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Anisseh Van Engeland-Nourai
Harvard Law School, avanenge@law.harvard.edu

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Iran: Civil Society versus Judiciary, a Struggle for Human Rights.

Anisseh Van Engeland-Nourai*

The Human Rights situation in Iran has improved since the election of President Khatami in 1997. The election of Muhamad Khatami was the choice of the Iranian people and a sign of a popular demand for changes. With Khatami, Human Rights became a key and public issue.¹ Not only were newspapers able to discuss the topic, the potential adhesion of Iran to two international treaties was also debated in the Majles.² Muhamad Khatami wanted to change the system within the constitutional framework and the *velayat-e faqiq* and that included a Human Rights reform.³

Human Rights were at the core of Muhamad Khatami short political campaign.⁴ He relied heavily on the Iranian civil society (*jame-ye madani*). His candidacy motivated the different trends of the civil society: women, intellectuals, students and the youth played an important role in Khatami's election. In a public meeting, Khatami declared: "Today we are gathered here so speak about civil society, freedom, justice, the presence of an

* LL.M (Harvard Law School), PhD candidate in Human Rights in Iran (the Institut d'Etudes Politiques de Paris), DEA Paris II-Assas, DEA Paris III-Sorbonne Nouvelle. This paper was presented at the first Cornell LL.M Association Conference, Cornell Law School, Myron Taylor Hall, April 4, 2004.

¹ When I use the term Human Rights I refer to international Human Rights as laid down in international documents. I do not refer to the Iranian interpretation of Human Rights.

² The Islamic Republic of Iran is a party to four of the six UN conventions: it still has to sign and ratify the Convention Against torture and the Convention on the Elimination of Discrimination against Women.

³ The *Velayat-e faqiq* is the key of the Islamic Republic system. According to that theory, the power lies in the hands of the jurisconsults, the Ulemas who have the knowledge of Islamic Law.

⁴ He campaigned for three months

enthusiastic young generation playing a role on the social scene, the building of a the society, and we owe all this to the blood of the martyrs and their abnegations.⁵” According to Khatami, civil society is the only legitimate source of power. Once elected, he promised the civil society would play a role in the Iranian politics. The civil society was then institutionalized and became a new political force.

However reforms were slow to take place. The Conservatives constantly challenged President Khatami’s commitment to Human rights. There were no crisis-free week and the “Gorbachev of Iran” soon faced the limits of his theory.⁶ The civil society became then more autonomous.

The main issue for the different trends composing the civil society is to reconcile Human Rights with Iranian and Islamic values. While struggling to enforce Human Rights in Iran, the civil society encounters many obstacles, one of them being a legal obstacle: the judiciary. The judiciary branch is largely controlled by the leader who appoints the head of the judiciary. The judiciary is used as a weapon to stop any reform initiated by the Iranian civil society. Consequently Human Rights are taken hostages of the struggle between the civil society and the judiciary. However if Human Rights pay a high price, it is because the battle is led in the name of fundamental values. What’s the dynamic of the opposition? How does the judiciary stop the efforts of the civil society?

⁵ President Muhamad Khatami, Speech for the First Anniversary of his Election, Tehran, Tehran University, (2 Khordâd 1376), (transcript available at <http://www.president.ir/>)

⁶ Scholars and journalists to compare Khatami’s efforts of reform to Gorbachev’s Perestroika have used this expression.

Maloney Suzanne, Ayatollah Gorbachev: The Politics of Change in Khatami’s Iran, The Brookings Institution, 2003.

Sicherman H., *The Iranian Gorbachev: Khatami’s “New Thinking”*, Cornell online library, (January 13, 1998), (at www.library.cornell.edu/colldev/mideast)

I will first give a definition of the Iranian civil society. Then I will present its role in Iran regarding Human Rights. Eventually I will analyze the dynamic of opposition between the judiciary and the civil society.

I. Who composes the Iranian civil society?

The Iranian civil society is made up of different trends: there are the women, intellectuals, students, academics and journalists.

A. Women

Women's role in the public sphere is defined by the constitution: women are the heart of the Islamic society, as a mother and a wife. They are confined to this traditional role for a reason: Women are the cornerstones of the Islamic Republic. Women are the mothers who will raise up the future Muslim citizens. The burden of a good society relies on them.

One of the female MP Marzieh Dastjerdi listed the issues Iranian women face. It corresponds to 4 fields of action (legal, social, cultural and economic):⁷

- Legal and judicial obstacles: obtaining the children custody or the dowry back
- Social pressure that influences the law: a woman cannot travel without her husband unless she has his agreement.

⁷ Interview with Marzieh Vahid-Dastjerdi, MP in the Majles, Zanân magazine, Number 35, Tehran, November 1997

- Cultural barriers for women of the minorities
- Financial matters: what happens to a divorcee?

Many specialists have described the Iranian society as patriarchal.⁸ Iranian law has a tendency to give the priority to men in the public sphere as much as in the private sphere. However Iranian women undertook a process of legal and social reform with the support of the President Khatami. The society is increasingly matriarchal: women hold public positions (except the ones of judge, president of the republic and *mujtahid*⁹), go to universities and work. According to M. Ladier-Fouladier, the Iranian society is becoming a matriarchal society.¹⁰

Iranian women became more and more aware of the violations of their rights according to international instruments. The movement reached its climax during the campaign of Khatami. Iranian women realized they could change the current situation because they were a political force. As Mehrangiz Kar said:

Even if we consider that women acquired rights under the Shah's rule, we ignored at that time that gender issues were of a political nature. Since the revolution, we learned that matters related to women are relevant to the political field. Nowadays, politics is not a closed field anymore. Nevertheless through their experiences, women have also learned that their rights do not rely on politics only. That is why women create non-governmental organizations that are independent from any political influence. Women's issues are directly linked to human rights. I am sure that the more the Islamic actresses become aware of their situation and see the legal deficiencies, the more new possibilities and opportunities are open to women

⁸ Khosrokhavar Farhad & Chafiq Chahla, *Femmes Sous le Voile Face a la Loi Islamique*, Editions du Félin, 1995

⁹ According to an interpretation of the Constitution those three jobs are forbidden to women.

¹⁰ Interview with Marie Ladier-Fouladi, Demographer and Researcher, CNRS Monde Iranien-Unité de Recherche 7528, (January 14, 2003)

to change laws. Women will then become a powerful strength that any leader will have to deal with and listen to their requests.¹¹

There are two ideas in this speech: First, there is the discovery that politics alone will not help women changing their situations. Changes on the field are important but are useless without deep legal modifications. The second point made by Mehrangiz Kar concerns lobbying. It is a discovery for women: they can change law and politics by creating associations that would lobby the establishment.¹²

President Khatami brought a wind of change for women after 1997. It had an effect on their private lives as well as the public sphere. He appointed women in the various ministries. Women were elected at all the levels. They became real social actors. They were present in every field of the society and the public life. Women used the veil as a tool to penetrate the society. They accepted to play by the rules but claimed their dues in return.

Women play a major role in the civil society as they are going through a social struggle.¹³ They created a lot of associations and non-governmental associations to help children and women. They palliate to the state.¹⁴ There are more or less 500 non-governmental organizations devoted to women's' rights in Iran.

¹¹ Iranian Human Rights lawyer, Quoted in Kian-Thiébaud Azadeh, *Les Femmes iraniennes entre Etat, Islam et Famille*, Editions Maisonneuve & Larose, Paris 2002, p. 276.

¹² There are more or less 500 non governmental organizations for women, www.salamiran.org/women/organisations/NGO.html

¹³ Z. Shaditalab, *Zanân magazine*, (Tehran), N°77, June 2001, p.4-5.

¹⁴ Gheytonchi Elham, *Chronology of Events Regarding Women Since the Revolution of 1979*, Social Research, Summer 2000

M. Ebtekhar, a prominent female figure in Iran, declared:

Women have made themselves an integral part of the reform process; there are now 14 female parliament members out of 290, working on health, foreign policy, social development, industry and trade and culture. They have worked tirelessly, lobbying hard to have their voices taken seriously by the government. What we've been looking for is the development of women at grassroots level, the empowerment of women and improvement in their status in family relationships.¹⁵

B. Intellectuals

Most of Iranian intellectuals are post-Islamists intellectuals: they used to adhere to the revolutionary values but were later disillusioned. They did not turn against those values but disagree with the institutions blocking the reforms. Most of them think in the framework of Islam and the revolutionary heritage but wish to reform the Iranian system.

Since 1997 those intellectuals have found a new voice. A relative freedom of speech, newspapers and Internet give them public scenes where they can expose their ideas and debate. Television and radio are not used as the Conservatives control those medias.

Those intellectuals are clerics and non-clerics: Ayatollah Y. Sane'i says Islam should be adapted to the popular will. Hojjat-ol Eslam M. Shabestari tries to set up a new approach to family law that would be more respectful of women's rights.

Most of the intellectuals used to be university professors but were fired. Their books are in general difficult to find on the market.

¹⁵ Maasoumeh Ebtekhar, *Beyond the Veil, Voices From the Developing World*, Orbit issue 84, available at www.vso.org.uk/publications/orbit/84/article1.htm

The intellectuals play a vital role in strengthening the civil society as the use and abuse of the freedom of speech and play a role in the dialogue of civilizations.¹⁶

C. Students

Students dare to challenge the government. Iranians students have always played an important role in the history of Iran:¹⁷ The most famous case is the hostage crisis at the US embassy.

Students were used by Conservatives to control campuses. They were sent to classes and were monitoring the Professors. However the “student weapon” changed hands.¹⁸ Conservatives lost the monopole they had in the universities. Student associations turned to Khatami as he seduced them. The new candidate and future president gave them hope for the future: jobs, freedom of speech and justice.

Universities are very dynamic and are laboratories of theories and ideas. It is where the ideas and slogans of the civil society are prepared. Iranian student actions are often demonstrations in the streets. The most important demonstrations took place in 1999 and in 2003.

However as the reforms were slow to come, students grew impatient. They divorced from reformist movement and became an independent social force aware of its

¹⁶ Ramin Jahanbegloo, *The Role of Intellectuals*, Journal of Democracy, October 2000, volume 11, Number 4.

¹⁷ Dr.N. Tohidi, *Student Movement: the Harbinger of New Era in Iran*, ISIM Newsletter, Leiden Universiteit, Number 4, December 1999, p.18.

¹⁸ Dr.N. Tohidi, *Student Movement: the Harbinger of New Era in Iran*, ISIM Newsletter, Leiden Universiteit, Number 4, December 1999, p.18.

weight. When they became autonomous after their divorce with Khatami, their requests and slogans became more harsh and less in connection with the Khatami's policy.¹⁹

D. The Youth

This social group is homogenous and is made up of young people from the age of 16. They represent more the fifty percent of the Iranian population. They are the children of the revolution: they have not known another system. Though there are social differences the Iranian youth is unified in its wish for change: They share hope, wishes, dreams and disenchantment. They have now access to Internet, translation of books, television and trips abroad. It opens new horizons.

They have no intimacy except if their families are rich enough to afford separate bedrooms. Consequently most of those young Iranians are controlled in the *andarun* (the outside world, the public sphere) and in the *birun* (the inside, the private home).

They play a major role in the awakening of the civil society and the quest for new values. They live in a society made up of taboos and forbidden fruits. They search for more freedoms and are open to any influence, whether intellectual or practical. They are fascinated by the Western world and totally ignore the dangers and risks of the western society.

¹⁹ Interview by Azadeh Kian Thiebaut of Iranian Students in : *La Révolution à l'Heure des Réformes*, Le Monde Diplomatique (Paris), Janvier 1998.

The ideal of an Iranian youth islamized and bearing the cultural authenticity and the religious values is gone: The Iranian youth rejects no political or moral references.²⁰

As they represent 50 percent of the voters, they are an important political target. They considered Khatami as the champion of their freedoms. In 1997, they went under serious mobilization, aware of their power and motivated to change their world. They did not adhere to political parties but participate in political meetings and put posters around the country. They played an important role in the mobilization of their families.

The Iranian youth identified itself with the civil society's claims. They added their own claims like individualism. The youth rebellion usually takes place in an individual framework but as it is impossible in Iran, they chose to express themselves on the political scene.

E. Academics

The universities in Iran play a major role in the civil society movement. For example the Tehran University is a laboratory of ideas.²¹ The debates are continuous. This intellectual activity is the result of professors' work. The Iranian universities usually have very good professors and the level of study is very high.

²⁰ Khosrokhavar Farhad & Roy Olivier, Iran : Comment Sortir d'une Révolution Religieuse ? , Paris, Seuil, 1999, pp.168.

²¹ Maurice de Capithorne, Rapporteur for the Islamic Republic of Iran, United Nations, Annual State Report: Iran, available every year at www.unhcr.org

The revolutionary ideal was to Islamize universities with the help of professors. It did not work as professors as well as students were open to liberal and western ideas.

Many Iranian professors studied abroad. Though the government controls universities, they are place for cultural and intellectuals exchanges. Iranian universities have found their place in the civil society movement by producing the intellectual tools it can use.

F. Journalists

Before the election of M. Khatami and by regional standards, freedom of speech was relatively respected. There were some critics but usually the government controlled them in a correct manner.²² Human Rights Watch called that an “illusion of unrestricted discourse.”²³ For example, in 1984, Abolkarim Soroush created a journal *Kayhan-e Farhangi* in which he translated Western literature. Between 1988 and 1990, he published in the journal articles criticizing the regime²⁴. The journal was closed down because of the series of articles.

There were and still are not a lot of diverse sources of information as the media are controlled by the Conservatives; radio, television and newspapers are controlled by a very narrow Press law.²⁵

²² Menashri David, *Revolution at the Crossroads: Iran's domestic politics and regional ambitions*, The Washington Institute for Near East Policy, Policy Paper 43, (1997), 64

²³ Human Rights Watch, Report, *Guardians of Thought: Limits of Freedom of Expression in Iran*, New York, Human rights Watch, 1993, (available at www.hrw.org)

²⁴ Soroush Abdolkarim, *Qadb va Bast-e Ti'urik-e Shari'a* (The Rhetorical Contraction and Expansion off Religion), Series of Articles, *Kayhan-e Farhangi*, Tehran, (1988-1990).

²⁵ Iranian Press Law available at iranlaw.online.fr/laws3.html#press

Under Khatami, it was the golden era of journalism. Thematic groups, associations and newspapers used that freedom to a large extent. There were so many publications that the newsstands in the streets would be overflowed.²⁶

G. The failure of the institutionalization of the civil society and the reform from bottom to the top

As Khatami failed in his reform process, the civil society stopped supporting him. The dreams and hope he had symbolized when he came to power have vanished and are replaced by disappointment and disillusion. At first, the reforms were not quick enough, then they were not deep enough, and eventually there were no reforms at all. The quest for Human Rights and the hopes of a reform from the top to the bottom are over. The civil society took over and the reforms come now from the bottom to the top. The impact on the national policy is evident: civil society does not go to vote anymore. The divorce between the president Khatami and the civil society has been pronounced by the Medias. The power is now in the streets and not in the ballots.

Students were in the streets for months in 2003 after the sentencing of Aghajari, the arrest of the pollsters and the prohibition to celebrate the 1999 students' demonstrations. Their slogans were more aggressive than in the past as they target the

²⁶ Samii A.W., *Sisyphus' Newsstand: The Iranian Press Under Khatami*, Middle East Review for International Affairs, volume 5, No 3, (September 2003).

reformist president “Khatami, Khatami, Honesty, Honesty!”, “Khatami resign”, “the clerical regime is nearing its end” and “Enough slogans Why no action?”²⁷”

The student demonstrations are a godsend for the Conservatives: they could build up a new politic picturing them as victims by showing the students as dangerous rioters manipulated by the United States.²⁸

II. The Role of the Civil Society in the Human Rights Struggle

A. The Claims of the Civil Society

Before Khatami, there was no hope for social changes. The *ravabet* system (relations) was more important than the *zavabet* (reign of law). People were desperate because the system had already decided your destiny. People felt like “*ayandeh-sazan-e bi-ayandeh*” (Forces of the future with no future). At the time, there were no attempts to dismantle the clerical power from the streets.²⁹ Then with the new President came the hope for changes and people start to voice their disagreement.

The major claim is the rejection of control and morality. As the other social identifications have disappeared (clans, tribes, language), people are turning to the two last marks, the state and the individual. This process is thought either in a secular state or in a religious state, as long as the people are able to exist separately from the state. The

²⁷ *Still on the streets*, The Economist, 16 June 2003.

²⁸ Noy Thrupkaew, *Tilting on the Axis (of Evil): Iran's Puzzling Relationship with the United States-And Itself* The American Prospect, Volume: 14, Issue: 2, (February 2003).

²⁹ Amir Arjomand Said, *Civil Society and the Rule of Law in the Constitutional Politics of Iran Under Khatami*, Social Research, (Summer 2000)

civil society requests a public space that would be apolitical.³⁰ People want to be able to master their destiny and to make choice. Social disenchantment is one of the reasons why the civil society has entered the struggle for Human rights and civil rights.

B. Human Rights and the civil society

The challenge of reform and enforcement of Human Rights is a central issue for the civil society. The claim first took the appearance of a political struggle at the level of the state. At that time, the civil society was working with the President.

President Khatami was aware of the challenge and he tried to reconcile Islamic values, Iranian values and the notion of civil society. He declared:

Today law and respect of the law are a value for the country and we must cooperate to enforce it. Freedom needs a framework and in the constitutional framework, liberty and law complete each other. Law without freedom is a unilateral domination of society; and freedom without law is chaos. Civil society as we have seen it is a society where freedom exists under the protection of the law, a law does do acknowledge freedom (...) this is who a reciprocal link is created between the people and the state. The state is entitled to request from its citizens to act legally and the people is entitled to request freedom against the state".³¹

This was a clear appeal to the rule of law and the enforcement of Human Rights in Iran.

³⁰ Khosrokhavar Farhad & Roy Olivier, *Iran : Comment sortir d'une Révolution Religieuse ?*, Paris, Seuil, 1999, pp.144-45

³¹ President Muhamad Khatami, Speech for the First Anniversary of his Election, Tehran, Tehran University, (2 Khordâd 1376), (transcript available at <http://www.president.ir/>)

According to President Khatami civil society is the only source of legitimate power. This is a revolutionary idea in itself.³² However the civil society divorced from Khatami and gained autonomy. Consequently the reform is not taking place from the top to the bottom of the society anymore, but from the bottom to the top. In this reform movement, the civil society became aware of its power and its role in the Human Rights struggle.

Most of the civil society activists are using the terminology of Human Rights and democracy. Some activists like Shirin Ebadi clearly used the term Human Rights and declare fighting in the name of those fundamental values. Students are aware of their thirst for freedom but they do not refer to Human Rights terminology or instruments. They are more interested in the practical enforcement of those rights than in the rhetoric. Human Rights are now taught in the universities. There are some institutes flourishing, though they are still under governmental control

Many non-governmental organizations have appeared in many Human Rights field. Some of them are independent, others are not. In any case, it is the demonstration of a will of the population to take control of their lives. Most of those organization have understood the challenge of Human Rights and what it brings to their struggle.

The Iranian society is going through a crisis and a struggle for its soul: the challenge is to reconcile its thirst for freedom and rights and tradition. The civil society and its actors are seized between tradition and modernity. Iranian law is seized between tradition and modernity.

³² A. Kian-Thiébaud, *La révolution iranienne à l'heure des réformes*, Le Monde Diplomatique, janvier 1998.

The civil society activists take the challenge for reconciliation between Human Rights and Islam very seriously. Shirin Ebadi declared in her Nobel lecture:

The people of Iran have been battling against consecutive conflicts between tradition and modernity for over 100 years. By resorting to ancient traditions, some have tried and are trying to see the world through the eyes of their predecessors and to deal with the problems and difficulties of the existing world by virtue of the values of the ancients. But, many others, while respecting their historical and cultural past and their religion and faith, seek to go forth in step with world developments and not lag behind the caravan of civilization, development and progress. The people of Iran, particularly in the recent years, have shown that they deem participation in public affairs to be their right, and that they want to be masters of their own destiny. This conflict is observed not merely in Iran, but also in many Muslim states. Some Muslims, under the pretext that democracy and human rights are not compatible with Islamic teachings and the traditional structure of Islamic societies, have justified despotic governments, and continue to do so. In fact, it is not so easy to rule over a people who are aware of their rights, using traditional, patriarchal and paternalistic methods.³³

The civil society organizes Human Rights seminar for Iranians and non-Iranians. The aim is to educate Iranians to international Human Rights, non-Iranians to the reality of the field and the clash between Islam and Human Rights.

III. The opposition between the civil society and the judiciary

One of the biggest obstacles the civil society encountered on its path to reform and enforcement of Human Rights was the judiciary power. The first step of the Conservatives was to deny the existence of the civil society. Then they began to use the

³³ Shirin Ebadi, Nobel Prize lecture, Oslo, 10 December 2003, (available at <http://www.nobel.se/peace/laureates/2003/ebadi-lecture-e.html>)

judiciary to stop the reform process started by the civil society. Every step the society would take would have an immediate retaliation from the judiciary.

A. Civil society as an illusion

The Conservatives reacted to that notion of civil society by warning that it was only an illusion to believe in the power of the people as the power lied with the Ulemas only.

The people has no power. The velayat-e faqiq gives the power to the wisest ones in the society, the Ulemas whom have the power. Consequently, the notion of a civil society is a threat as it gives not only a voice to people but also power. Ayatollah Madhavi Kani declared: “ Some would like to expel the clergy from the political sphere. The way they behave allow the ones who wishes for the end of the regime to gather under their flag.³⁴” He accused the civil society of preparing the secularization of the regime and letting the enemies of Iran seized this opportunity to invade the country. It is true that part of the civil society wishes secularism. The clerics also say the notion of civil society is a liberal one and is incompatible with the Islamic society.

The Conservatives lost the contact with the civil society in 1999, when the police forces stormed into the students' dorms in response to the demonstrations. They lost their legitimacy after that event, especially among the students

³⁴ Speech, Imam Sadeq University, transcript in Payam-e Emrouz, N°18, Ordibehesht-Khordad 1376/ April/May 1997, p. 13

B. Freedom of speech

When freedom of speech flourished under Khatami, the judiciary started closing newspapers. The first reformist newspaper to appear in February 1998 was *Jame'eh* (society). It was a success. Within few months, 50 publications, daily newspapers, weeklies and monthly magazines appeared. There was an attempt to reform the press law and the judiciary (held by the Conservatives) retaliated: *Jame'eh* was closed down after 5 months. Almost the next morning came its successor launched by the same editors: *Afta-e Emrooz*.³⁵ It used to be the strategy: as soon as the newspaper was closed down, its successor would be available in the streets the next morning. It did not work for long: Ayatollah Khomeini told worshippers, "I suspect around 20 publications are acting as the enemy's "fifth column" We should do something about it."³⁶ After that speech 43 publications have been closed.

Between 2000 and 2002, the conservative judiciary has shut down 83 reformist publications. Internet cafes are monitored. Television is censored. On Dec. 25, 2001, Mirdamadi had to appear in court to answer to 300 complaints against his newspapers.³⁷

Professor H. Aghajari declared in a speech before a small group of students at the Bu Ali-Sina University in Hamadan "Marx said that religion is the opiate of the masses. But he didn't go far enough. It's also the opiate of governments". He also called for a

³⁵ Sharam Sokooti *Iran's Reformist Press*, Tehran, Iran, 22 January 2002, online feature, (available at www.worldpressreview.org)

³⁶ Ayatollah Khomeini, Friday prayers ceremony, Tehran, April 2000, in Mason Whit, *Iran's Simmering Discontent*, World Policy Journal, volume XXIX, No 1, (spring 2002), (available at www.worldpolicy.org/journal/articles/wpj02-1/mason.pdf)

³⁷ Shahram Sokooti, *Iran's Reformist Press*, Tehran, Iran, 22 January 2002, (available at www.WorldPressReview.org)

“religious reformation” of Shia Islam and criticized Shias readiness to emulate top ayatollahs like “monkeys”.³⁸ He was sentenced to death. Students began protesting: They asked for more than Aghajari's pardon and release. They called for the release of all political prisoners. They also took up the cause of three pollsters who are on trial for espionage.³⁹

The press coverage of the 2003 student demonstrations reflected the links between the different trends of the civil society. *Etemad* made an analysis of the students' demands.⁴⁰ *Kayhan*, the pro regime newspapers, called the students “rioters”. It also accused the students of being manipulated by the United States.⁴¹ *Hayat-e-No* published a warning by prominent reformist cleric and lawyer Mohsen Rahami, saying “We should worry about the day that our students become passive and stay home fearing a reprisal.”⁴² *Yas-e now* encouraged the demonstrations.⁴³ Other newspapers supported the students. 250 university teachers and writers wrote a statement supporting the students. Thanks to the support from other segments of the civil society, the students' demonstrations had more effect.

³⁸ Transcript available at www.hrw.org/press/2002/11/iranacademic.htm

³⁹ The head of Iran's state news agency, IRNA, was charged in court on September 2003 in connection with the publication of a poll. According to the poll, 74% Iranians were in favor of the resumption of the dialogue with the United States. The pollsters were arrested and are now behind the bars. The results of the poll are presented in: Dinmore Guy, *Human Rights under the Spotlight*, Iran Reporter, January 1, 2002, (transcript available at www.iranreporter.com); Saeed Razavi-Faqih and Ian Urbina, *The Fight for Iran's democratic ideals*, The New York Times, December 10, 2002.

⁴⁰ *What do students want?*, Etemad, Tehran, December 2003, (available at www.worldpressreview.org), conservative newspaper.

⁴¹ *Kayhan*, Tehran, December 8 2003, (available at www.kayhannews.com), conservative newspaper.

⁴² *Hayat-e now*, Tehran, December 9 2003 (available at www.arya.ws/hayateno), reformist newspaper and has been closed down.

⁴³ *Yas-e now*, Tehran, December 2003, (available at www.yas-e-now.com), reformist newspaper and has been closed down in 2004.

However, most of those reformist newspapers were shut down soon after. They were accused of playing the game of the United States and threatening the country. 2003 was a tough year for journalists and newspapers. According to Human Rights Watch, there was a wave of arrests of journalists and closure of newspapers.⁴⁴

Internet is the new freedom tool. As the newspapers are closed down, they move to Internet. The first arrests regarding the Internet website occurred in April 2003.⁴⁵

Intellectuals probably paid the highest price in the struggle: many were murdered.

C. Women s' rights

If their situation is less under the spotlight of the international medias, women have suffered too from the judiciary retaliation.

Women used to hold strategic position under the first Khatami government. Women were even in the ministries. In the second Khatami government, women « disappeared ». The Re-elected President probably yielded to the Conservatives. This incident shows that women have not won the struggle yet.

Women have won one battle over the judiciary though: divorce. They get divorce more easily than in the past. They still have to struggle to have the custody of the children and get their dowry back. The sixth Majles tried to enact laws to ease the divorce

⁴⁴ Human Rights Watch, Iran: Report for the Year 2003, Washington DC, (2004), (available at www.hrw.org)

⁴⁵ S. Motallebi was imprisoned for his site rooznegar. He was released later due to a huge online petition. (Site available at www.rooznegar.com)

procedure. The MPs were successful but the Council of Guardians impeached any reforms in the field of custody and dowry.

Most of the improvements are practical and have not yet been written in laws. There has been an effort from the part of Sixth Majles to introduce bills regarding women's rights, but the Council of Guardians has turned down most of them.⁴⁶ Any legal reform is slow, as it requires to give-up on the canon law to enforce international women's rights standards. This new society where women have power in practice but not in law is the paradoxical product of the 1979 revolution and the Islamic Republic. It reflects the challenges of Iranian law, seized between tradition and modernity. Today, the excitement and hope provoked by Khatami's election has vanished. Women are disillusioned and disenchanted. The legal reforms promised by Khatami and supposed to ameliorate their lives have not been completed.

Conclusion

The struggle of the Iranian civil society, the path it has taken and the solutions it will find to the different issues will influence many other Muslims society: Iran is indeed an example for many Islamic countries and civil society movements facing the same problems. It is one reason the issue of civil society in Iran is important. The other reason is the interest of a reform taking place from the bottom to the top. Eventually the opposition to the judiciary makes it a study-case.

⁴⁶ The Council of Guardian: a high office within the constitution. 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.

