CHAPTER 6

Conclusion

This research has explored the scope of the human rights perspective to look at the human rights practices in the Islamic Republic of Iran. The study specifically examined the status of women and religious minorities in Iran. The debates on universalism and cultural relativism in the sphere of human rights became important in the context of the Islamic world. The principles and practices of Islamic law got a boost in Iran with the drafting of the Constitution of the Islamic Republic. A human rights perspective enable us to see how the post-Revolutionary Iranian regime addressed the realm of rights in the overall milieu of universality of rights.

On December 10, 1948, the UN proclaimed the “Universal Declaration of Human Rights” (UDHR). This became a milestone in the history of human rights. The UDHR states that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. Subsequently, for fulfilling the comprehensive aspects of the rights, UN declared ‘International Covenants on Civil and Political Rights’ (ICCPR) (1966) and the ‘International Covenant on Economic, Social and Cultural Rights’ (ICESCR). These three declarations are known as Bill of Rights. Independent nations in their constitutions included these values. All the nations of the signatories are obliged to follow the criteria and values of the UDHR. But, the Islamic countries were not fully ready to agree to all the articles of the UDHR, because Islamic traditional practices were not based
on the secular concepts engraved in the UDHR. In an Islamic society, religion controlled and directed the moral behaviour of the citizens. Concepts of morality, charity and good conduct are explained in the Qur’an.

Most of the Western intellectuals have created a particular notion about human rights and values that revolved around the moral values of the West. The universal model of human rights created a homogeneous concept of individual moral rights. It means that the hegemony of the West was oriented in individual freedom and individual rights with moral principles. But the Islamic orientation is into the community rights. Islam considered human rights as a characteristic feature of the society. Prophet Muhammad addressed the whole people as “Umma”. Umma means the Islamic Community, all the rights and duties are assigned to the community, not only for the individual.

The major discourses in the realm of human rights between universalism and cultural relativism is based on the value orientation of rights. Universalism says about the “individual rights”, whereas, cultural relativism, mainly refers to “community rights”. The universalist position is also relatively unconcerned with the potentially constitutive properties of culture and society in the formation of ideals and values, including those which constitute its own outlook. In the perspective of cultural relativists, whose human rights discourses became prominent in the context of arguments regarding ‘Asian Values’ and debates of Islamic cultural histories and civilizations, put the contextual aspects of rights as a significant realm.. In 1980s and 1990s, Islamic countries proudly accepted and recognized certain international human rights conventions. Most of the West Asian and North African countries have ratified the International Covenant on Civil and
Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

In 1981, the “Universal Islamic Declaration of Human Rights” (UIDHR) was declared by the Islamic Council. The second declaration came in 1990 and it is known as the “Cairo Declaration on Human Rights in Islam” (CDHRI). Both declarations have strongly proclaimed the Islamic worldviews on human rights. In the Qur’an, the Prophet emphasized right to life, the right to freedom and very explicitly the right to equality amongst human beings, which lies in the unity of creation. The latter right was given a humanitarian trait in Muhammad’s speech which was attended by more than 120,000 Muslims during the pilgrimage of the Prophet few months before his death: “O mankind! Verily, your Lord is one, and your father is one. No Arab is preferred to a non-Arab, and no non-Arab is preferred to an Arab, or a black to a red, or a red to a black except in piety”.

Human Rights became a tool for democratization and forced changes in favour of the interest of imperialistic nations. Selective use of human rights by powerful countries has become the order of the day. The 1993 Vienna International Conference of Human Rights declared that the UDHR principles are universal. This declaration has come out in the circumstances of the challenges against universal declaration emerged from the Islamic and Asian values defenders. This conflict became more pronounced by the articulations of Samuel Huntington in his debate on “The Clashes of Civilizations” (1993).

Islamic Republic of Iran was established through the Islamic Revolution of 1979 under the leadership of Ayatollah Ruhollah Khomeini, who displaced the monarchical rule of Muhammad Reza Shah Pahlavi. The Revolution overthrew the Shah and it expelled the imperial presence of America. The
post-Revolutionary Iran was an exceptional case for moulding a modern Islamic state and its new constitution became a testing ground for application of religion in governance.

After Prophet Muhammad, the Islamic community of Madina followed Arab traditions for electing state leadership as the Prophet never gave any directions to electing the state leader (the Caliph). But people of Madina followed the system of electing the leader who was considered the eldest and who was supported by a majority of the people. Within a short period of the first Caliphate ended it was transformed by Muawiya into a new monarchy. Later monarchy became hereditary in Islamic states and empires. In the 20th century, the Ottoman Caliphate was deposed by Ataturk and he established a modern state, which has been considered as the radical shift in the political practice of the Islamic world. In the last decades of the 20th century, intellectuals of the Islamic countries have been thinking about new versions of Islamic government. The Islamic Republic of Iran came to be the realization of such a new form of the Modern Islamic state system with a new Islamic Constitution which had formulated principles affirmed in Qur’anic doctrines and Sunnah principles. Different schools of Islamic jurisprudence were derived from the basic resources of Qur’an and Sunnah. The sharia is not a fully uniform legal system across different schools but all these schools commonly accepted the prominent source of law that is Qur’an. Prominent proponents of the different jurisprudence schools were Jafar al-Sadiq, Abu Hanifa, Malik, al-Shafi and Ibn Hanbal. Al-Shafi has founded the new system for interpreting Qur’an and Sunnah, and it is known as the usul al-fiqh, but the process of collection and authentication of Sunnah continued beyond their lifetime. The Shi’ia sect depended on the reliable sources provided in the collections of al-Kulayni, Ibn Babawayh and al-Tusi.
In the changed situation the jurists were willing to accept the consensus on the decision making power based on *Ijtihad* (independent reasoning). The primary textual sources of human rights documents in Islam and the primary textual source of legislations are the *Qur’an* and *Sunnah*. The Sunnah, which is the second source of legislation after the *Qur’an*, includes the Prophet’s sayings, speeches, deeds and treaties and agreements which the Prophet concluded. *Dustur al Madinah* (Constitution of Madina) is the first written constitutional document in the Islamic State and the first document that establishes rules with human rights and for respecting others in a legal form. Any comparison between fourteenth century Madina constitutional principles and the new human rights doctrines of UDHR is irrational. Because centuries old practices of a state system should be evaluated in the particular context of that space and time.

Islamic Republic of Iran received its basic ideologies of the Constitution from Shia Islamic principles and doctrines. The Constitution of the Islamic Republic vests sovereignty in God, not in the people, and it recognizes the institution of *vilayat-e faqih* as the system of governance to represent legitimately the sovereignty of God on earth. According to articles 5 and 107 of the Constitution, the Assembly of Experts on leadership composed of only the elected *ulama* by direct vote of people, appoints one of the qualified *faqaha* as the leader of the country for an unlimited period of time. The Assembly supervises his performance and could constitutionally remove him anytime. In practice, this is difficult, for the competency of candidates to run for the Assembly's election must be approved by those members of the Guardian Council that are appointed by the leader himself. Beyond these legal-technical obstacles, the role of the leader as God's representative, and
the common notion of complete obedience to him make his legal and peaceful removal very difficult. The leader, according to the Constitution is to train governance and all the responsibilities arising there from. All three branches of government operate under his supervision. He appoints the head of the judiciary branch, the jurist member of the Guardian Council to supervise the parliamentary laws, and confirms the president-elects decree. Therefore, unlike Western constitutions, the idea of three separate branches is “not to maintain a system of checks and balances, but simply to facilitate management of affairs”. The leader is also the supreme commander-in-chief of the armed forces with the power to appoint and dismiss the commander of the armed forces. Constitutionally, he enjoys many other powers over state affairs and in practice; there is no limit to his power. He appoints his representatives in all provinces, foundations, institutions, universities, and other organizations. According to the interpretation of the Guardian Council, the institution of vilayat-e faqih and the leader’s decrees and words are placed above the Constitution and other laws. In sum, the leader unquestionably has the final word in all social and political affairs of the country. The legitimacy of the government, in general derives from the leader. It should also be mentioned that the 1989 Amendment to the Constitution, aiming at a more centralized political system empowered him more than before. It also puts three branches of the government under his direct supervision.

In the Iranian society, under the influence of modernizations under the Shah, women’s status improved through modern education and reduced influences of religious norms. As a result, women’s work participation increased and many women got admission in universities and other higher education institutions. But on the other side, many women turned against the authoritarian rule of the Shah. They demonstrated their opposition by
appearing in religious dress code of black chador (veil) in public places. In Iran, Revolution was modeled on religion and women and chador became the symbol of Revolution. Chador was not mandatory for a woman, but on the international women’s day (March 8) in 1979 Khomeini declared that all women should wear the dress code “Chador” as a mandatory custom. The absolute regime of Islamic rule of Vilayet- e fiqih and shari’a jurisprudence restricted women’s freedom guaranteed in the Constitution of Iran.

Women in Iran themselves organized under the banner of “Islamic Feminism” and asserted pressure on clerics to change their attitudes towards women’s freedom. The term “Islamic Feminism” received attention in international academic parlance though some authors. Some prefer the use of the term “Muslim Feminism”. According to them, the Qur'an declares the equality of all human beings with equal value in dignity and honour. It states that the best person is the one who is the most pious. Islam formulated an egalitarian concept on the one hand and on the other hand it insisted that women required protection outside home; it means that Islam considered women not as a free individual. Compared to the degraded status of women in the Jahilïyya (pre-Islamic traditions), where female infanticide was commonly practiced, the changes in women's status in the Islamic thinking was in the direction of enhancing their rights and elevating their status and dignity from the pre-Islamic conditions. Women were considered as partners of the men and their relations basically controlled by the religious customs. According to the Qur’anic concept, women had to be devoted and confident toward her husband. Qur’anic directions are the contract with God and the Islamic community ‘Umma’. It may be assumed that Qur’anic surah’s on the rights of women had been misinterpreted by the Islamic jurists through the various schools. Early jurists resorted to Qur'anic legal verses to put some disabilities on women and to create a subordinate role fixed in the male dominated society.
In the Islamic Sharia, practices of polygamy and marriage and divorce rights have been among the most controversial and misunderstood subjects. Polygamy became a social custom in many Islamic societies including Iran. But, only men enjoy the right of polygamy; women cannot marry more than one man at a time. Divorce is a simple procedure according to Islamic Sharia and in most cases, the right to divorce is given only to men. Divorced women’s rights will not be protected by the Islamic Law. But in the Islamic Republic of Iran, certain positive changes could be seen in matters related to divorce. Women in Iran enjoy the right to divorce and all the divorce processes are bound to go through the court, i.e. *talaq* is no more an individual act. These changes evolved from the strong feminist movements of Iran from the time of Muhammad Reza Shah Pahlavi to the Islamic Republic.

In Iran, historically women’s changing role was realized by Reza Shah’s policy of compulsory education for women. Iranian girls of all age groups got education. The educational background of the Iranian women has helped them in entering the higher education in the universities in Iran and abroad. In the 1950s many of them joined for law, medicine, engineering etc. and they became a significant labour force of the country.

The secular women’s movements, along with other democratic movements were suppressed by the Islamic regime in Iran, but many of them persisted to demand reforms in the Islamic Republic. Islamic Feminists disassociated themselves from the secular women’s groups and associated mostly with the Islamic state, which accommodated them in the state institutions. Majority of the Iranian women associated with the Islamic Feminist groups support the Islamic government. But a vast majority of them demand major reforms in the system to have more space for women.
The Islamic Republic increased female participation in education and employment in general. Now women outnumber men in many higher education institutions. The 1997 Presidential election witnessed the unexpected victory of Muhammad Khatami and it initiated a series of contemporary reformist movements. Reformist efforts to reconcile Islam with democracy and human rights brought to the surface the inherent contradictions between the construction of gender rights in Shari’a law and democratic ideals. On gender rights, Sharia confronted with the idea of equality between men and women in daily lives. The reformists inaugurated a new battleground for the rights of women. Often, discrimination against women is justified through the arguments of cultural relativism of Islam. But women’s activists in the Islamic Republic have been trying to link their social status with the requirements of democratic reform and improved rights.

Most of the Iranian women spend one-third of their lives in widowhood. This situation involves social, psychological, and economic adjustment for women who had depended totally on their husbands throughout their married lives. A fundamental characteristic of Iranian family organization is the limitation of women's role to family roles of wife and mother.

The Islamic Republic of Iran’s Constitution, under the title of ‘women in the constitution’ assigns responsibility for women in the Islamic country: “The family is the fundamental unit of society and the main center of growth and transcendence for humanity. The concordance of ideals and ideology in the forming of a family as the main provider of the ground for the evolutionary movement and development of human beings is a basic principles, and the provision of the possibility for achieving this purpose is one of the responsibilities of the Islamic government”. Women’s freedom is restricted by the Islamic law; her dress code forces her to wear religious symbol (black
Chador); she can’t to move in public places without this symbol. She is not permitted to move outside without the company of close relatives, brother, father or husband.

The government is obliged to guarantee women’s rights according to Islamic criteria and provide for the following: 1. Favourable conditions for the fostering of the character of the women and restoration of her material and spiritual rights. 2. Supports to mothers, in particular, during pregnancy, and child care, and protection of children who are without guardian. 3. Establishment of a competent court for the protection of the existence and stability of the family. 4. Establishment of a special insurance for widows, elderly women and women without guardian. 5. Entrusting the guardianship of children to worthy mothers for the benefit of the children in cases where there is no legal guardian according to Islamic law. The Islamic Republic of Iran is a government wedded to obey Islamic law. The Cairo Declaration restricts the rights of women within the limits of Shari'a principles. It does not stress on the equality of genders in rights before the law or the equal protection by the law. Iran tries to follow an Islamic framework in a strict sense, but the women’s movement forces it to adopt reformist measures.

The Reformists like Khatami have been pushing for changes in the attitudes in favour of women. Khatami appointed a woman vice-President during his time as President. He also made several other appointments and there has been a social attitudinal change in favour of women during his term as President. The theocratic leadership, the Council of Guardian’s supervision and vigilante observation never permitted implementation of the reformist ideology in a large measure in Iran.

Some of the religious minorities of Iran get certain constitutional recognition on the basis of ahl al-kitab and Iranian tradition. In Iran there are various
ethnic groups with their own religious and linguistic identities. Iranians have different such sections like Persians, Kurds, Baluchis, Mazandaranis, Gilakkis, Bakhtiyanis, Lurs, Talleshis, Hazars, Afghans and others. Turkic speaking peoples are Azeris, Qashqayis, Shahsvens, Turkomans, Timurs, Afshars, Jamshids, Qajars, Bayats, Arabs and others. Non-Muslims include Assyrians, Armenians, Jews, Zoroastrians and Bahai’s. Iranian Constitution recognize the Christians, Jews and Zoroastrians, but Bahai’s are never considered as a religion. Non-Muslim religious minorities are negligible in number; they are only less than one percent of the population. According to the Constitution of Iran, it observes the principle of religious tolerance only towards the adherents of monotheistic religions (ahl al-kitab). Article 13 states that: “The Iranian Zoroastrians, Jews, and Christians are the only recognized religious minorities. They are free, within the limits of the law, to perform their religious rites, and may exercise their religious regulations in personal status”.

Inter-religious marriage with Muslims is prohibited and missionary works to convert Muslims are punishable. Although Iran's legal system does not address Shari'a concept of dhimmis for non-Muslims, it applies Shari'a laws in public areas like criminal law, and in other words, non-Muslims are subject to discriminatory treatment and face many limitations as second-class citizens. In political matters, they are prohibited from holding high public posts or serving in the army ranks. The Constitution, however, provides for separate representation for religious minorities in the Parliament.

In the 1909 Constitution of Iran, many rights were guaranteed to minorities such as freedom of expression, assembly, press and publication except for heretical books and matters harmful to the edicts of Islam. The Constitution
of Iran in 1979 granted voting power to women, but restricted their movement and freedom.

Constitutionally recognized religious minority categories are admitted into the army for mandatory military service in college days. But their service will not be considered for career military officers. Islamic Republic of Iran’s Constitution’s Article 13 guarantees the educational rights of the recognized religious minorities such as Jews, Christians and Zoroastrians and they would be able to “perform their own religious rites, and to act according to their own canon in personal and religious education”.

Baha’is were the most deprived community of Iran, they face serious human rights violations; their citizenship is permanently denied by the government. They do not have freedom of religion, freedom of opinion, freedom of press, freedom of marriage etc. Baha’is are the largest non-Muslim religious minority of Iran. Baha’i’s in Iran is a category without any constitutional protection. In the Revolutionary times of 1978, more than two hundred Baha’i leaders were executed. Many of their institutions were closed, community properties were confiscated, and holy places related with Baha’is were demolished and cemeteries desecrated. Baha’is have no civil rights. They cannot hold government jobs, enforce legal contracts, practice law, collect pensions, and attend institutions of higher learning, and openly practice their faith; they are a closed community. Bahaullah’s teachings are the basic foundation of the religion of Baha’ism. The underlying conflict of the Baha’i religion with the Islam and Shi’ia tradition is that the basic teachings of the Baha’i faith has fundamental contradiction with the primary belief system of Islam and the Shi’ite philosophy. According to the Shi’ite belief, the Twelfth Imam departed for a splendid return as the Mehdi. And the Islamic teaching is that Prophet Mohammed is the final messenger from
God. But Baha’i claim to prophethood openly challenged the traditional literalist interpretation of the Muslim belief that Muhammad was the “seal of the prophet” and Islam the ultimate religion.

Baha’is declared that the revelation was progressive and without end, meaning that the line of prophets extended from the legendary Adam into the most distant future. Under this assumption, Muhammad was not the last prophet (as Islam claims) but rather one in a chain of revealers of divine will, a chain that includes not only Jesus and the Prophets of Israel, but the founders of Hinduism, Buddhism, Zoroastrianism, and other religions that Islam does not recognize. According to the Baha’i teaching, men and women are equal, and there is no need for priesthood. And when it comes to a place like Iran where the Shi’ia clergy rules over the country under the banner of Islamic Constitution, the existence and survival of such a religious sect becomes all the more difficult.

The arrest of eminent leaders of Baha’is Mehdi and Hidayatullah Dihqani in Shiraz on March 17, 1981 was especially significant. They were charged with espionage activities on behalf of Israel. The two men were executed after the guilty verdict. On August 21, 1980, the Revolutionary Guards arrested nine spiritual assembly leaders of Baha’is. According to their practice they elected nine new leaders to their Spiritual Assembly. On 13 December 1981 eight of them were arrested and were secretly executed two weeks later. The Baha’is are facing severe persecution from the Islamic government. They are under the threat of the state and religion, as their security for life, property, citizenship and religious freedom are in danger; they have no rights.