Chapter 1

INTRODUCTION

This thesis is an analysis of the human rights practices in post-Revolutionary Iran. It explores the linkages between Islam and human rights and the way such linkages are expressed in the conduct of the affairs of the Islamic Republic of Iran. A study of women and minorities in the context of Iran have been undertaken with insights from the debate between universal principles of human rights as enshrined in the Universal Declaration of Human Rights (UDHR) and Islamic notions of human rights.

Islam played a major ideological role in the Iranian Revolution of 1978-79. This political movement was led by Ayatollah Ruhollah Khomeini. Ayatollah Khomeini’s idea of vilayat-e faqih (rule of the Islamic jurist) became a central political and constitutional principle in the post-Revolutionary system in Iran. After the Revolution, an Islamic Republic was established with the adoption of an Islamic Constitution. Even though for many people, coming out of the monarchical rule and entry into an Islamic Republic were in themselves a new cultural freedom, politically, many activities of the new regime amounted to restriction of freedom in many areas of Iranian life. This work examines the nature of law and new constitutional processes that were established in Iran and it looks into the structural problems associated with such a political system with regard to the protection of human rights. Apart from structural issues, the study deals with various forms of human rights violations in the Islamic Republic in its day to day practices. Restrictions placed on individual freedom, right to free speech, freedom of press, right to assembly and association and rights of women and
religious minorities constituted violations of human rights as enshrined in the UDHR. As the civil and criminal law, the political processes and the whole gamut of judiciary are controlled by the Shi’a clergy, the human rights situation in post-Revolutionary Iran conflicted with modern mechanisms for protection of human rights.

Iranian society is not a homogenous one. Even though majority of the Iranian population belongs to the Shi’a community, they themselves are divided by language and ethnicity. Persian is the official language of Iran. But there are many people who speak other languages like Turkish, Kurdish, Baluchi, Luri, Arabic, Gilaki, Assyrian and Armenian. Different ethnic groups in Iran include Arab, Azeri, Bakhtiari, Baluch, Kurd, Lur, Qashquai, Shahsevan and Turkman. A majority of these ethnic groups follow Islam as their religion. Sunni Muslims form a minority of Muslims in Iran. Among Iran’s linguistic and ethnic minorities, this thesis examines the non-Muslim religious minorities like Armenians and Chaldeans, Baha’is, Jews and Zoroastrians, and it especially concentrates on constitutionally unrecognized non-Muslim religious minority, the Baha’is.

During the Safavid and Qajar dynasties, Islamic principles were restricted to Muslims only. The important differences that came across in post-Revolutionary Iran are the comprehensive application of the Islamic perspectives in all matters pertaining to whole sections of the Iranian people. These developments have to be seen in the context of some of the major challenges faced by the Islamic leadership of Iran during the early part of the 20th century. During this time, Islamic law was functioning alongside the secular legal order. A major change in this context was the massive reforms initiated by the Shahs of the Pahlavi dynasty, who introduced legal measures of secular nature to sideline the prominence of Islamic law. Secularization process in Iran during the early time of the Pahlavi dynasty resembled a
pattern similar to that of the reforms introduced by Ataturk in Turkey, in order to replace religious order with a secular order. Until 1970s, the country also witnessed various policies for accommodating more and more women into social and political life. Modernization efforts during this period continued through the White Revolution which indicated a secular trend in the Iranian society.

This study examines the condition of minorities and women in the Islamic Republic of Iran in the context of the debates in human rights and the development of an Islamic perspective on human rights. Recently many Muslim thinkers critically evaluated the tendencies of continuing the old directions of Islam, many of them conflicted with new situations. Due to the adverse political conditions dominating Al-Madinah at the time of the Prophet, it was necessary for the Muslims to do something to maintain peaceful coexistence between the various groups of people living there. There came the Constitution of Al-Madinah to establish the first constitutional principles that the growing state needs in order to organize its political affairs on the basis of respecting human rights in the best form. The Prophet was accepted as the supreme leader in accordance with the Constitution and citizens of Al-Madinah with all their sects formed legitimate part of polity. Some scholars says that while the Prophet was establishing the “Utopian” city which philosophers used to dream of, he noticed that Muslims were a number of split tribes and fanaticism still existed in the hearts of some of them. Consequently, he established the principle of brotherhood between them which rendered Muslims brothers of one another sharing their means of living without abolishing the right to own property. The attitudes towards girl child and women were also entirely changed. Although Islam was the basis of citizenship for the aforementioned reasons, the concept of citizenship was expanded to include
the Jews living in the state. This means that they were included under the rule of the new Islamic state and they were subject to the organizational principles of the state as indicated in the Constitution of Al-Madinah. This is viewed as consistent with today’s notion of the rights of citizenship and naturalization mentioned in the Universal Declaration of Human Rights (UDHR) in article 15.

The United Nations came up with the Universal Declaration of Human Rights (UDHR) in 1948 for ensuring criteria and norms for minimum standard of universal rights. It was the first international document to lay down right to life as an international human rights goal for every nation. The important rights provisions of UDHR are the following: equality before the law; protection against arbitrary arrest; right to fair trial; right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; and freedom of peaceful assembly and association. Apart from these civil and political rights, economic, social and cultural rights, such as the right to work and choose one’s work freely, the right to earn equal pay for equal work, and right to education etc. have been added to the universal regime of rights envisaged through the UN. The following covenants and conventions were subsequently adopted: 1. International Covenant on Civil and Political Rights (ICCPR). 2. International Covenant on Economic, Social and Cultural Rights (ICESCR). 3. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). 4. Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). 5. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and 6. Convention on the Rights of the Child (CRC).

The Universal notion of human rights envisaged by the UDHR and Islamic notion of human rights give emphasize to different realms of rights.
While the universal notion emphasizes individual liberty and other civil and political rights, the Islamic notion emphasizes community rights. These two distinctive discourses show similarities and many diverging aspects with regard to both the principles and mechanisms of implementation of human rights.

Many Islamic intellectuals and religious scholars confronted the UDHR regime by alleging that there is a Western’ bias in it. Islamic human rights discourses are rooted in the Islamic tradition and cultural practices. The recent assertion of Islamic human rights went in the direction of engaging with the universal principles, at the same time, expressing concern over its individualistic orientation. Prominent intellectuals and major institutions have published documents regarding Islamic human rights, values and principles. The Universal Islamic Declaration of Human Rights (UIDHR) adopted in 1981 was prepared by representatives from countries of Egypt, Pakistan, Saudi Arabia and Islamic Council, a London based private organization.

As stated before, this thesis is mainly focused on the rights of women and non-Muslim religious minorities of Iran in the post-Revolutionary period. The status of women in Iranian society is defined in terms of Sharia principles. Women in Iran have been facing serious human rights violations. Their status and denial of rights are determined by problems such as discrimination in public places, problems in employment in public institutions, dress code and cultural and legal constraints on social mobility of women. There have been many occasions in which women were attacked by the Revolutionary Guards and vigilante groups for not following the strict dress code in public places. It was in 1983 that the Iranian Majlis passed the Islamic Dress Law that applied to all women in Iran whether Muslim or not. Secular feminist groups of Iran, who are mostly expatriates now and the
Islamic feminist groups have been demanding gender equality and equal opportunity in the employment and other sectors. But the important difference in their view points is that secular groups are opposing the religious norms while Islamic feminists groups are supporting the Islamic values but demanding more freedom in public life.

This thesis examines the details of the human rights of non-Muslim religious minorities in Iran. Armenians and Chaldeans, Baha’is, Jews and Zoroastrians are the main non-Muslim minorities of Iran. The Iranian Zoroastrians, Jews and Christians are the only recognised non-Muslim religious minorities. The Baha’is are not recognized as a religious minority and they enjoy no constitutional protection. The Baha’is are the largest non-Muslim religious minority in Iran. Their population is nearly 350,000 and they are spread all over the country. The Baha’i faith originated in Iran during the 1840s as a reformist movement within Shi’ism. Every government in Iran suppressed the movement politically and religiously. Under the Islamic Republic, they have been facing many-sided oppression and even executions.

In the beginning of the Islamic Republic, majority of the parliamentarians were from the clergy and women’s representation has not been allowed beyond a token role. But the conditions have been gradually changing when the Reformists came to power and when there were continuous assertive movements of the women’s organizations through their literary works and protest against the oppressive policies of the state. Political history of post-Revolutionary Iran shows an ongoing struggle between Conservative and Reformist political camps. The reformists led by Muhammad Khatami could win two general elections conducted in 1997 and 2001. The 2013 Presidential election was in the favour of reformists group with Hassan Rouhani becoming the President of Iran. The Reformist and
Conservative camps’ attitudes on basic human rights values are in conflict with each other. Mohammad Khatami appointed a woman Vice-President, increased women’s representation in the Parliament and established Ministry of Women and Family Affairs. Islamic feminists of Iran upheld Islamic values. The gap between the reality of women's participation in public life and their restricted legal status has emboldened women's groups to campaign for legal reforms. But the Iranian regime has adopted an uncompromising position in relation to such demands. It adopted a highly intolerant and repressive approach to women’s groups.

The following are the detailed objectives of the research: 1. to analysis the hermeneutics and practice of human rights; 2. to study the universalist and cultural relativistic discourses on human rights; 3. to examine the nature of post-Revolutionary Iran’s constitutional provisions and its impacts and 4. to examine the human rights practices in the Islamic Republic of Iran, particularly the conditions of women and non-Muslim religious minorities. This research uses an analytical research method. Primary and secondary materials are used in this research work.