripped women of any agency as their sexual empowerment automatically leads to 'bad' behaviour, thereby contributing decades later to the 2013 Bills that seek to regulate women's attitude. His views are

<sup>23</sup> Ibid.

<sup>24</sup> Fatemeh Sadeghi, 'Bypassing Islamism and Feminism: Women's Resistance and Rebellion in Post-revolutionary Iran' (2010) *Revue du Monde Musulman et de la Méditerranée* 128, 209.

<sup>25</sup> Moghissi (n10) at 65.

<sup>26</sup> Shahidian (n 17) at 121

<sup>27</sup> Murtada Motahari, *Nezam-e Hoquq-e Zan dar Islam* (Tehran, The Foundation of Women's Rights in Islam, 2001) 203-4

more conservative as he states, when speaking of the *mahrieh* (a type of dowry):

Islamic law always follows the rule that the man is the one who is in need, and the woman is not. Islam recognises men as buyers of the commodity that women own. In a conjugal relationship, it is the man who benefits from the relationship, and he should therefore pay for it.<sup>28</sup>

Yet again, such a perception turns a woman's body into an empty shell aimed at sexual intercourse and procreation in exchange for maintenance (*nafaqah*). Mir Hosseini had already denounced what she sees as a marriage for sexual motives.<sup>29</sup> She speaks of the marriage contract as being concomitantly hyper-sexualised and de-sexualised: it is all about sex, yet the woman is deprived of any agency or empowerment, and is transformed into a receptacle of the man's desire. The 2013 Bills pursue the same goal: that of a woman illiterate in the ways of preventing pregnancy and forced to marry to socially exist, thereby led by society to be confined to her role as a mother, as wished for by Motahari and Shariati. The narratives provided by these two scholars, and others, have fuelled a State's policy to control sexuality for decades. This reminds us of Pateman's examination of the use of contract law to subjugate women,<sup>30</sup> which is a phenomenon in Islamic family law;<sup>31</sup> except that in Iran, the State contributes to that subjection through other means.

### The Culture of Modesty in the 21st Century: the De-Sexualisation of the Iranian Woman

To understand the origins of the 2013 Bills, one can look at recent work done on women and sexuality in the Islamic republic. As noted by Mir Hosseini, there are many principalist scholars and clerics who have devoted books to the task of depicting the norms for Iranian women.<sup>32</sup> Their understandings of the

<sup>28</sup> Ibid. 208.

<sup>29</sup> Ziba Mir-Hosseini, 'Sexuality and Inequality; the marriage contract and Muslim legal tradition', in A. Helie and Homa Hoodfar (eds.), *Sexuality in Muslim Contexts: Restrictions and Resistance* (Zed Books 2012) 124-148.

<sup>30</sup> Carol Pateman, *The Sexual Contract* (Polity 2018).

<sup>31</sup> Mir Hosseini (n 29).

<sup>32</sup> Mir Hosseini provides a list of books in Z. Mir Hosseini, 'Sexuality, Rights and Islam: Competing Gender Discourses in Post-Revolutionary Iran' in G. Neshat and Lois Beck (eds.), *Women in Iran from 1800 to the Islamic Republic* (University of Illinois Press, 2004) 204-217.

woman's body as de-sexualised are at odds with practice: Iranian women have used sexual intercourse to challenge conservative values of the Islamic republic; to develop control over the body, they have heavily relied on access to contraception and surgery (including hymenoplasty).<sup>33</sup> In that context, the purpose of the Bills is to restrict women's free use of their bodies to nurture defiance towards the system.<sup>34</sup> It is to challenge such defiance that, building on seminal work by scholars such as the above, principalists have, among others, launched a 'culture of modesty' (*farhang-e effaf*) aimed at ensuring that women would come back to the discourse of authenticity developed by Shari'ati and Motahari.

For example, sexuality and veiling have often been linked and are sources of anxiety to conservatives.<sup>35</sup> As stressed by Abdmolaei:

Functioning as a socio-political resource and method of discipline and control over women's bodies and sexualities, mandatory Islamic dress in Iran has been a central feature of the Islamic Regime's policy towards women. Intended to stand as a symbolic discourse of women's social and sexual submissiveness and docility, those who resist dress codes are subjected to severe punishment as well as stigmatisation.<sup>36</sup>

In that context, sexuality has been broadened to include proper veiling of women in public spaces, yet again confining women to a model, that of a decently veiled woman who is de-sexualised by her chador. This movement exists in retaliation to the colourful and loose veiling that find its roots in the 90s and that has seen women negligently throwing a *chale* over a head, swapping the *marnahe* for a small *rousari*, showing hair after work or school, or even wearing hats, thus forever stepping away from the chador. This is why principalist approaches to women have included the continuous quest to have women veiled properly to avoid corruption of minds. For example, Mohammad Taqi Rahbar,

33 Somayeh Hashemi Sedighe Seddigh, Fahimeh Ramezani Tehrani, Seyed Mehdi Hasan-zadeh Khansari, and Nahid Khodakarami, 'Sexual Behavior of Married Iranian Women, Attending Taleghani Public Health Center' (2013) 14(1) *Journal of Reproduction & Infertility* 34.

34 Nafiseh Sharifi, *Female Bodies and Sexuality in Iran and the Search for Defiance* (Basingstoke; Palgrave MacMillan 2018); F. Sadeghi, 'Negotiating with Modernity: Young Women and Sexuality in Iran', in Asef Bayat and Linda Herrera (eds.), *Being Young and Muslim: New Cultural Politics in the Global South and North* (Oxford, Oxford University Press 2010) 273-290.

35 Shahidian (n 17) 80.

36 Shirin Abdmolaei, '(Re)Fashioning Resistance: Women, Dress and Sexuality in Iran' (2014) 9(2) *Antropology of the Middle East* 38.

a MP, stated that 'men see models in the streets and ignore their own wives at home. This weakens the pillar of the family.'<sup>37</sup> He referred to loosely veiled or dressed advertisements picturing women. This approach to the veil is deeply anchored into Shia conservative views, explaining yet again how all perceptions of women which rely on interpretations of Islam build an image of the perfect Iranian woman. Consequently, the 2013 Bills are yet another addition to what Afary calls the sexual politics of Iran.<sup>38</sup> The principalists have a clear strategy with regard to woman, that of the promotion of a de-sexualised woman acting like Fatemeh, and who veils like Fatemeh. This has led Mir Hosseini to conclude that the Republic leads a war against women to explain the crack-down on gender activists and feminists.<sup>39</sup>

This culture of modesty is grounded in the de-sexualisation of women by society under the leadership of principalist authorities and scholars. It is believed that only the de-sexualised woman devoted to her family is the only role model to adopt. Yet, women remain sexual beings being contracted into a marriage that has a sexual purpose, taking us again to Pateman's theory.<sup>40</sup> This also reminds us of Mernissi's views on explicit and implicit sexuality in Islam: while women are seen as sexual objects, they are not empowered sexually:

Moslem society is characterised by a contradiction between what can be called 'an explicit theory' and an 'implicit theory' of female sexuality and therefore a double theory of sex's dynamics. The explicit theory is the prevailing contemporary belief, according to which, women are passive. The implicit theory is epitomized in Imam Ghazali's classical work. He sees civilization as struggling to contain the woman's destructive, all-absorbing power. Women must be controlled to prevent men from being distracted from their social and religious duties.<sup>41</sup>

The Bills embrace this distinction, depicting an Iranian woman, who is subjected to the social institution of marriage, since she will struggle finding work if single, and is expected to be sexually active to bear children, but not sexually

37 Ali Akbar Dareini, 'Iran cracks down on dress code for women' (*Houston Chronicles*, 24 April 2007), <<http://www.chron.com/news/nation-world/article/Iran-cracks-down-on-dress-code-for-women-1591921.php>>.

38 Janet Afary, *Sexual Politics in Modern Iran* (Cambridge University Press 2009).

39 Ziba Mir Hosseini, 'The Islamic Republic's War on Women' (*Foreign Policy*, 26 August 2016) <<http://foreignpolicy.com/2016/08/29/the-islamic-republics-war-on-women-iran-feminism/>>.

40 Pateman (n 30).

41 Fatima Mernissi, *Beyond the Veil: Male-female Dynamics in Modern Muslim Society* (Indiana University Press 1987) 2.

empowered. The idea that a woman is sexually passive is supported by the Quran that states 'Your wives are a place of sowing of seed for you, so come to your place of cultivation however you wish.'<sup>42</sup> The 2013 Bills encourage men to go to their fields, therefore relying on Islam and Islamic legal sources to support this new policy. This culture of modesty pieced together with a renewed intensity since the 70s find its roots in classical Shia Islamic law as interpreted by scholars. As a result, the 2013 Bills are deeply anchored in a long-term narrative that finds its legitimacy in scriptures

### **Rooting Principalist Views in Shia Islam to Find Religious Legitimacy of a Political Narrative**

As stated by Baumeister and Twenge with respect to culture, and which applies also to religion: 'We understand the suppression of female sexuality as a pattern of cultural influence by which girls and women are induced to avoid feeling sexual desire and to refrain from sexual behaviour'.<sup>43</sup> In the case at hand, this desexualisation is a pattern resulting from interpretations of religious sources that is politicised in order to ensure control via the law. International women's rights as a traditional paradigm is then rejected and replaced in legislation.

#### ***Interpretations that Limit Women's Contributions***

There are a variety of interpretations of Islamic legal sources relating to Shiism in Iran. These interpretations contribute to the rejection of a women's rights narrative anchored in international law. The different existing trends of thoughts considering women have continuously opposed each other. Principalists usually reject or side-line concepts such as universal women's rights to focus on finding rights in Islam itself. They believe Islam and Islamic legal sources offer all the rights and assorted duties a woman would need. The outcome is that, in order to understand their views, one needs to put international women's rights views into parenthesis.

An analysis of the primary sources of Islamic law demonstrates that there are human rights in the Quran and in the Ahadiths. For example, the principles of humanity (Quran 5:32), compassion, non-discrimination, dignity, equality and fraternity (Quran 4:1) and justice (Quran 16:90) can all be found in the Holy

42 Cited by Shahidian (n 17).

43 Roy F. Baumeister and Jean M. Twenge, 'Cultural Suppression of Female Sexuality' (2002) 6(2) *Review of General Psychology* 166.

Book. It has been argued that equality between men and women is to be found in the Sura 49:1 to 49:10 of the Quran (but also 38:72, 2:21-22, 7:190...), termed in complementarity between men and women, and that this is why there would be no need for any international documents. Ayatollah Qurbani even believes that the notion of freedom stated in the 1948 UN Declaration is a false one: freedom, as per western human rights' systems reflected in the Declaration, is a perversion of the concept. The only freedom advocated by the 1948 Declaration is to follow unethical principles and physical desires, whereas freedom should be oriented towards the freedom of the soul. This freedom should be sought in Islam, which 'is the greatest pioneer regarding freedom and there is certainly no other religion where freedom was put forward as much.'<sup>44</sup>

Ayatollah Khamini'i expands this by stating that the notion of freedom as stated in the 1948 Declaration is a way to detach oneself from God. The aim of human rights should instead encourage ascension of the human soul rather than encourage human desires. Therefore, one cannot be 'free from' from their religious obligations so as to avoid their duties towards God, and all should seek to get closer to God by fulfilling their religious duties in order to obtain the rights.<sup>45</sup> Such an approach impacts on women and their rights: women are expected to seek to get closer to God and leave all physical matters, including sexuality, behind. They should focus on the soul rather than physical desires.<sup>46</sup> This overall approach on the meaning and purpose of human rights provides the tone in terms of sexual and reproductive rights: such rights only exist as long as they feed the soul, and not the body.<sup>47</sup> Khamini'i grounds such views in his interpretation of a hadith from Ali that states 'he who overcomes his carnal desires, he is free' and in the exegesis of the Quran such as verses 3:191, 34:46, 30:8, 7:176, and many more that encourage human beings to reflect inwardly.<sup>48</sup> He concludes: 'In the Islamic and humane concept, freedom regards rebellion and carnal desires as prisons; true freedom lies in refraining from them.'<sup>49</sup> Again, this provides the basis for the 2013 Bills' approach to women as de-sexualised objects and men as sexual beings within the marriage contract. It also provides the grounds for detaching women's rights from international law, sourcing them in Islam instead.

44 Zain al Abidin Qurbani, *Islam va hoquq-e bashar* (Tehran, Bureau for Islamic Culture 1996) 496.

45 S. M. Khamini'i, 'Individual Rights in Islam' in Muhammad H. Salimi, *Islamic views on Human Rights: Viewpoints of Iranian Scholars* (Kanishka Publishers 2003) 50.

46 Qurbani (n 44) 10.

47 Khamini'i, (n 45).

48 Ibid.

49 Ibid.

The second element to take into account is that Shia scholars have linked rights and duties in their understanding of the human rights' paradigm.<sup>50</sup> Allah is the source of all rights which He grants to Muslim believers who have performed their religious duties.<sup>51</sup> Therefore, contrary to natural law theories, there is no entitlement to rights in Islam because, as Khatami reminds us, man is a creature of God.<sup>52</sup> As such, each Muslim believer has a vertical relationship with God which entails a series of religious duties, and once those have been performed, benefits from a series of rights.<sup>53</sup> Therefore, human rights directly stem from a greater authority<sup>54</sup> who 'owns'<sup>55</sup> human rights. As a result, those who represent God on earth or those who rule on His behalf have authority over human rights matters, while human assemblies which pass man-made law will yield to superior authorities. This directly impacts on women: they will only benefit from rights once they have fulfilled their duties. This is why Iranian women have become visible in the Islamic republic, as long as they are veiled: they are only seen publicly and endorse public roles when it is to serve Islam. They must fulfil their religious obligations as perceived by scholars such as Motahari and Shariati, to then benefit from rights. This demonstrates how women's rights are severed from their international law anchorage to be then rooted into Islam. Such duties are also exposed in the 2013 Bills: they are to marry, have children and take care of their home. The end game is the creation of a hierarchy between men and women in the name of complementarity: men and women are complementary of each other, and in that order of life, women are sexual receptacles.

A third point is the inherent belief stemming from interpretations of Islamic law sources according to which women are less apt than men in many regards; which is why they only complement men and aren't equal to them. For

50 Mohammad Taqi Jafari, *Malaha ye Tabiqi Nazam Hoquq-e Djahani-e Bachar az Didgah-e Eslam va Qarb* (Islamic Culture and Relations Organization 1999) 13-14.

51 Abdul Aziz Said, 'Precept and Practice of Human Rights in Islam' (Jan-Mar 1979) 1(1) *Universal Human Rights* 73-74.

52 Mohammad Khatami, 'Dialogue among Civilizations', Address to the UN General Assembly, New York, 21 September 1998.

53 A. Javadi Amuli, *Falsafe-ye hoquq-e bashar* (Tehran, Markaz-e Nashr-e Isra, 1377/1998) 89; A. Merad, 'Droits de Dieu, Droits de l'Homme en Islam' in A. Abu-Sahlieh and et al (eds.), *Actes du Premier Colloque Interuniversitaire : Universalité des droits de l'homme et diversité des cultures* (Editions Universitaires Fribourg 1984) 127.

54 Seyyed Hossein Nasr, 'The concept and Reality of Freedom in Islam and Islamic Civilizations' in A. S. Roselbaum (ed.), *The Philosophy of Human Rights: International Perspectives* (Westport, Greenwood Press, 1980) 96.

55 Mahmood Monshipouri, *Islamism, Secularism, and Human Rights in the Middle East* (Lynn Rienner 1998) 72.

example, there is an ongoing debate as to the meaning of the word '*rajul*' as used in the Quran and the hadith. For some, it means men, for others it refers to all human beings, males and females.<sup>56</sup> As the Iranian constitution refers to *rajul* as being a condition to run for presidential elections (Article 115), the issue of the meaning of the word has more than a theological impact. For the time being, the Council of Guardians has shelved the debate after, in 2005, it was accidentally declared that *rajul* also included women.<sup>57</sup> The outcome of this interpretation of *rajul* as meaning men only has had direct impact on the law: there is a clear prohibition on women acting as judges. Women cannot sit as judges since a March 1979 law,<sup>58</sup> and as per Article 1361 of the 1982 law,<sup>59</sup> yet again showing how legislation is used to restrict women.<sup>60</sup> The argument for barring Iranian women from becoming judges is rooted in the fact that although complementary, men and women are different, and women tend to be overcome with emotions, making them unable to judge objectively. The reasoning to bar women from working based on Quran 4:34, 2:228 and 59:3 is also deconstructed by the same scholars.

Following public discussions, women are not allowed to work as instructing judges and judge's counsel since 1995, which means they are not involved in the final decision-making process.<sup>61</sup> The argument according to which women are too emotional to be objective therefore stands, and the lawyer Mehrangiz Kar has called for a reform of the law.<sup>62</sup> Yet, it remains part of a narrative on women: women are the weaker sex, incapable of controlling emotions, but also sexual impulses, linking her feelings and sexuality.<sup>63</sup> Such debates demon-

56 Marianne Bøe, *Family Law in Contemporary Iran: Women's Rights Activism and Shari'a* (I.B. Tauris 2015), 159.

57 Alarabiya, 'Iran Watchdog says Women can Run for Presidency', (11 April 2009), <<https://www.alarabiya.net/articles/2009/04/11/70430.html>>.

58 Shirin Ebadi, *History and Documentation on Human Rights Iran* (Bibliotheca Persia Press 2000).

59 Shirin Ebadi, 'Mère et Actrice Sociale' in Nouchine Yavari d'Hellencourt (ed.), *Les Femmes en Iran: Pressions Sociales et Stratégies identitaires* (Edition L'Harmattan 1998) 92.

60 Nouchine Yavari d'Hellencourt, 'Discours Islamiques, Actrices Sociales et Rapports Sociaux de Sexe' Ibid. 222.

61 Valentine Moghadam, *Women, Work, and Economic Reform in the Middle East and North Africa* (Lynne Reinner Publishers 1998) 164; AFP, 'Iran considering Women to be Judges' *Agence France Presse* (Paris 27 October 1996); M K, *Zanan* (Tehran 1998) 40, 18-21; F. Farhi, 'The Contending Discourse on Women in Iran' (1998) 11 *Focus*, <<https://www.hurights.or.jp/archives/focus/section2/1998/03/the-contending-discourses-on-women-in-iran.html>>.

62 Mehrangiz Kar, 'Second Class: The Legal Status of Iranian women' *The Iranian* (18 April 2000), <<http://www.iranian.com/Opinion/2000/April/Women/>>.

63 Haleh Afshar, *Islam and Feminisms: An Iranian-study Case* (Palgrave 1998), 104.

strate that there is a narrative targeting women who are depicted as second class citizens.<sup>64</sup> Consequently, principalists anchor their understandings of women's private and public contributions into Islam to promote political views, contributing to the upholding of the Islamic republic. Their aim is to attach their views on women to the Republic's foundational narrative – that of a religious state, in order to find legitimacy. The purpose is two-fold: to anchor and legitimise views of religion and to sustain a system created by and through religion; eliminating any attempt at empowerment—here sexual—that could threaten the values that hold the republic together.

### Constitutional Law as the Medium for Religious Interpretations

Considering the 2013 Bills outside the Islamic republic's context would not be constructive. The Bills are the product of a linear political discourses rooted in law, and in particular constitutional law. They are very much the result of the political tensions mentioned above, but also of the very legal backbone of Iran, and the Constitution. Views exposed by Motahari or by Khomeini (who reflected on sexuality as being a means to reproduction, considered female sexuality as inactive and believe sexuality to play a role in institutions),<sup>65</sup> constitute the basis on which the Constitution was erected. The narrative on women that emerges from the Constitution provides the tone: in the Preamble, women are described as being a cornerstone of the Islamic revolution and the Islamic republic. While it is acknowledged that they 'should benefit from a particularly large augmentation of their rights', the role in the public sphere is *de lege* limited by the rest of the preamble: indeed, the private sphere emerges under the heading of 'woman in the constitution.' The constitution therefore acknowledges the role of women in the public sphere, but also reminds women that they are at the heart of the family unit in Islam.

This constitutional positioning is key, as it places women at the heart of the Islamic republic's narrative, explaining why so much has been written and said on Iranian women. This limitation of opportunities by the main legal document of the nation demonstrates that a balance will constantly be struck between rights and duties of women, as explained above. All the legislation pertaining to women is impacted by this tension between the public/private divide and the sexual or non-sexual role endorsed by women; with some laws preventing women from being empowered while others support their

<sup>64</sup> Kar (n 62).

<sup>65</sup> Keddie (n 10) 311.

empowerment. The Shia Quranic exegesis produced by principalist scholars is traditional and conservative: interpretations are provided to sustain the idea that women are expected to be pillars of the community through spouse-support and child-rearing. For example, classical interpretations on puberty still apply, as demonstrated by Article 147 of the Penal Code which imposes criminal responsibility onto 9 year-old females.

Women also still bear the weight of a guardian who will decide on their faith. According to Article 18 of the Passport law, women can only travel with the permission of their guardian. All these laws are justified on the grounds of principalist Shia clerical interpretations that seek to limit women to control, rather than empower them. This is reflected in the 2012 binding resolution entitled 'National Strategies and Actions to Prevent the Fall in Fertility Rates and Promote Their Growth in Accordance With Islamic Teachings and National Strategic Requirements' (8423/91) issued by the Supreme Council of the Cultural Revolution who wanted to end family planning programs. Article 2.3 suggested:

[T]he development and promotion of a lifestyle model, particularly in relation to the social, educational and employment activities of women that would be consistent with Islamic values and in accord with the best interests of family so as to allow for a better and more complete fulfilment of the role of mothering and being a wife.

Article 3.10 also called for 'women's employment opportunities to be diversified and adjusted in accordance with their primary responsibilities in the family (as wives and mothers)' Further, Article 3.14.3 advocates 'the development of study courses consistent with the position and role of family and woman as determined by Islamic culture, such as house and family management.'<sup>66</sup> Such policy existed because it is built on decades of interpretations provided by scholars and a solid constitutional backbone that allowed for it; thus creating a linear principalism anchored in Islam and in constant quest for an audience. With such agenda in mind, the focus on reason (*aql*) when using the interpretation process (*ijtihad*) has therefore not protected women from patriarchy: instead, Iranian women are even more targeted by patriarchy in a thought-processing system that places *aql* at its core, but an *aql* conducted by males who use their knowledge as an instrument to control. As a result, the two current Bills, just as the 2008 Bill on polygamy, are to be apprehended as part of a developing narrative finding its roots in the constitution, and entertained by

66 Amnesty International (n 12).

generations of Shia scholars. The 2013 Bills are therefore inscribed in the history of the Islamic republic's interpretations provided by conservative scholars. Besides, the impact of traditionalist views and principalist interpretations of Islamic legal sources on women is visible throughout the legal system, as once again scholars use legislation to seek legitimacy and validation of their views. The overall purpose is, as explained in the last part of this article, to control women's sexuality in order to sustain the Islamic Republic's system.

The next step is to understand how the 2013 legislative proposals focus on a political use of a de-sexualised woman. The de-sexualisation of the woman is rooted in Islam for the purpose of a State-controlled narrative. The result is the disempowerment of women through objectification, as a woman does not control her body, and thereby, her destiny.<sup>67</sup> Iranian women are expected to follow a script to avoid what would otherwise become, in the eyes of principalists, a loose social and moral society,<sup>68</sup> that could undermine the Republic; yet, on top of the mental script described by sociologists, the script originates from authorities via the law. Besides, instead of reducing uncertainty between social actors, the script seeks to ensure compliance. As suggested by Nussbaum in her definition of objectification,<sup>69</sup> the purpose of the Bills as anchored in scholarly tradition of de-sexualisation of women is instrumentalisation. This is explained below: the Bills commodify women's sexuality.

### The Purpose of the Bills: the Control of Iran's Society and Destiny

Iranian women have been objects of scrutiny through history. From their role as State leaders through history to the 1936 Shah's decision to force them to remove their veil, Iranian women have struggled between agency and subjugation. The Bills examined in this article are, in that regard, another framework forced upon to determine their identity. Yet, the purpose of the proposals reaches further than women's rights: the Bills also aim at ensuring the survival of the Islamic republic of Iran through the control of bodies, and at ensuring the protection from external threats. The Bills are a way of using Parliament to support a policy of controlling sexuality to avoid any further defiance of the regime that led to mass demonstrations such as the 2009 Green Movement, and to ensure a sufficient demographic in case of external conflict.

67 Rachel M. Calogero, 'Objectification theory, self-objectification, and body image' T. Cash (ed.), *Encyclopedia of Body Image and Human Appearance* (Academic Press 2012) 574.

68 John H. Gagnon and William Simon, *Sexual Conduct: The Social Sources of Human Sexuality* (Aldine de Gruyter 1973).

69 Martha Nussbaum, 'Objectification' (1995) 24 *Philosophy and Public Affairs* 249-291.

The 2013 Bills are in that regard a return to the origins of the Islamic republic's foundations, demonstrating the conservative authorities and scholars belief that the answer to the 21st century's challenges is to be found in the Islamic republic's original doctrine. This doctrine, when it comes to women, is exemplified by Sedghi: she speaks of a stamp issued during the revolution and featuring (for the first time in history) a woman. The stamp showed a woman's face, without a body, and her head covered by a veil. Her features were gender-neutral and only distinguishable as female because of the veil, thereby incarnating the model of the Revolution and the Republic, that of a desexualised woman.<sup>70</sup> Fatemeh is given life with such models, promoting a de-sexualised woman who contributes to defending Islam, but who remains a mother and a wife at heart. This stamp certainly reveals the conservative psyche infusing the policy and laws on women.

### *Law as a Promotion Strategy for the Social Script*

Principalist scholars have introduced ideas similar in content to the Bills since the 19th century: the belief that women are lower creatures who cannot control their emotions or are creatures devoid of sexual desire find its roots long before the 1979 Islamic republic. The novelty resides in the use made of these views in a nation-state and for policy purposes. Conservatives' interpretations of Islamic legal sources are part of a constant effort to give a meaning to the Constitution, the legislation, and court decisions, but also the Quran and the Sunna. Different Iranian trends contribute to this effort of defining women's destinies. Each trend tries to over-take the other in an endless quest for legitimacy of interpretations, and the *Majles* is being used as a forum for this venture: designing bills about women is a recurrent endeavour and law, therefore, becomes the continuity of politics. As explained above, principalists have an agenda when they introduce bills supporting their narrative: they seek to protect the Republic and, to that end, address a societal element they believe as key: women's sexuality.

Other ventures to captivate an audience and support the Islamic republic of Iran have been diverse. Parliament then becomes a battlefield, as was the case for the attempt at ratifying Convention of the Elimination of all forms of Discriminations against Women (CEDAW) under Iranian law. Principalists were disciplined into defeating the project as it did not match their narrative, and was, in their view, a danger to the values inherent to the Islamic republic. Principalists had battled against CEDAW for many years: in 1997, the High Council

<sup>70</sup> Hamideh Sedghi, *Women and Politics in Iran: Veiling, Unveiling, and Reveiling* (Cambridge University Press 2007) 209.

for the Cultural Revolution and other religious centres had already studied and rejected the idea of a CEDAW Bill on the grounds that it was contrary to Shiism and Iranian culture and law.<sup>71</sup> The Guide, Ayatollah Khamenei, and other clerics had also given a negative verdict on a possible CEDAW Bill.<sup>72</sup> Further, in 1998, President Khatami also declared CEDAW to be contrary to Islamic values and stated that no ratification would happen.<sup>73</sup> This said, there has always been a trend of gathering MPs, lawyers, judges, academics, journalists and others to ratify this Convention,<sup>74</sup> and this has been reflected through political involvement in Parliament. The Khatami Administration, being a reformist period spanning from 1997 to 2005, gave reformists MPs breadth to push their agenda forward with regard to women. A new bill was introduced in 2002 and President Khatami supported it, yielding to civil society's pressure,<sup>75</sup> and to a letter sent by Kofi Annan. The Bill was presented to Parliament at the end of December 2002, and parliamentary debates began in March 2003. There was a large propagation of the Bill as to demonstrate the compatibility between CEDAW and Islamic law.<sup>76</sup>

After the Bill was voted on, the law was sent to the Council of Guardians.<sup>77</sup> The Council, a conservative instrument in the hands of the Principalists, emptied the Bill of its content to ensure compatibility with Sharia law, as had been predicted by Kar.<sup>78</sup> The Bill was eventually rejected on the grounds that it was contradictory to Shari'a.<sup>79</sup> While this attempt tells us of failure, it also demonstrates how Parliament is used by different trends that found their roots in religion, philosophy, politics, law and other matters to promote views about women. The example also shows the determination of principalists in promoting their views on women and of using the Parliament as a forum to promote

71 A. Parvin, 'Editorial', *BadJens*, 5, 2002, available at: <<http://www.badjens.com/publications.html>>.

72 Azad, February 6, 2002.

73 Jomhuri-ye Eslami, February 7, 1998.

74 Center for Women's participation, *Human Rights of Women* (Center for Women's Participation 2003).

75 Ardalan, *Editorial*, *Bad Jens*, 5, 2002, available at: <<http://www.badjens.com/publications.html>>.

76 Hayat-e Now, 25, February 14, 2002.

77 The Council of Guardian: a high office which has the authority to interpret the constitution and to determine if the laws passed by the parliament are in line with the constitution of Iran or not. As such, the Council itself is not a legislative body, but it has veto power over the Iranian parliament. Its members are composed of Islamic clerics and lawyers.

78 Kar (n 62).

79 Feminist Daily News, 'CEDAW rejected in Iran' (*Feminist Daily News*, August 19, 2003).

their understandings and thus defeat those they fear will undermine the Republic.

Principalists also use Parliament as demonstrated by the 2008 Bill on polygamy pushed forward by a conservative Majles and the then-president Mahmoud Ahmadinejad. In that regard, the Iranian Parliament fulfils its role in what appears to be a formal practice of the rule of law (rather than a substantive practice), where different political groups seek to have their ideas legitimised in a parliamentary environment. This is why Iranian scholars have always engaged with the Majles, even when it does not represent their political ideas as they actually perceive it as a public forum. Such forum also provides them with an audience where they can captivate not only the State but the population. Therefore, the Majles is at the heart of a legitimacy process when it comes to propagating views on sexuality through a bill. Yet, this quest for legitimacy of scholarly ideas in Parliament seems to encounter a limit: the numbers of clerics in Parliament has been plummeting since 2011, along with their popularity. Clerical leadership is less popular while there are more women in Parliament.

The high number of women in Parliament does not mean that the 2013 Bills will be scrapped: many of these women are conservatives who believe women should keep their place in society as described above. The constant opposition of former M. P. Marzieh Vahid-Dastjerdi to the ratification of CEDAW and her contributions to laws making it harder for women to obtain a divorce or access to abortion, show that the identity placated on women by the principalists is sometimes defended by women themselves. It is to be noted that the 2013 bills were prepared when she was the Minister of Health. In 2014, another female MP, Fatemeh Alia, also made headlines by stating that women should not attend sport games and should stay at home to take care of their families. Some women elected at Parliament also stated they refuse to deal with emotional matters like women's rights: for example, in the seventh Majles, some female MPs refused to tackle the issue of the ratification of Iran to CEDAW on the grounds it was too much of an emotional topic to be dealt with by women.<sup>80</sup> Fatima Allia considered that she should only play a role regarding neutral topics such as economics, but she should not give her opinion about women's rights.<sup>81</sup>

80 Elham Gheytañchi, 'Women against women' (*The Iranian*, 5 November 2004) <<http://www.iranian.com/Gheytañchi/2004/November/Women/index.html>>.

81 'Two women, two sides to the Elections: Interview with Fatima Allia' (*Persian journal*, 24 February 2004).

She said in regard to women's actions in the Majles: 'we want laws corresponding to the foundations and principles of our religion. We are neither conservatives nor reformists. Our priority is the reconstruction of the country.'<sup>82</sup> Such a statement demonstrates the commitment of the principalists to the Republic. In that regard, Parliament becomes a forum like any other for the propagation of principalist views. The submission of the 2013 Bills is part of a historical and constant effort to control women either through criminalisation or restriction of their decision-making power: in the case at hand, the two Bills play on both, slowly closing the net on women through the regulation of sexuality. Yet, the Bills have other purposes.

### Purposes of the Law: the Protection of the Islamic Republic

The context in which the 2013 Bills have emerged is of interest in order to understand their existence. While it has been stressed that they are part of the matrix of ideas promoted by principalists, and it has been said the political tensions impact views on women, two other points need to be considered: the Bills were voted on in the aftermath of the 2009 Green movement. There has been a clear effort from the authorities to regain control over the population, and principalists have been keen to ensure the prosperity of the governance system that has given them so much political weight. It is clear that the 2009 events shook the Islamic republic and many of its proponents feared for its duration. This is why bodies and sexuality have been placed under state authority: the freedom the post Khomeini generation has benefited from,<sup>83</sup> and that blossomed under the Khatami Administration, is understood as a threat by many principalists.

There is a belief among principalists that the 2009 Green Movement was to be partly imputed to lose morality; hence the need to regulate women's sexuality to come back to the roots of the Republic. The 2013 Bills therefore aim at taming what is seen to be a rebellious attitude from society, ranging from new political ideas loosely represented by reformism, to any act of defiance, including loose veiling, make-up, dating, sexual intercourse before or outside marriages, a high number of divorces and more. All those new social behaviours indicate defiance towards the values advocated by those such as Shari'ati and Motahari, and are condemned on a daily basis by principalist leaders.

82 Reuters, 'Iran Hardliners try to dispel fears' (*Reuters*, 22 February 22, 2004).

83 The post-K generation refers to the post Khomeini generation, a generation that has only known the Islamic republic as a mode of governance.

Principalists conflate political opposition with defiance and the loss of morality, not wanting to acknowledge that these acts of social defiance are not always political and that the Green movement was not about veiling or sexuality. The law then becomes the tool to repress such loose behaviour, explaining the 2013 Bills that seek to regain control over the trouble-makers who could, through their behaviour, put at risk the Islamic republic. Indeed, the republic relies on Fatemeh and cannot accommodate women who challenge the system via loose sexuality.

The principalists therefore disguise, under a discourse of authenticity, a Bill designed to protect the Islamic republic in the aftermath of ground-breaking events and in an overall climate of defiance. Sexuality is yet again placed at the core of the Islamic republic's doctrine, arguing that Fatemeh, who is a pious and religious figure committed to defend the values of the system is welcome, while the woman who will brave those values and seek sexual empowerment by taking the pill will be stifled. The 2013 Bills are only the paroxysm of a long-term movement of putting forward legislation tainted with beliefs that a woman is a child-bearer and a wife, and will thus contribute to the Islamic Republic best by committing to these roles, before any other public commitment. It is interesting to note that Bill 315 is not operating in a vacuum: the female workforce is usually stable at 12%. This double figure has remained roughly the same since the 1979 revolution, and could be the result of a lack of engagement of women with the market, despite structural changes having been made to welcome women into the workforce, including the amendment of labour laws. It is consequently possible that the two laws were drafted with protection in mind, seeking to reflect a reality. Thus, it is not so much of a stereotype that is described in the Constitution, but rather a reality, as Iranian women still actively seek marriage and child bearing. Yet, women have also complained about the obstacles they encounter, from institutional limitations to discrimination.<sup>84</sup> The 2013 proposals would add yet another hurdle to this engagement outside of the home.

This commodification of sexuality and intimacy<sup>85</sup> through the preparation of legislative injunctions is also explained by the current geopolitical context: the conservative leaders, authorities and scholars fall back on a strategy tested in the 70s and 80s which is to encourage births in case there is a conflict. The current geo-political context means that Iran is engaged on the Iraqi, Afghan,

84 Human Rights Watch, *It is a Men's Club: Discrimination against Women in Iran's Job Market*, Human Rights Watch (25 May 2017), <<https://www.hrw.org/report/2017/05/25/its-mens-club/discrimination-against-women-irans-job-market>>.

85 Nicole Constable, 'The Commodification of Intimacy: Marriage, Sex and Reproductive Labor' (2009) 38 *Annual Review of Anthropology*, 49.

Kurd and Syrian front, while keeping an eye on Central Asia, Israel and Saudi Arabia. A future conflict cannot be ruled out and there could be a need for man-power if there is a war, or to have a future generation of citizens if a war is about to begin soon. Another explanation is to be found in the need for protecting the national sovereignty. Being surrounded by nations at war and the growing regional hostility has a direct impact on women against such backdrop, as it is the Islamic Republic that is at stake.

### Conclusions

In her 2005 book, Najmabadi suggests sexuality has been central to the shaping of modern culture in Iran, looking from the 19th century.<sup>86</sup> This article offers the same argument, looking at a shorter period of time, that of the Islamic republic, and put forwards the idea of a linear narrative on women since the 70s. The Bills are part of the linear narrative; yet, the lack of budget allocated for its fulfilment and the lack of political will to have them enforced demonstrate how controversial they are. Obstacles to their implementation are not only to be found in reformists' attempts: most principalists themselves are aware of the difficult content of the 2013 Bills and have worked at propagating their message without upsetting social structures. It is indeed quintessential as a strategy for principalists to uphold the fragile trade-off that exists between society and the clerical authority to avoid losing control of the system, as they did in 2009.

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86 Afsaneh Najmabadi, *Women with Mustaches and Men without Beards: Gender and Sexual Anxieties of Iranian Modernity* (University of California Press 2005).



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## **Chapter 17: Sexual politics and law in Iran: the narrative surrounding the 2013 bills**

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