

Human Rights Universalism in Practice

What the Iranian women's rights movement can teach us

Abstract

Does practice show us the legitimacy of international human rights law? This paper explores this question via the case study of the women's rights movement in Iran. Current human rights sceptics claim that the system is illegitimate due to lacking universality and an excessive top-down approach of imposing Western values on developing countries. However, the Islamic Republic of Iran has a remarkable community of grassroots activists, despite being a state where human rights are continuously characterised as foreign. The bottom-up women's rights initiative of the One Million Signatures Campaign utilised human rights discourse in combination with local, indigenous values to legitimise its struggle for gender equality. The paper argues – via the case study of this movement – that there is practical evidence to support a theory of human rights universalism, as positive human rights law has managed to empower the existing subjectivity of individuals. The universal legitimacy of international human rights law does not primarily come from a global network dictating common values, but from members of civil society mobilising in their status as rights-holders.

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I. Introduction

In February 2019, the Islamic Republic of Iran marked forty years since its historic 1979 revolution. While its society has developed, sometimes drastically, since those days,¹ Iran is still known as a state with a precarious human rights situation, as its hard-line regime has continuously cracked down on demands of its citizens for more freedom.² Nowhere is this as clear as in the state's treatment of its female population. Iranian women are viewed as second-class citizens by the authorities, as evidenced by their many discriminatory laws. Campaigning of the Iranian women's rights movement has not resulted in large-scale change as of yet, despite notable achievements of the influential One Million Signatures Campaign.³ In light of the ongoing struggles of Iran's women to improve the respect for their fundamental rights, this article proposes a different question than either the evaluation of the effectiveness or the political affiliations of human rights mechanisms. I ask whether there is evidence in reality to support a theory of human rights universalism – thereby attempting to bridge the gap between practice and theory.

For the past thirty years, human rights law has been one of the most dominating topics of discussion in international law and relations, as well as legal theory and philosophy.⁴ While the former is more concerned with the positive legal obligations arising from international human rights conventions and their respective implementation in practice, the latter is often perceived to be occupying a more abstract role, investigating the origins and merits of the human rights idea, as well as formulating various philosophical considerations regarding their

¹ Thomas Erdbrink, 'The Iran Revolution at 40: From Theocracy to 'Normality'' *The New York Times Online* (10 February 2019) <www.nytimes.com/2019/02/10/world/middleeast/iran-revolution-40.html> accessed 13 March 2019.

² As evidenced by Amnesty International crackdowns in 2018 the "worst we have witnessed over the past decade", cf. Hannah Ritchie, 'Iranian protesters defiant in the face of 'worst' crackdown in a decade' *CNN Online* (11 February 2019) <<https://edition.cnn.com/2019/02/11/middleeast/iran-crackdown-protesters-intl/index.html>> accessed 13 March 2019.

³ Akram Mirhosseini, 'After the Revolution: Violations of Women's Human Rights in Iran' in Julie Peters and Andrea Wolper (eds), *Women's rights, Human rights: International Feminist Perspectives* (Routledge 1995); Reza Afshari, *Human Rights in Iran: the abuse of cultural relativism* (University of Pennsylvania Press 2001); Rebecca L. Barlow, *Women's Human Rights and the Muslim Question: Iran's One Million Signatures Campaign* (Melbourne University Press 2012).

⁴ For an overview of the debate, cf. Cindy Holder and David Reidy (eds) *Human Rights: The Hard Questions* (Cambridge University Press 2013); Costas Douzinas and Conor Gearty (eds), *The Meanings of Rights: The Philosophy and Social Theory of Human Rights* (Cambridge University Press 2014); Rowan Cruft, S. Matthew Liao, and Massimo Renzo (eds), *Philosophical Foundations of Human Rights* (Oxford University Press 2015); Stephen Hopgood, Jack Snyder and Leslie Vinjamuri (eds), *Human Rights Futures* (Cambridge University Press 2017); Kathryn Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century* (Princeton University Press 2017).

justification. The work done sometimes implies a large gap between human rights in practice and human rights in theory. Every human rights expert is aware of the difficulties in translating universal assurance, however well it may be theoretically substantiated, into actual enjoyment of individual legal rights.⁵ Yet, despite these differences, both endeavours continuously circle around the same question, namely: are human rights worth pursuing in the future?

In order to assess this question properly, one must first consider the important distinction between the questions of human rights *effectiveness* and human rights *legitimacy*. The first category deals in whether human rights actually work, meaning if they produce empirically measurable change in practice. The second category addresses the desirability and justification behind human rights, elaborating on why universal human rights are something we should rightly want to realise.⁶ This article will focus on the second category of *legitimacy*, for the reasons outlined subsequently.

The analysis of human rights *effectiveness* and human rights *legitimacy* must be handled separately, as the justification of human rights law and values are connected to more than merely their effectiveness in practice. Naturally, the two can be intertwined, as effectiveness represents a crucial aspect of the legitimacy of government action, eg when assessing the proportionality of state regulation.⁷ Investigating whether international human rights law is being effective in achieving desired change and preventing human rights violations in countries such as Iran is a highly important endeavour.⁸ However, when it comes to human rights legitimacy, it must also be considered that positive human rights law is not merely a legal tool to achieving a further societal goal (as eg development economics), but represents the em-

⁵ Beth A. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009) 3-8; Emilie Hafner-Burton, *Making Human Rights a Reality* (Princeton University Press 2013) xv, 1-4; Sikkink (n 4) 3-7.

⁶ Sikkink (n 4) 8-11.

⁷ Alec Stone Sweet and Jud Mathews, 'Proportionality Balancing and Global Constitutionalism' [2008] Faculty Scholarship Series 14 <http://digitalcommons.law.yale.edu/fss_papers/14> accessed 13 March 2019.

⁸ The controversial debate surrounding human rights effectiveness proves this. Critics like Posner and Hopgood describe a wide-spread failure of international human rights law to accomplish its objectives and prophesise the imminent decline of the human rights system, cf. Stephen Hopgood, *The Endtimes of Human Rights* (Cornell University Press 2013) 1-7; Eric A. Posner, *The Twilight of Human Rights Law* (Oxford University Press 2014) 1-9; however, Sikkink denounces the lack of empirical research, particularly in Posner's case, and emphasises the danger of blanket judgments instead of investigating different contexts separately. She also exposes the pitfalls of failing to declare standards of comparison, cf. Sikkink (n 4) 8-11, 13-14, 25-26, 31-33, 47.

In the case of Iran and women's rights, research reveals that the Gender Development Index (GDI) and Gender Inequality Index (GII) have risen continuously from 2015 to 2018, indicating that women's quality of life has gotten closer to that of men's and inequality has been reduced. Women's share of parliamentary seats has increased, going from 3.1% in 2016 to 5.9% in 2018. However, the labour force participation rate has not risen significantly, going from 16.6% to 16.8% of women between 2015 and 2018, cf. UN Development Programme (UNDP), *Human Development Report 2015: Work for Human Development* (United Nations 2015) 221, 225; UNDP, *Human Development Report 2016: Human Development for Everyone* (United Nations 2016) 211, 215; UNDP, *Human Development Indices and Indicators: 2018 Statistical Update* (United Nations 2018) 35, 39.

bodiment of normative, morally substantiated goals that hold value in themselves.⁹ International human rights obligations originate from a central theoretical premise, namely that there are universally recognisable attributes to all human beings that constitute the entitlement to fundamental respect for every individual.¹⁰

Therefore, there is a deep-seated deontological question surrounding the legitimacy of human rights law that is controversial beyond their effectiveness in practice. Asking whether the idea of universal human rights is legitimate is often confined to the realm of theoretical argument, where the universality of moral aspirations and the political consequences of presuming such universality are hotly debated.¹¹ However, instead of merely assessing the conclusiveness of different arguments for legitimacy, this article is concerned with unearthing whether the theoretical argument for the universality of moral human rights also has a basis in real, practical cases, specifically the case of Iran's women's rights situation.

In this article, I ask whether there is evidence in the case of the One Million Signatures Campaign to support the correctness of human rights universalism, and I argue that the focus of human rights analysis should be placed more on grassroots movements, who demand the adherence to human rights law within their own cultural context. I further argue that the Iranian women's rights campaign demonstrates the legitimacy of international human rights law and its values, even in a country where they are continuously characterised as foreign. Through this approach, I will demonstrate why the human rights system is still worth pursuing. To achieve this, I first outline the theoretical debate surrounding the legitimacy of human rights universalism as groundwork for the case study (II). In a second step, historical background on the human rights situation and the position of women in Iran is provided, before offering an analysis of the One Million Signatures Campaign (III). Finally, I assess the legitimacy of international human rights law in the context of the Iranian women's movement and thereby evaluate views traditionally associated with the human rights system (IV).

⁹ Hafner-Burton, *Making Human Rights a Reality* (n 5) xv.

¹⁰ Chris Brown, 'Human rights and human nature' in Cindy Holder and David Reidy (eds), *Human Rights: The Hard Questions* (Cambridge University Press 2013) 23-24; Stephen Hopgood, 'Human Rights on the Road to Nowhere' in Stephen Hopgood, Jack Snyder and Leslie Vinjamuri (eds), *Human Rights Futures* (Cambridge University Press 2017) 283-284.

¹¹ Cf. eg Michel Foucault, *The Order of Things* (Alan Sheridan tr, Vintage 1970); Jean-François Lyotard, *La condition postmoderne* (Les Editions de Minuit 1988); Richard Rorty, *Contingency, Irony and Solidarity* (Cambridge University Press 1989); Hopgood, *The Endtimes of Human Rights* (n 8); Posner, *The Twilight of Human Rights Law* (n 8); Hopgood, 'Human Rights on the Road to Nowhere' (n 10).

II. The Debate on Human Rights Universalism

Scepticism towards the legitimacy of international human rights law exists on different fronts, from legal scholars and critical theorists to representatives of countries traditionally not associated with human rights values. Most strands of criticism, including those relevant for the Iranian context, result in challenging the universalist idea, according to which human rights outline the necessary conditions for a decent human life that are applicable to all cultures and contexts. Theories of human rights universalism usually include basic demands of justice, of human solidarity and the respect for human dignity, autonomy and the intrinsic equal worth of all human beings, which human rights are both based on and meant to ensure.¹² Critics thus see human rights as illegitimate, because they are not universally valid or applicable.

The first relevant strand of criticism to be addressed here is *epistemological*, namely doubting the possibility of universal value judgments underlying human rights as such. This major point of controversy has long been argued over in the history of ideas, with some holding that there are no objective truth conditions for judging moral claims, therefore morality is relative to different ethnic, cultural, social, political or historical backgrounds and does not exist universally for all of humanity. Observation of moral disagreement among various human societies, dynamics underlying moral judgments – such as disciplinary structures or *epistemes* – as well as differences in socio-cultural practices are usually referenced in support of this. Moral claims are thus simply elaborate stories that hold no identifiable basis in objective truth.¹³ From this epistemological stance follows that human rights values and their legal manifestation cannot claim legitimacy from a universal philosophical basis, as they themselves are only relative narratives constructed on an ever-shifting platform of contingent

¹² John Tasioulas, 'On the Foundations of Human Rights' in Rowan Cruft, S. Matthew Liao, and Massimo Renzo (eds), *Philosophical Foundations of Human Rights* (Oxford University Press 2015) 45-50; Matthias Mahlmann, 'Normative Universalism and Constitutional Pluralism' in Iulia Motoc, Paulo Pinto de Albuquerque and Krzysztof Wojtyczek (eds), *New Developments in Constitutional Law: Essays in Honour of András Sajó* (Eleven International Publishing 2018) 271, 280-281; Matthias Mahlmann, 'One step too far – some philosophical and political parameters of the current critique of human rights' in András Sajó and Renáta Uitz (eds), *From Criticism to Scorn: How the Recalibration of Human Rights Diminishes Liberty and What to Do About It?* (2019 forthcoming) 1-3.

¹³ Famous proponents of this view include Foucault (n 11); Friedrich Nietzsche, 'Nachgelassene Fragmente 1885-1887' in Friedrich Nietzsche, *Sämtliche Werke, Kritische Studienausgabe in 15 Bänden* (Giorgio Colli and Mazzino Montinari eds, Deutscher Taschenbuch Verlag 1980), 9; Lyotard (n 11); Rorty (n 11); Jean-Paul Sartre, *Being and Nothingness* (Hazel Barnes tr, Routledge 2002) 38, 443, 566-567, 626-627. For critical comments on moral relativism, cf. James Rachels, *The Elements of Moral Philosophy* (4th edn, McGraw-Hill 2003) 16-31; Mahlmann, 'Normative Universalism and Constitutional Pluralism' (n 12) 281-283.

truths.¹⁴ This is a potent form of critique in the Iranian example, as the debate surrounding the compatibility of Islamic values and human rights values often results in the relativist claim that Islamic societies hold different moral beliefs and should thus not be forced to adapt to standards not valid within their own culture (cf. III.1, 2).¹⁵ The most well-known counter-argument to the moral relativist position – aside from the important logical inconsistencies, eg that moral disagreement does not exclude the possibility of a right answer¹⁶ – is the tenet of ‘human dignity’, which “formulates the imperative that every human being is categorically protected as a subject, as an end in itself ... and thus the prohibition to instrumentalise or objectify human beings.”¹⁷ The normative consequences of this concept lie in the protection of human autonomy regardless of cultural or historical context, the ability of every human being to claim authorship over his or her life, which is viewed as a basic human interest resulting from the abilities of reason and self-determination.¹⁸

The second relevant critique is *historical*. The historical origins of the human rights idea, as well as international legal codifications are hotly debated, with some claiming them to be a fairly modern and decidedly Western project. International human rights law was thus a consequence of the political collaboration of Western nations after the Second World War and only became meaningful with the ascent of US hegemony.¹⁹ The counter position states that the consideration of human rights arguments and values by far predates the proposed point of human rights inception in this critique. Continuities, such as earlier versions of ‘human dignity’ as the idea of a fundamental worth of human beings and their autonomy, may have long existed in several cultures, even if not under the same specific terms.²⁰ Regarding the political process behind the creation of international human rights law in the 1940s and 1950s, the ‘Western project’ version often neglects the profound participation of non-Western actors, eg Latin American, African or Muslim countries, which is in fact substantiated by many re-

¹⁴ Mahlmann, ‘One step too far – some philosophical and political parameters of the current critique of human rights’ (n 12).

¹⁵ Afshari (n 3) 4-7; Barlow (n 3) 15-17.

¹⁶ Rachels (n 13) 16-31.

¹⁷ Mahlmann, ‘One step too far – some philosophical and political parameters of the current critique of human rights’ (n 12) 12-13.

¹⁸ George Kateb, *Human Dignity* (Belknap Press of Harvard University Press 2011); Matthias Mahlmann, ‘Human Dignity and Autonomy in Modern Constitutional Orders’ in Michel Rosenfeld and András Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law* (Oxford University Press 2012) 372, 377-378.

¹⁹ Moyn challenges the narrative of the Enlightenment origins of human rights, by claiming that the modern concept didn’t emerge until the 1970s, when human rights became central to US foreign policy, cf. Samuel Moyn, *The Last Utopia: Human Rights in History* (Harvard University Press 2012); Hopgood also pairs this with assumptions for the future, predicting the decline of human rights law because of the relative decline of Western power, cf. Hopgood, *The Endtimes of Human Rights* (n 8) 1.

²⁰ Mahlmann, ‘Human Dignity and Autonomy in Modern Constitutional Orders’ (n 18) 372; Christopher McCrudden, ‘Human Rights Histories’ (2015) 35 *Oxford Journal of Legal Studies* 179, 188, 190-196.

searchers.²¹ The influence of Muslim countries such as Iran on the Universal Declaration of Human Rights (UDHR) is particularly interesting for the case study and will be addressed in the following chapter (cf. III.1).

The third relevant strand of criticism is *postcolonial*, which is a subcategory of the first two. Human rights universality is here challenged by the assertion that human rights policies are deeply embedded into power politics that wealthy countries exercise against the marginalised. Human rights, the popular argument goes, are a Western construct, an epistemological product of the Global North pushed onto the Global South in a neo-imperial movement hidden beneath the cloak of ‘universalism’. Postcolonial theorists and scholars of *Third World Approaches to International Law* (TWAIL) question the foundations of the international order and view human rights as a ‘civilising’ concept, which obligates Western saviours to protect Third World victims from their savage cultures, and subjugates the Global South to an international order beneficial to Western countries.²² This critique includes both epistemological and historical elements, claiming that human rights law is contingent on the remaining historical power structures of Colonialism, as well as dominant Western value narratives, which are being exported to and imposed on Third World countries. Again, this approach is relevant to the Iranian context, seeing as one of the government’s most long-standing justifications for its policies is the struggle against US imperial forces threatening their culture’s sovereignty (cf. III.1).

The last relevant critique I wish to address is a mixture between the previous points mentioned and will be referred to as the *top-down* critique. It labels the human rights system an “act of hubris” forged from the supposedly superior systems of Western countries. Human rights are then illegitimately forced on others via the same crude top-down mode of implementation as development economics. In other words, human rights are designed to help Third World countries develop by imposing a well-meant but faulty blueprint of Western po-

²¹ Simmons (n 5); Roland Burke, *Decolonization and the Evolution of International Human Rights* (University of Pennsylvania Press 2010) 2-5; Barlow (n 3) 3, 13-35; Sikkink (n 4) 11, 12-13, 26-31.

²² Makau Mutua and Antony Anghie, ‘What is TWAIL?’ (2000) 94 *American Society of International Law* 31, 34; Sabine C. Carey, Mark Gibney and Steven C. Poe, *The Politics of Human Rights: the Quest for Dignity* (Cambridge University Press 2010) 24; Seth Sanjay (ed), *Postcolonial Theory and International Relations: A Critical Introduction* (Routledge 2013) 1-3; postcolonial theory lead to postcolonial feminist theory, which criticises hegemonic Western forms of feminism and its hubris towards Third World women, cf. Chandra Talpade Mohanty, ‘Under Western Eyes: Feminist Scholarship and Colonial Discourses’ (1984) 12 *boundary* 2 333; Inderpal Grewal and Caren Kaplan, ‘Transnational Feminist Practices and Questions of Postmodernity’ in Inderpal Grewal and Caren Kaplan (eds), *Scattered Hegemonies – Postmodernity and Transnational Feminist Practices* (University of Minnesota Press 1994).

litical and economic ideals.²³ First of all, the comparison to development economics is poorly chosen, as positive human rights law is not merely a legal tool aimed at development, but embodies morally substantiated goals that hold value in themselves (cf. I). Secondly, the image of excessive top-down implementation is also challenged by various voices, which corroborate the central role of *bottom-up*, grassroots movements.²⁴ Authoritative human rights principles are deemed crucial in empowering individuals to mobilise as rights holders. Human rights are thus also legitimate because people actually want them. State governments, it is argued, were rarely the protagonists in achieving human rights change, as the momentum for binding UN treaties mostly came from individuals and groups not directly representing state interests.²⁵ In fact, the academic criticism aimed at human rights legitimacy is often taken up by actors wishing to discredit human rights activism, in order to not be held accountable for their own human rights violations.²⁶ Iran's Islamic regime is a prominent example for this.

Lastly, within analysis of human rights practice, context is crucial for assessing impact and meaning of human rights law. Blanket statements are neither accurate nor helpful, as situations differ drastically between countries.²⁷ Though international law often defines human rights norms, much of the effort that advances them lies within local context so specific case studies are essential.²⁸ Whatever one learns from one context will likely not be transferable to others, and cannot be generalised into overall conclusions. However, findings from one context might still serve as examples or indicators of a larger phenomenon. The Iranian context is – as any other – very particular to the country's history and culture, which is why this article provides the background information necessary for understanding the dynamics at play during the central One Million Signatures Campaign.²⁹ Shirin Ebadi describes the frustration of being “bitterly disappointed in Iran's present precisely because of the love and

²³ Hopgood, *The Endtimes of Human Rights* (n 8) 1; Posner, *The Twilight of Human Rights Law* (n 8) 68, 140-142; Eric A. Posner, 'The Case Against Human Rights' *The Guardian Online* (4 December 2014) <www.theguardian.com/news/2014/dec/04/sp-case-against-human-rights> accessed 29 June 2018.

²⁴ Eg Maria Suarez Toro argues for the central role of grassroots activism in women's rights issues, cf. Maria Suarez Toro, 'Popularizing Women's Human Rights at the Local Level: A Grassroots Methodology for Setting the International Agenda' in Julie Peters and Andrea Wolper (eds), *Women's rights, Human rights: International Feminist Perspectives* (Routledge 1995) 189-190.

²⁵ Simmons (n 5) 351-353; Barlow (n 3) 20-26; Sikkink (n 4) 26-31.

²⁶ Sikkink (n 4) 43.

²⁷ *ibid* 11-12.

²⁸ Emilie Hafner-Burton, 'Beyond the Law – Towards More Effective Strategies for Protecting Human Rights' *Open Democracy Online* (6 May 2014) <www.opendemocracy.net/openglobalrights-blog/emilie-hafnerburton/beyond-law-%E2%80%93-towards-more-effective-strategies-for-protect> accessed 29 June 2018.

²⁹ Noushin Ahmadi Khorasani, *Iranian Women's One Million Signatures Campaign for Equality: The Inside Story* (Women's Learning Partnership 2009); Catherine Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (2010) 12 *International Feminist Journal of Politics* 444, 444; Barlow (n 3) 1.

admiration [she] had for its past.”³⁰ The human rights discourse within the women’s rights movement in Iran serves as a prime example of bottom-up activism and thus represent an ideal case to unearth practical evidence for a theory of human rights universalism.

III. Iran and the One Million Signatures Campaign

“I felt that I too had won, alongside this victorious revolution. It took scarcely a month for me to realise that, in fact, I had willingly and enthusiastically participated in my own demise. I was a woman, and this revolution’s victory demanded my defeat.”³¹ The Iranian context was shaped decidedly by the 1979 revolution, termed the “last great revolution” of the modern era. Perhaps the reaction to the 1953 coup d’état – the overthrow of Prime Minister Mohammad Mosaddegh to strengthen monarch Mohammad Reza Shah Pahlavi, orchestrated by the United Kingdom and the US – the Iranian revolution, under Ayatollah Ruhollah Khomeini, sought to expel foreign influence and return traditional culture to Iran’s people through establishing an Islamic Republic.³² In the years following, the introduction of Islamic values into state institutions and the life of citizens proved to be a double-edged sword – especially for women. While many propagated the triumph of the nation’s own cultural heritage over Western hegemony, the human rights situation drastically deteriorated and Iran’s women saw themselves betrayed by a revolution many of them had supported.³³ The justifications of the Iranian government for this dire human rights situation and incessant discrimination correspond with the four strands of human rights critique outlined in the previous chapter. The cogency of their arguments, as well as the determined local activism combating them will be explored in this main part of the article.

³⁰ Shirin Ebadi, *Until We Are Free: My Fight for Human Rights in Iran* (Rider 2016) 9.

³¹ Shirin Ebadi, *Iran Awakening* (Rider 2007) 38.

³² For a full analysis of the Iranian revolution see Robin Wright, *The Last Great Revolution: Turmoil and Transformation in Iran* (Vintage 2001); Ebadi also recounts her experience of the revolutionary period, cf. Ebadi, *Iran Awakening* (n 31) 4-6, 20-21, 30-38.

³³ Afshari (n 3) 1, 4-7; Arzoo Osanloo, *The Politics of Women’s Rights in Iran* (Princeton University Press 2009) xii; Sameh, ‘Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran’ (n 29) 445-446; eg Ebadi saw her expectations crushed, cf. Ebadi, *Iran Awakening* (n 31) 34, 38-43.

1. Iran's history with human rights

Formally, Iran is part of the international human rights system. It both voted to adopt the UDHR in 1948³⁴, as well as ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³⁵ However, these accessions happened before the 1979 revolution and almost no treaties were ratified after the establishment of the Islamic Republic.³⁶

Human rights violations happened under the Pahlavi regime, but the Islamisation following the revolution made matters worse. The persecution, torture and execution of dissidents became a regular occurrence. The free press was smothered and women, along with religious and ethnic minorities, became disenfranchised. Islamic punishments, eg flogging, amputation, and stoning, were introduced to the criminal justice system and Islamisation invaded citizens' private lives, brutally enforced by the morality police.³⁷ Iran became a suffocating authoritarian police state, which imprisons and tortures human rights defenders and activists until this day.³⁸ A brief reform period in the late 1990s and early 2000s was shut down by the conservative Ahmadinejad government, demonstrating the Islamic regime's unwillingness to change.³⁹ The post-revolutionary state perpetrating these violations is somewhat hybrid, a mixed constitutional design of theocratic, republican and even direct democracy components, conforming to principles of Shia Islam.⁴⁰ The official state position is built on these principles and disputes the universality of international human rights law.

³⁴ Iran voted 'Yes' along with other Middle Eastern states, e.g. Afghanistan, Iraq, Pakistan and Syria, cf. United Nations Bibliographic Information System, 'Voting Records A/RES/217(III)[A]' <<http://unbisnet.un.org:8080/ipac20/ipac.jsp?&profile=voting&uri=full=3100023~%21909326~%210&ri=1&aspect=power&menu=search&source=~%21horizon>> accessed 20 August 2018.

³⁵ United Nations Office of the High Commissioner for Human Rights, 'Status of Ratification Interactive Dashboard' <<http://indicators.ohchr.org/>> accessed 3 May 2019.

³⁶ The 1990 Convention on the Rights of the Child and the 2008 Convention on the Rights of Persons with Disabilities were ratified, but many were skipped, e.g. the 1981 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) or the 1987 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, cf. 'Status of Ratification Interactive Dashboard' (n 35).

³⁷ UN General Assembly Resolution 48/145 (20 December 1993) UN Doc A/RES/48/145; Afshari (n 3) 1, 10, 12; Ebadi, *Iran Awakening* (n 31) 43-49, 51, 66-70, 88-92, 95-96, 112-118; Osanloo (n 33) 3; Barlow (n 3) 156; Ebadi, *Until We Are Free* (n 30) 57-63, 64-75, 81-82, 142-150.

³⁸ Shirin Ebadi and Hadi Ghaemi, 'The Human Rights Case Against Attacking Iran' *The New York Times Online* (8 February 2005) <www.nytimes.com/2005/02/08/opinion/the-human-rights-case-against-attacking-iran.html> accessed 23 July 2018; Ritchie (n 2).

³⁹ Afshari (n 3) 9, 289; Ebadi, *Iran Awakening* (n 31) 146-147; Catherine Sameh, 'From Tehran to Los Angeles to Tehran: Transnational Solidarity Politics in the One Million Signatures Campaign to End Discriminatory Law' (2014) 42 *Women's Studies Quarterly* 166, 168; Ebadi, *Until We Are Free* (n 30) 140-150.

⁴⁰ Osanloo (n 33) 4, 8; see also Said Amir Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran* (Oxford University Press 1988); Ervand Abrahamian, *Khomeinism: Essays on the Islamic Republic* (University of California Press 1993).

The government of Iran claims Islam's supreme legitimacy. This rejects the 'Western' notion of secular human rights, which supposedly corrupt traditional society and represent an imposition in non-Western contexts – a stance which echoes the *postcolonial* and *top-down* critiques of human rights. Within the anti-Western spirit of the 1979 revolution, talk of universal rights became an intrusion into cultural values.⁴¹ Khomeini equated freedom with immorality, a corrupting Western concept, both imperialist and counter-revolutionary.⁴² In addition, Iranian officials have insisted on the illegitimacy of human right origins, since the Islamic doctrine was allegedly not represented during the drafting of the UDHR, a *historical* criticism that will be addressed below.⁴³ As indicated, the argument of authenticity for Muslim societies finds sympathisers within Western academia (cf. II). Theories of cultural and moral relativism – *epistemological* critique – embrace the idea that a universalist framework of rules cannot be imposed over a country's own cultural values and practices.⁴⁴ The values and laws resulting from Islam are framed as epistemological rivals to those of the West, and each should stick to their own domains.

The *epistemological* criticism of the Iranian government thus amounts to the separateness and incompatibility of Islamic law and human rights law. This cultural relativist approach to their relationship implies that no common ground between the two value systems exists.⁴⁵ However, several scholars argue that the discord between human rights and Islamic law is a completely erroneous assumption. Various readings identify human rights protection within sources of Islamic law long before the development of 'Western' doctrine.⁴⁶ Islam laid down fundamental rights for humanity as a whole, therefore the concept of human rights has epistemologically always been embodied within Islamic doctrine.⁴⁷ The problem is not the Islamic religion, but the authoritarian and patriarchal culture that has developed since its inception. One of the core elements of Islam is that each believer has an individual right to interpretation, placing autonomy at the centre of the religion. Genuine human rights reform in

⁴¹ Afshari (n 3) 4; Osanloo (n 33) xii; Barlow (n 3) 15-17.

⁴² Haleh Afshar, *Islam and Feminisms: An Iranian Case-Study* (Macmillan Press 1998) 34; Afshari (n 3) 4-6.

⁴³ Afshari (n 3) 7.

⁴⁴ *ibid* 1-3; Barlow (n 3) 17; however, simplistic visions of 'culture' are problematic because they neglect the complex and multivocal realities in other countries, cf. Jack Donnelly, *Universal Human Rights in Theory and Practice* (2nd edn, Cornell University Press 2003) 86; Osanloo (n 33) xi-xii.

⁴⁵ Anver M. Emon, Mark Ellis and Benjamin Glahn, 'Editor's Introduction – From 'Common Ground' to 'Clearing Ground': A Model for Engagement in the 21st Century' in Anver M. Emon, Mark Ellis and Benjamin Glahn (eds), *Islamic Law and International Human Rights Law: Searching for Common Ground?* (Oxford University Press 2012) 3.

⁴⁶ *ibid* 3.

⁴⁷ E.g. Tabandeh argues that human rights concepts are replicates of ancient Islamic ideas, cf. Sultanhussein Tabandeh, *A Muslim Commentary on the Universal Declaration of Human Rights* (F.J. Goulding 1970) 1, 85; see also Khalid M. Ishaque, 'Human Rights in Islamic Law' (1974) 12 *The Review of the International Commission of Jurists* 30, 32.

oppressive Islamic countries is not only possible, but necessary for the true realisation of religious values.⁴⁸ Critics of these readings state that the ancient texts speak of divine duties, not rights. Despite similar values, no legal claim is born from these duties, and resulting privileges are reserved for Muslim believers – not all human beings universally.⁴⁹ Other approaches maintain the separation between Islamic principles and human rights at their inception, but interpret Islam as consistent with human rights law, therefore rejecting the stance that human rights implementation represents mere *postcolonial* power politics.⁵⁰ Human rights are viewed as a legitimate culturally transcendent project in moral reasoning, with equal connection to non-Western contexts. Islam is a pluralistic system with multiple historical and legal interpretations, and contemporary human rights law and Islamic law thus share common goals. It is argued that Islamic law may help implement human rights in Muslim states, through inclusive and accommodating interpretations of both.⁵¹ Though promising, this approach is also criticised. According to Muslim human rights defenders, the practice of *ijtihad* – rational engagement with the Quran and interpretation based on historic context – is a valid approach within Shia Islam, but the ensuing flexibility makes it an unsuitable basis for inalienable, universal rights. Openness to interpretation makes Islamic law adequate for liberal and illiberal readings – meaning the dominant interpretation is usually set by those in power.⁵²

Regarding the *historical* human rights critique, was the Islamic doctrine excluded while drafting the UDHR, as the Iranian government asserts? Firstly, the history behind the Declaration shows that the authors were aware of the diversity of religions and worldviews and chose not to prefer some sources to others.⁵³ Secondly, it is argued that the debate surrounding ‘Western’ origins is ignorant of the contributions made to the UDHR by Muslim majority states. Analysis shows that Muslim states were fully involved in the creation of key instruments of international human rights law and made substantive contributions during debates.⁵⁴ Contrary to the ‘Western hegemony’ narrative, according to which the victors of the Second World War forged international human rights law in their interests, the great powers

⁴⁸ Azizah Y. al-Hibri, ‘Legal Reform: Reviving Human Rights in the Muslim World’ (1998) 20 *Harvard International Review* 50.

⁴⁹ Donnelly (n 44) 72-75.

⁵⁰ The authors offer a fourth approach in abstract paralleling of core values, cf. Emon, Ellis and Glahn (n 45) 2-4.

⁵¹ Mashood A. Baderin, ‘Human rights and Islamic law: the myth of discord’ (2005) 2 *European Human Rights Law Review* 165, 185; Barlow (n 3) 3; Mark Ellis, ‘Islamic and International Law: Convergence or Conflict?’ in Anver M. Emon, Mark Ellis and Benjamin Glahn (eds), *Islamic Law and International Human Rights Law: Searching for Common Ground?* (Oxford University Press 2012) 91-102.

⁵² Afshari (n 3) 300; Ebadi, *Iran Awakening* (n 31) 191-192.

⁵³ Afshari (n 3) 7-8.

⁵⁴ Ellis (n 51) 103; Barlow (n 3) 4, 17-18; see also Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (University of Pennsylvania Press 1999); Susan Waltz, ‘Reclaiming and Rebuilding the History of the Universal Declaration of Human Rights’ (2002) 23 *Third World Quarterly* 437.

were in fact the biggest opposers of human rights codification. Its most avid proponents were smaller states and non-Western countries (e.g. Egypt, Lebanon and Paraguay).⁵⁵ During the drafting of the UDHR, delegates from Afghanistan, Egypt, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey and Yemen were vocal and extensively intervened in debates.⁵⁶ Ultimately, apart from Saudi Arabia's abstention, all prominent Muslim countries voted in favour of the UDHR – including Iran.⁵⁷ Though the drafting process did have problems, it was on the whole inclusive and secured support from all over the world – contradicting the *historical* human rights critique.⁵⁸ On a more critical note, many of these countries had different political priorities at the time of adopting the UDHR. Iran is just one example of how a Western-friendly regime can turn hostile towards the international order.

Nevertheless, these findings mark the importance of examining human rights through the lens of practice, lest, “we blindly accept a master narrative (...) held in place by those seeking to maintain political power and dominance on the global stage.”⁵⁹ With regard to Iran, this entails scrutinising the regime's position. Scholars have noted the hypocrisy of the Islamic regime in not only invoking cultural authenticity, while at the same time utilising mechanisms of modern state power that are inauthentic to the Islamic religion, but also violating its own ‘authentic’ constitutional rules whenever its interests require it.⁶⁰ Yet, there is a tendency in Western politics to take the views of state leaders within Muslim countries as *prima facie* ‘Islamic’, e.g. discrimination of women as community belief, rather than the result of patriarchal political calculations. The truth is, a number of views on human rights legitimacy exist within Iran, but the most widely publicised in the West are the official positions of the Islamic regime. Local Muslim communities claim universal standards of human rights in *bottom-up* movements, but are overshadowed by ‘official’ Muslim representation.⁶¹

Despite – or perhaps because of – the suffocating grip of state power, grassroots activism is strong within Iran. Iranian society has refused to be coerced into silence and human rights discourse is considered “the most potent framework for achieving sustainable democratic reforms and political pluralism” by civil society activists.⁶² Independent Iranian organi-

⁵⁵ The endorsement of human rights by these states followed from public pressure and civic activism, cf. Barlow (n 3) 20-26.

⁵⁶ E.g. Lebanon campaigned for the right of return for refugees, while Saudi Arabia proposed the right to be granted asylum, cf. Barlow (n 3) 29-30.

⁵⁷ ‘Voting Records A/RES/217(III)[A]’ (n 34).

⁵⁸ Barlow (n 3) 35.

⁵⁹ *ibid* 166.

⁶⁰ Afshari (n 3) 9-12, 288-289, 291.

⁶¹ Barlow (n 3) 2-5.

⁶² Ebadi and Ghaemi (n 38).

sations have done impressive human rights work in the past and have fought for changes of several rigid laws. One poignant example is the One Million Signatures Campaign.⁶³

2. The early women's rights movement

Though many participated in the revolution, Iran's women already protested against new discriminatory laws on International Women's Day, 8 March 1979, one month after the return of Ayatollah Khomeini.⁶⁴ The Pahlavi regime had given them protection in marriage and divorce, yet also banned their freedom to wear traditional clothing via forced emancipation. This top-down implementation of political change had provoked resentment, especially because it primarily benefited middle- and upper-class-women.⁶⁵ The Islamic revolution mobilised a discourse of gender equality, giving Iranian women a key role in it.⁶⁶ Khomeini argued for women's equality under Islam, which he, however, soon discarded in favour of exclusion. In the early days after the revolution women were legally defined as inferior to men. Earlier protection in marriage and divorce was abolished, placing women at the mercy of their husbands. Under the new Islamic Penal Code the worth of a woman's life became half that of a man's, e.g. regarding women's testimony, right to inheritance or the family's right to blood money. The Islamic dress code of veiling, *hijab* and *chador*, became mandatory and women were constantly harassed, arrested and punished for incorrect dress. The majority of women in government positions were fired. Whipping, stoning and raping of imprisoned women happened frequently. Overall, justice became the prerogative of privileged men and women's rights to it became practically nullified.⁶⁷

Absurdly, both the Pahlavi regime and the Islamic Republic chose women's bodies as the avenue to establish state values. Within the Islamic Republic, the status of women became the primary issue to distinguish the post-revolutionary Iran from the previous regime's capitulation to the West – gender equality was thus a *top-down, postcolonial* imposition of US he-

⁶³ Afshari (n 3) 302; Barlow (n 3) 5.

⁶⁴ Osanloo (n 33) 2-3; Barlow (n 3) 55-56.

⁶⁵ Mirhosseini (n 3) 72; Sameh, 'From Tehran to Los Angeles to Tehran' (n 39) 167.

⁶⁶ Iranian women had already been active politically long before the revolution of 1979, so their inclusion in it was, surprisingly, nothing new, cf. Reyhaneh Noshiravani, 'Women's Milestones: Pre-Revolution' *Foundation for Iranian Studies Online* (25 August 2009) <<https://fis-iran.org/en/women/milestones/pre-revolution>> accessed 13 May 2019; Reyhaneh Noshiravani, 'Women's Milestones: Post-Revolution' *Foundation for Iranian Studies Online* (25 August 2009) <<https://fis-iran.org/en/women/milestones/post-revolution>> accessed 13 May 2019.

⁶⁷ Mirhosseini (n 3) 72-75; Afshar (n 42) 17, 99; Afshari (n 3) 268; Ebadi, *Iran Awakening* (n 31) 48-49, 51; Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 445-446.

gemony.⁶⁸ The regime's gender system constructed women as weak, lacking the intellectual abilities for decision-making and therefore unfit for purposes other than child-bearing and care-giving. Protesting women were branded 'Western puppets' and denied the legitimacy of a language of rights. A chasm opened up between the state's gender ideology and the reality of women's lives in Iranian society.⁶⁹ And yet, the post-revolutionary period in Iran offered some advancement to women as well. As a consequence of the Iran-Iraq war, employment opportunities opened up. State welfare programs increased literacy and life expectancy and soon a large percentage of women studied at universities.⁷⁰ Society's Islamisation paradoxically lead to more freedom in traditionally oppressed women's lives, as the Islamic authenticity of public life enabled them to suddenly be a part of it. The education of many Iranian women instilled something that, as Ebadi writes, "will in the long run (...) transform Iran: a visceral consciousness of their oppression."⁷¹

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has not been ratified by Iran.⁷² However, international standards of women's rights have long resonated with Muslim women. Though some Iranian women publicly celebrated the revolution and the return to the *hijab* – often carefully selected by the regime – others vigorously protested this. In 2003, for example, a group of Iranian women lobbied to incorporate CEDAW into the legal framework of Iran. Muslim women have overall played determining roles in the development of international women's rights norms over the course of the 20th and 21st century, which directly contradicts a *historical* critique of fundamental rights' legitimacy.⁷³ The abuses of women under Islamic law were spread across international fora – sometimes to the dismay of postcolonial feminists, who took issue with hegemonic models of equality.⁷⁴ The narrative that human rights are the legacy of Western culture (cf. II and III.1) is deeply entrenched in the debate on gender equality, evidenced by the fact that Western media sometimes follows the Iranian government in claiming that women's demands for human rights are somehow less 'Muslim' and therefore less legitimate in their own culture. This

⁶⁸ Afshari (n 3) 251-252; Osanloo (n 33) 31-33, 185; Ebadi, *Iran Awakening* (n 31) 8.

⁶⁹ Mirhosseini (n 3) 73; Osanloo (n 33) 3, 33; Barlow (n 3) 1, 81, 84-87.

⁷⁰ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 446; Sameh, 'From Tehran to Los Angeles to Tehran' (n 39) 168.

⁷¹ Ebadi, *Iran Awakening* (n 31) 106-108.

⁷² 'Status of Ratification Interactive Dashboard' (n 35); though Iran was not alone in opposing CEDAW, as the human rights system long marginalised women's rights, cf. Julie Peters and Andrea Wolper (eds), *Women's rights, Human rights: International Feminist Perspectives* (Routledge 1995) 1-4, 36-45.

⁷³ Barlow (n 3) 39, 42-46, 48-49, 54-56.

⁷⁴ Emon, Ellis and Glahn (n 45) 11-12; cf. also Mohanty (n 22); Grewal and Kaplan (n 22).

feeds into the stereotype that Muslim women are passive victims in need of saving and neglects that, for many, there is a rich legacy of gender equality within their faith.⁷⁵

Iranian women's efforts to achieve gender equality long occurred within two separate ideological frameworks, Islamic feminism and secular feminism. Islamic feminism works within Iran's religious legal framework and uses Islam as a basis to justify gender equality, thus challenging the *epistemological* and *postcolonial* critique of universal rights. Islamic feminists attempt to intellectually reform the faith by locating gender-enlightened verses within the Quran and reconstructing them through *ijtihad* (cf. III.1).⁷⁶ According to them, the patriarchal interpretations of the Quran came from male-dominated religious institutions, therefore women have to demand their entitlement to the interpretation of Quranic teachings. Islam in itself is not at all opposed to gender equality, and women in fact possessed a very strong position at the dawn of the religion.⁷⁷ It is sometimes also argued that women's veiling in Iran had a liberating effect, protecting them from sexual objectification and enabling them to be socially active.⁷⁸ In its attempt to limit gender equality, the regime paradoxically pushed women to criticise patriarchal codifications of Islam using its own discourse. Therein also lies the strategic value of Islamic feminism. By restraining from overtly questioning the legitimacy of the Islamic state, it pragmatically presses the state into accepting its religiously justified demands.⁷⁹ However, the weakness of Islamic feminism lies exactly in its failure to challenge state legitimacy and its authoritarian leadership.

Consequently, many women in Iran opted for secular feminism, which distances itself from religion and follows the international human rights discourse. Secular feminists demand the recognition of international standards such as CEDAW and attempt to pressure the state into incorporating them. They therefore also work against common critiques of universalism. Though many secular feminists do not see Islam as the root cause for women's inequality, they believe it to be a dangerous tool of justification and are sceptical of attempts to change

⁷⁵ Lila Abu-Lughod, 'Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others' (2002) 104 *American Anthropologist* 783, 783-784; Osanloo (n 33) xv; Barlow (n 3) 2, 42, 71.

⁷⁶ Barlow (n 3) 6, 81-82, 90; Kristin Choo, 'Muslim women lawyers aim to reconcile traditional beliefs with secular society' *ABA Journal Online* (1 February 2013) <www.abajournal.com/magazine/article/walking_the_tightrope_muslim_women> accessed 13 May 2019.

⁷⁷ Azizah Y. al-Hibri, 'Is Western Patriarchal Feminism Good for Third World/Minority Women?' in Susan Moller Okin, Joshua Cohen, Matthew Howard, Martha C. Nussbaum (eds), *Is Multiculturalism Bad for Women?* (Princeton University Press 1999); Azizah Y. al-Hibri, 'Redefining Muslim Women's Roles in the Next Century' in Norman Dorsen and Prosser Gifford (eds), *Democracy and the Rule of Law* (CQ Press 2001).

⁷⁸ Though this argument includes elements of cultural relativism, cf. Afshar (n 42) 1, 4, 15, 18-19, 215.

⁷⁹ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 447; Barlow (n 3) 93-94; see also Ziba Mir-Hosseini, *Islam and Gender: The Religious Debate in Contemporary Iran* (Princeton University Press 1999).

the system from the inside, due to the symbiotic relationship between regime, Islamic jurisprudence and pre-modern tradition.⁸⁰ Typical strategies of secular feminists are public protests and sit-ins, such as the one at the University of Tehran on 12 June 2005, where they demanded the revision of the constitution.⁸¹ The drawbacks of secular feminism lie in its inability to cooperate with the state and the difficulty of achieving change within an authoritarian regime. Because the international framework on women's human rights is labelled illegitimate by the authorities, the debate is over before it begins. The frequent state-sanctioned violence enacted against secular feminists called their effectiveness into question.⁸²

The end of the reform period and the arrival of the Ahmadinejad government changed the situation. A rally at Haft-e Tir Square in 2006 was broken up violently by the police. The new government intensified its repression against secular feminists, as well as dismissed progressive religious interpretations by Islamic feminists. Recognising that their approaches weren't working, both groups undertook re-assessments and developed a new strategy. In an unprecedented and paradigmatic shift, Iranian feminism changed into a broad-based movement with common goals.⁸³

3. The One Million Signatures Campaign

The women's movement culminated in the "One Million Signatures Demanding Changes to Discriminatory Laws Campaign" or "One Million Signatures Campaign", which was launched in 2006 as one of the most hopeful initiatives concerning women's rights in the Middle East.⁸⁴ After the suppressed rally at Haft-e Tir Square (cf. III.2), established feminists wished to empower more women to join the struggle. The need for collective action and a long-term strategy became clear, so people of different backgrounds were brought together.

⁸⁰ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 447; Barlow (n 3) 7, 81-82, 88, 95-98; see also Haideh Moghissi, *Feminism and Islamic Fundamentalism: the Limits of Postmodern Analysis* (Zed Books 1999).

⁸¹ The unprecedented protest at Tehran University became possible through increased international attention after Shirin Ebadi was awarded the Nobel Peace Prize in 2003, cf. 'One Million Signatures: The Battle for Gender Equality in Iran' *Tavaana Online* <<https://tavaana.org/en/en/content/one-million-signatures-battle-gender-equality-iran>> accessed 14 May 2019; Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 447.

⁸² Afshar (n 42) 100; Barlow (n 3) 98.

⁸³ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 447-448; Barlow (n 3) 8, 82, 99, 103-104.

⁸⁴ The campaign was originally inspired by a movement in Morocco, which had led to loosening misogynist laws, cf. Nazila Fathi, 'Starting at Home, Iran's Women Fight for Rights' *The New York Times Online* (12 February 2009) <www.nytimes.com/2009/02/13/world/middleeast/13iran.html> accessed 14 May 2019.

Under an action-oriented feminism, it no longer mattered if feminists disagreed why current laws were unjust – they only needed to agree *that* the laws were unjust. Thus, substantive cooperation between Islamic and secular feminists became possible. The campaign dedicated itself to pragmatic action rather than ideological finesse, representing one of the clearest expressions of human rights activism in the history of Iran. It brought feminist groups together for the goals of ending discrimination and bringing Iranian laws in line with international standards of gender equality.⁸⁵ In a way, the question of exact *epistemological* legitimacy was left out of the equation, but the basic consensus on women's equality to men already represents substantial backing of a universal norm.

The goal of the campaign was to remove *all* discriminatory laws against women in Iran, with the basis for reform being the “government's commitments to international human rights conventions.”⁸⁶ This goal was to be achieved in two phases, 1) collecting one million signatures for a petition in protest of current laws, through door-to-door dialogue promoting a discussion on women's rights, and 2) proposing new laws, based on priorities established in dialogue with signatories.⁸⁷ The campaign's three key documents were the petition, the plan describing campaign goal and methods, and a pamphlet explaining the effects of current laws on women's lives.⁸⁸ A defining aspect lay in the campaign's commitment to a horizontal and grassroots *bottom-up* approach. It drew broad groups of women together under one project, due to decentralisation of leadership and dispersed decision-making processes. Campaign activists were trained in their legal rights, and were free to follow a multitude of avenues, participating to the extent that they felt comfortable.⁸⁹ Signature collection and face-to-face communication enabled the constant updating of women's everyday concerns and fostered a deep sense of ownership among all individuals involved. Iran's general public was made more

⁸⁵ Nayereh Tohidi, 'Iran's Women's Rights Movement and the One Million Signatures Campaign' *Payvand News of Iran Online* (16 December 2006) <www.payvand.com/news/06/dec/1174.html> accessed 3 August 2018; Noushin Ahmadi Khorasani, 'The Fate of the Family Protection Law / Noushin Ahmadi Khorasani's Interview with Mahnaz Afkhami, the Second Woman Minister in Iran' *The Feminist School Online* (14 October 2008) <www.feministschool.com/english/spip.php?page=print&id_article=158> accessed 14 May 2019; Barlow (n 3) 6, 8-9, 124, 135-136, 169; 'One Million Signatures: The Battle for Gender Equality in Iran' (n 81).

⁸⁶ Change for Equality, 'One Million Signatures Demanding Changes to Discriminatory Laws: Petition Requesting Changes to Discriminatory Laws against Women' *Change for Equality Online* (27 August 2006) <<http://we-change.org/site/english/spip.php?article20>> accessed 3 August 2018; Change for Equality, 'Launching of the One Million Signatures Campaign Demanding Changes to Discriminatory Laws' *The Feminist School Online* (15 July 2008) <www.feministschool.com/english/spip.php?article7> accessed 14 May 2019.

⁸⁷ The campaign booklet lists unjust laws, e.g. on marriage, divorce, custody, blood money, inheritance, cf. Barlow (n 3) 135-136.

⁸⁸ Khorasani, *Iranian Women's One Million Signatures Campaign for Equality* (n 29) 5-6; Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 444-445, 448; Barlow (n 3) 124, 129-132, 138; Ebadi, *Until We Are Free* (n 30) 68, 71-72.

⁸⁹ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 448; Barlow (n 3) 126-127, 136-137.

sensitive to gender issues and women were informed of the discriminatory content of laws – something many were often not aware of until being affected by them.⁹⁰

The campaign comprehensively questioned the status of women in Iran by demanding the reform of *all* discriminatory laws. The strategy of promoting Iran's *existing* commitments to international human rights treaties and basing claims on anti-discrimination paragraphs in the UDHR, ICCPR and ICESCR rather than the not-ratified CEDAW (cf. III.1 and 2), contested the state's logic of women's rights being 'un-Islamic' (cf. III.1 and 2).⁹¹ By reminding the government of the international obligations it had agreed to, the campaign revealed the hypocrisy behind its *historical* and *postcolonial* human rights critique. It also highlighted the gap between Iranian law and everyday life. In a country where over 60% of university students are women and the state is committed to girls' education and literacy, the equal rights of women represent a necessary outcome of a culture that already normalised women's equality. Different sectors of the Iranian population, including young men and religious scholars, believe that the role of women must be reflected in law. The campaign pushed the state to consider what it had produced – a literate, educated and socially powerful female citizenry whose equality is supported by a majority of Iranians. Its *bottom-up* and consensus-building methods ensured that the campaign belonged to everyone in Iran. It was not a group of upper-class Western-educated women, but a movement supported among people of all backgrounds.⁹² It became a living thing, "nowhere and everywhere, placeless yet ubiquitous."⁹³

Scholars display disagreement about the contributions of Islamic and secular feminism to the campaign. Catherine Sameh believes that, while it was launched by secular feminists, the "Islamic Human Rights" discourse was integral to the legitimacy of the campaign and Islamic feminism was responsible for the way it resonated with the public.⁹⁴ Rebecca Barlow takes a more nuanced approach, arguing that many of the campaign's first signatories were Islamic feminists, but that the campaign drew on efficient aspects of both camps. It placed more weight on international human rights standards than Islamic feminists were traditionally comfortable with, but also became more pragmatic than earlier secular feminists through re-

⁹⁰ Barlow (n 3) 128, 138-140.

⁹¹ *ibid* 1, 124, 126-130, 132, 134-135.

⁹² Fathi (n 84); Shirin Ebadi, 'Iran's Women are not afraid' *The Guardian Online* (6 October 2009) <www.theguardian.com/commentisfree/2009/oct/06/iran-women-rights-vote-discrimination> accessed 14 May 2019; Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 453-455; Ebadi, *Until We Are Free* (n 30) 68; 'One Million Signatures: The Battle for Gender Equality in Iran' (n 81).

⁹³ Khorasani, *Iranian Women's One Million Signatures Campaign for Equality* (n 29) 6-7.

⁹⁴ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 448-451, 459; Barlow (n 3) 132-134.

fusing to challenge the state *per se* and calling for a change of laws within the state system. One of the campaign's greatest achievements is the conciliatory ability to bring secular and religious-minded people together, reconciling equality with religious discourse.⁹⁵

The successes of the campaign are apparent, even thirteen years later. Many women, who had never engaged in the question of their own rights, were trained and included in activities. There is evidence of concrete impact on Parliament, e.g. debates on the legal age of girls and blood money. Some genuine legal victories occurred in the changes to inheritance law in 2008, allowing women to inherit their husband's properties, the granting of equal blood money for accidents and the blocking of horrid paragraphs in the Ahmadinejad government's "Family Protection" bill in 2007.⁹⁶ The campaign was additionally endorsed by senior Islamic clerics, who issued *fatwas* – authoritative legal opinions – supporting campaign goals. This makes the regime's *postcolonial* criticism of the exclusively Western influence on the Iranian women's movement questionable.⁹⁷ However, the biggest success has been the awareness raised around women's rights in Iran. This topic, which had been decidedly kept out of the public discourse by the authorities for a long time, has now become a dominant priority for ordinary people in Iran.⁹⁸ It enabled members of society to voice their opinions on rights-based issues, thereby significantly empowering them to speak up. This is not limited to women, as many Iranian men also started doubting the state's gender ideology. It has, for instance, become a widespread practice among young couples to sign private 'equal marriage contracts', which essentially restore equality to the two partners where the state's laws remove it.⁹⁹ The campaign proved to the authorities that demand for legal reform extended to women and men across the country, regardless of class, geography or social background. It successfully balanced the divide between the international women's movement and the importance of localism and, as a result, spread to eighteen different provinces outside Tehran (e.g. Shiraz, Yazd). It is an excellent example of *bottom-up* local agency around internationally legitimate principles and has utilised human rights practically to move the local struggle

⁹⁵ Barlow (n 3) 131, 135.

⁹⁶ *ibid* 141-143; Ebadi, *Until We Are Free* (n 30) 74-75; 'One Million Signatures: The Battle for Gender Equality in Iran' (n 81).

⁹⁷ Barlow (n 3) 143-144; 'One Million Signatures: The Battle for Gender Equality in Iran' (n 81).

⁹⁸ So dominant in fact, that it managed to play a key role in Iran's hotly contested 2009 presidential campaign, cf. 'Noushin Ahmadi Khorasani: Two Decades in the Struggle for Women's Rights' *Tavaana Online* <<https://tavaana.org/en/content/noushin-ahmadi-khorasani-two-decades-struggle-womens-rights>> accessed 14 May 2019.

⁹⁹ Sam Judah, 'Why are Iranian husbands standing up for their wives?' *BBC Online* (2 October 2015) <www.bbc.com/news/blogs-trending-34404030> accessed 14 May 2019; Center for Human Rights in Iran, 'Three Detained Women's Rights Activists Should be Immediately Released' *Center for Human Rights in Iran Online* (11 September 2018) <<https://iranhumanrights.org/2018/09/three-detained-womens-rights-activists-should-be-immediately-released/>> accessed 14 May 2019.

for gender equality forward, thus refuting both *postcolonial* and *top-down* critiques for the Iranian context.¹⁰⁰

The campaign's shortcomings are apparent as well. The most glaring one is perhaps the failure to reach the signature goal, which key activist and journalist Noushin Ahmadi Khorasani attributes mostly to state repression.¹⁰¹ The government quickly grew suspicious of the resonating movement and responded through violence and persecution. Activists were harassed and arrested – often under charges of ‘endangering state security’ or ‘propaganda against the state’ – several received disproportionate jail terms and brutal punishments,¹⁰² news on the topic was censored, the website blocked repeatedly,¹⁰³ permits refused, telephone lines tapped and many threats issued. State-sanctioned attacks became increasingly systematic and the initial assumptions that the regime would respond to the public's wishes for a just and modern Islamic state faded after the heightened repression following the 2009 presidential elections.¹⁰⁴ The campaign also encountered cultural resistance within the public, as not everyone easily discarded traditional beliefs about family.¹⁰⁵ Another problem may lie in the campaign's unwillingness to seek regime change and democratic governance. It opted for a conciliatory approach, wishing to work within the system and avoid confrontation with the state. This reasoning can be traced back to the revolution, where many Iranians bitterly realised that regime change was no guarantee for political liberation. While this is understandable, the campaign's pragmatic approach has not spared it from the regime's ruthlessness. The question becomes how women's rights can be realised, if foundational principles of democracy, such as freedom of expression, are non-existent.¹⁰⁶ Sameh stated in 2010 that re-

¹⁰⁰ Fathi (n 84); Khorasani, *Iranian Women's One Million Signatures Campaign for Equality* (n 29) 85; Sameh, ‘Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran’ (n 29) 458; Barlow (n 3) 6, 144-149, 157-158; Rochelle Jones, ‘Breaking Through the Iron Ceiling: Iran's New Government and the Hopes of the Iranian Women's Movements’ *AWID Online* (13 September 2013) <www.awid.org/news-and-analysis/breaking-through-iron-ceiling-irans-new-government-and-hopes-iranian-womens> accessed 14 May 2019; Ebadi, *Until We Are Free* (n 30) 72; ‘One Million Signatures: The Battle for Gender Equality in Iran’ (n 81).

¹⁰¹ Chris Brazier, ‘Where are they now? Noushin Ahmadi Khorasani’ *New Internationalist Online* (1 March 2013) <<https://newint.org/features/2013/03/01/noushin-ahamdi-khorasani>> accessed 14 May 2019.

¹⁰² Cf. Change for Equality, ‘Iran: Unexpected Sentence for Delaram Ali, Women's Rights Defender’ *Payvand News of Iran Online* (4 July 2007) <www.payvand.com/news/07/jul/1045.html> accessed 3 August 2018; Center for Human Rights in Iran, ‘Ronak Safazadeh’ *Center for Human Rights in Iran Online* (25 January 2009) <www.iranhumanrights.org/2009/01/ronak-safazadeh> accessed 3 August 2018; UN Human Rights Council, ‘Interim report of the Secretary-General on the situation of human rights in Iran’ (14 March 2011) UN Doc A/HRC/16/75, 9-10; Brazier (n 101).

¹⁰³ The *Change for Equality* webpage has apparently been blocked again since the author's initial reference to it in August 2018, cf. Change for Equality <<http://we-change.org/>> accessed 14 May 2019.

¹⁰⁴ Sameh, ‘Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran’ (n 29) 456-457; Barlow (n 3) 124, 151-154; Ebadi, *Until We Are Free* (n 30) 72-74, 140-150.

¹⁰⁵ Barlow (n 3) 150-155.

¹⁰⁶ *ibid* 155-157.

search into the campaign was still new and its impact hard to assess. She noted that the absence of analysis could point to its marginality.¹⁰⁷ The research has not exploded in the years since her analysis, which either supports her suggestion, or means that the legacy of the campaign lies elsewhere.

The campaign also had a transnational dimension. Iranian activists spread information and gathered signatures abroad, but, in addition, the campaign had a network in Southern California, where a group of Iranian women tried to raise awareness for the issue.¹⁰⁸ They encountered several problems during their work, from a surprising amount of prejudice in the Iranian diaspora, who are sceptical towards the possibility of pragmatic change, to difficulties that international attention, awards and prize money have created for the air of independence vital with regard to state repression.¹⁰⁹ One of the biggest issues is the claim to moral superiority that many Western feminists display when confronted with women's rights in Muslim countries. Belief in the superiority of their own society is paired with a rhetoric of 'saving' Muslim women and the attempt to apply their own solutions within a context that they know little about. Some scholars therefore insist on the necessity of transnational feminism, which recognises different forms of sexism within different contexts. Instead of one group of women 'saving' the other, one should rather work together towards just solutions in all societies.¹¹⁰

How is the campaign to be evaluated thirteen years later? Was it a success or has its failure to achieve its goals rendered it obsolete? A recent article in *The New York Times* describes the campaign as "crushed".¹¹¹ After the Green movement suffered persecution following the contested 2009 election results, many campaign members were forced to emigrate and reduce their activities to social media.¹¹² The mentioned shortcomings and minimal legal progress in Iran paints a bleak picture of the campaign's efficiency.¹¹³ However, it is still considered a success by many, first and foremost through the transforming of legal discrimination

¹⁰⁷ Sameh, 'Discourses of Equality, Rights and Islam in the One Million Signatures Campaign in Iran' (n 29) 457.

¹⁰⁸ Sameh, 'From Tehran to Los Angeles to Tehran' (n 39) 168-169.

¹⁰⁹ *ibid* 170-173, 175-176.

¹¹⁰ *ibid* 177-183; see also Mohanty (n 22); Grewal and Kaplan (n 22); Abu-Lughod (n 75).

¹¹¹ Nahid Siamdoust, 'Why Iranian Women are taking off their Head Scarves' *The New York Times Online* (3 February 2018) <www.nytimes.com/2018/02/03/opinion/sunday/iran-hijab-women-scarves.html> accessed 3 August 2018.

¹¹² Brazier (n 101); 'One Million Signatures: The Battle for Gender Equality in Iran' (n 81).

¹¹³ Though there is improvement between the GII in Iran of 2010 and 2018, cf. UNDP, *Human Development Report 2010: The Real Wealth of Nations: Pathways to Human Development* (United Nations 2010) 157; UNDP, *Human Development Indices and Indicators: 2018 Statistical Update* (United Nations 2018) 39, the state's tactics towards human rights activists have hardly changed, cf. Golnaz Esfandiari, 'The Cases That Made Iran Target Human Rights Lawyer Nasrin Sotoudeh' *Radio Free Europe/Radio Liberty Online* (14 June 2018) <www.rferl.org/a/the-cases-that-made-iran-target-human-rights-lawyer-nasrin-sotoudeh/29290978.html> accessed 8 August 2018.

into a national debate and the shaping of public perception of the issue – the effects of which can still be felt today.¹¹⁴ It empowered individual women as autonomous agents, offering them the knowledge that women’s rights were theirs to claim.¹¹⁵ Despite the regime’s authoritarianism, the women’s grassroots movement continues to be active in Iran. Recent protests of the compulsory *hijab* have shaken the nation, along with the issue of banning women from football stadiums – which returned to the international stage with the 2018 FIFA World Cup in Russia.¹¹⁶ The awareness of their rights and their ability to claim them is central to all these protests. The campaign proved the legitimacy of its goals among the Iranian people. “For in the end, the Iranian Revolution has produced its own opposition, not least a nation of educated, conscious women who are agitating for their rights. They must be given the chance to fight their own fights, to transform their country uninterrupted.”¹¹⁷ Looking back at the legacy of women’s participation in the rights discourse of Iran, it is safe to assume that women will continue to play a crucial role in their country’s struggle for freedom.

IV. Assessing Human Rights Legitimacy

As the Iranian case study poignantly demonstrates, the debate surrounding human rights legitimacy has real, practical consequences. In their fight for equal rights, Iran’s women constantly battle against challenges towards the legitimacy of their demands – including the four strands of criticism outlined (cf. II). Though the overall abusive stance of the Islamic regime towards human rights law has remained until today, the women’s movement nevertheless demonstrates the strong relevance of human rights values within the country. As the following

¹¹⁴Brazier (n 101); Jones (n 100); Ebadi, *Until We Are Free* (n 30) 74-75; ‘One Million Signatures: The Battle for Gender Equality in Iran’ (n 81); cf. also the popularity of ‘equal marriage contracts’, which illustrates partial social realisation of gender equality, Judah (n 99); Center for Human Rights in Iran, ‘Three Detained Women’s Rights Activists Should be Immediately Released’ (n 99).

¹¹⁵Barlow (n 3) 140, 158.

¹¹⁶Saeed Kamali Dehghan, ‘Tehran hijab protest: Iranian police arrest 29 women’ *The Guardian Online* (2 February 2018) <www.theguardian.com/world/2018/feb/02/tehran-hijab-protest-iranian-police-arrest-29-women> accessed 3 August 2018; Siamdoust (n 111); Joanna Moorhead, ‘The wind in my hair: one Iranian woman’s courageous struggle against being forced to wear the hijab’ *The Guardian Online* (3 June 2018) <www.theguardian.com/global/2018/jun/03/the-wind-in-my-hair-one-womans-struggle-against-being-forced-to-wear-hijab> accessed 3 August 2018; Tara Sepehri Far, ‘Women Cheer Iran’s Win at the World Cup in Russia – But Still Can’t at Home’ *Human Rights Watch Online* (16 June 2018) <www.hrw.org/news/2018/06/16/women-cheer-irans-win-world-cup-russia-still-cant-home> accessed 3 August 2018; Shabnam von Hein and Hans Spross, ‘Women press ahead with change in Iran’ *Deutsche Welle Online* (11 February 2019) <www.dw.com/en/women-press-ahead-with-change-in-iran/a-47434075> accessed 14 May 2019; Human Rights Watch, ‘Iran: Release Anti-Compulsory Hijab Activists’ *Human Rights Watch Online* (18 April 2019) <www.hrw.org/news/2019/04/18/iran-release-anti-compulsory-hijab-activists-0> accessed 14 May 2019.

¹¹⁷Ebadi, *Iran Awakening* (n 31) 215.

arguments show, the case of the One Million Signatures Campaign offers ample practical evidence in support of a theory of human rights universalism in Iran's context.

Regarding the *epistemological* criticism, cultural and moral relativists assert that there is no objective basis to judge differing moral demands, therefore human rights law holds no claim to moral universality. However, in the Iranian case study, Islamic law and human rights law are misrepresented as two completely separate value systems, when in fact they hold many similar principles – some even suggest the same basic values (cf. III.1 and 2). Especially the tenet of individual autonomy and worth appears to be central. Thus, this context offers evidence for the phenomenon underlying human rights law, namely the fact that, despite moral disagreement among human societies, certain basic judgments are central to human life universally. The nature of human rights as the universal assurance of a dignified existence for every individual gives them their legitimacy. The Iranian women's rights movement demonstrates this in bringing its call for gender equality to each person as a way of individual empowerment. The One Million Signatures Campaign specifically emphasised door-to-door dialogue, horizontal dynamics and an open climate of opinions, stressing through structure alone that every single person *matters*. By developing the campaign through each conversation according to signatories' priorities, its goals deeply embedded people's needs and desires. Women's rights were legitimate because signatories already wanted them, not because Western governments thought they needed them. Even though the campaign has not achieved the intended change, there is a reason why its values persist in the Iranian political landscape (cf. III.3). Ebadi speaks of women's "intuitive sense of right and wrong" long before rights discourse had been popularised.¹¹⁸ Human rights law later let women recognise themselves and others as subjects and visualise their claims to dignity through locating rights in their experiences.¹¹⁹ Iran's women did not suddenly think human rights were fashionable because Western countries used the UN as a platform to argue for women's global equality. The One Million Signatures Campaign was not an attempt by Western-educated women to force their ideals on a country that thought different than them. Nor was it a completely indigenous movement that had little to do with international human rights law. The campaign demonstrated the wide support for international women's rights within its country's population precisely because these rights were reconcilable with people's everyday values. What human rights law did was give women the vocabulary and the tools to fight for something that had

¹¹⁸ Ebadi, *Iran Awakening* (n 31) 8.

¹¹⁹ Suarez Toro (n 24) 190.

already felt right to them. The ideas that human rights embody have always existed for them, even as just a feeling that something about the status quo was not right.¹²⁰

The *historical* criticism, the viewpoint that international human rights law was merely a consequence of the political collaboration of Western nations after the Second World War, can be dismissed quite quickly, firstly through the fact that non-Western actors profoundly participated in the initial drafting and conception of the international human rights system (cf. II). Iran is one such example that not only participated in the drafting process of the UDHR, but is also a signatory to the main human rights conventions of the UN system (cf. III.1). Secondly, the above explained human rights values present in the Islamic religion at its inception (cf. III.1) also puts into question the idea that international human rights law was an entirely new, Western project after the end of the Second World War, and additionally offers doubt concerning a possible imminent decline of the human rights system. To prophesise the “end-times” of human rights only makes sense under the assumption that they have their grounding in the Global North.¹²¹

Being a subcategory of the two previous points, the strand of *postcolonial* criticism may be combated with similar arguments. Postcolonial scholars believe that human right law is a ‘Western construct’ meant to subjugate the Global South to an international order beneficial to Western countries. The Iranian case study of the One Million Signatures Campaign contradicts such an assumption, at least for this context, because not only does the history before the campaign reveal a deep connection between women’s human rights and the country’s cultural heritage, but the support the campaign garnered despite its promotion of international human rights law shows the way universal values can be embraced in a presumably ‘non-Western’ context. The call for women’s rights in Iran demonstrates that gender equality is not a Western ideal. In fact this view is an “insult to the millions of women in non-Western countries who have worked tirelessly, and in some cases risked their lives, to bring ideals of gender equality into local legal frameworks.”¹²² One of the most important achievements of the campaign is that it managed to locate a common universal basis among different opinions. Even though postcolonial and Islamic feminists may take issue with some more secular ori-

¹²⁰ An especially frustrating element of moral relativism, apart from logical inconsistencies, cf. Rachels (n 13) 16-31, is the tendency to exclude oppressed individuals from the conclusion of what is considered ‘morally right’ in different societies. In the case of slavery in the United States, a moral relativist might argue that slavery was simply right at the time in this society, but neglects the fact that this was certainly not ‘right’ for the individual slaves. In similar fashion, it is argued that unequal gender norms are simply right in an Islamic society, however the opinions of women were seldom consulted on this matter, cf. Barlow (n 3) 2, 42, 71.

¹²¹ Suarez Toro (n 24) 189-190; Simmons (n 5) 351-353; Barlow (n 3) 20-26, 166; Hopgood, *The Endtimes of Human Rights* (n 8); Sikkink (n 4) 26-31.

¹²² Barlow (n 3) 167.

ented approaches, all of these engaged women agreed on the same premise, namely that women are equal to men and should be awarded the same degree of autonomy and agency. Autonomy is ultimately the branch on which everyone sits, because to throw away such universal claims is to get rid of the foundations of rights claims.¹²³

Concerning the last strand of criticism, the alleged *top-down* nature of international human rights law, human rights sceptics' claims are ultimately at fault because they fail to grasp the true nature of human rights. For example, human rights law is sometimes labelled an "act of hubris", "forced" on non-Western countries by champions such as the US (cf. II). In reality, state governments were rarely champions of human rights law, as the biggest changes occurred *bottom-up*, through civic activism and public pressure (cf. II, III.1 and III.2). Critics condemn the alleged top-down nature of human rights law, but fail to recognise that it is in itself top-down and patronising to claim that they are merely a Western attempt at helping people in underdeveloped countries. This view not only victimises, but also deprives the affected of their subjectivity. It states that human rights are not something that suppressed persons wish to acquire for themselves, but a remedy brought to them by benevolent saviours. Postcolonial scholars' *savages-victims-saviour* narrative rings true, if human rights law is truly the political blueprint critics assume (cf. II). Yet such a conception misunderstands what human rights law actually is, namely the legal embodiment of a theory of universal human dignity, which posits the agency and authorship human beings hold over their own lives.¹²⁴

However, in differentiating between the *top-down* or *bottom-up* implementation of international human rights law, an important point must be clarified. Top-down implementation of human rights law is not *a priori* illegitimate, as it is a central element of the law that it sometimes limits the autonomy of individuals in an authoritative way, eg through prohibiting homicide or assault. Equally, bottom-up movements do not make a specific legal demand *a priori* legitimate. Bottom-up advocacy might just as easily be utilised to further exclusionary and violent changes to a state's legal system. The legitimacy of human rights is thus not simply dependent on the will of the majority, but is based on the reasons that we are able to substantiate for it. The reason why *bottom-up* grassroots advocacy for human rights offers a more powerful source of legitimacy than *top-down* implementation, is that it demonstrates the fact that human rights values originate first and foremost in the needs, desires and characteristics

¹²³ Seyla Benhabib, 'Subjectivity, Historiography, and Politics' in Seyla Benhabib, Judith Butler, Drucilla Cornell and Nancy Fraser (eds) *Feminist Contentions: A Philosophical Exchange* (Routledge 1995); Maleiha Malik, "'The Branch on Which We Sit': Multiculturalism, Minority Women and Family Law' in Alison Diduck and Katherine O'Donovan (eds), *Feminist Perspectives on Family Law* (Routledge-Cavendish 2006) 227.

¹²⁴ Mahlmann, 'Human Dignity and Autonomy in Modern Constitutional Orders' (n 18) 378.

of human beings themselves, regardless of their cultural or historical environment. This is also why support for local advocacy in international legislation is deeply necessary. Only the proper recognition of grassroots activism combats the critique of international human rights norms coercing false cultural unity.¹²⁵ But of course, grassroots movements should not be romanticised. Activists in countless countries depend on the recognition of human rights universality to anchor their own claims.¹²⁶ Movements alone are not enough. Iran is the perfect example that an authoritarian regime is capable of crushing the progress desired by its people. But the Iranian women's rights movement is also the perfect example of no matter how many times one attempts to crush the human rights movement, one cannot crush the desire of the country's people to be free or to even sacrifice their lives fighting for a cause they believe to be just. Even in a state with an excruciatingly dark human rights situation – or perhaps precisely because of it – many of its people believe in the legitimacy of these rights. Universalism does not come from the governments of the world finding common denominators, but from peoples of different origins all deserving the same fundamental rights as a consequence of their basic human nature.

Critics often comment on the dangers of foreign intervention resulting from false universalism. As an example, the *Iran Freedom Support Act* passed by US Congress in 2006 can be mentioned, which approved money in support of pro-democracy forces in Iran. Not only did the Act offer the Ahmadinejad government reason to increase crackdowns on local human rights groups, but was also criticised as a misappropriation of human rights issues to rationalise US foreign interests.¹²⁷ Such policies are damaging to human rights legitimacy, as they become a mere tool in justifying Western countries' actions (cf. II). However, the fact that human rights can be misused does not rid them of real legitimacy. The cautious universalism promoted by human rights does not automatically justify foreign intervention – especially of the military kind.¹²⁸ Human rights provide a deliberative and non-coercive model for change, which is consequentially the reason why human rights change happens slowly – because it is

¹²⁵ Suarez Toro (n 24) 190.

¹²⁶ Barlow (n 3) 4-5, 165; similarly, no culture exists within a vacuum. It is impossible and nonsensical to prove that exposure to 'Western' ways of life have absolutely no influence on grassroots movements within other cultures. Respecting autonomy also entails recognising the ability of individuals in other cultures to judge a variety of ideas and select the most appealing. The mere fact that Iran's women may have heard about alternative state systems and laws regarding women does not make their decision to fight for their rights any less their own.

¹²⁷ Barlow (n 3) 124-125.

¹²⁸ Mahlmann, 'Normative Universalism and Constitutional Pluralism' (n 12) 285.

not meant to be *violently imposed*.¹²⁹ Respect for human rights must come from the country itself as part of a genuine democratic process and cannot be imposed by military invasion.¹³⁰

Speaking for the Iranian context, all these arguments lead to the conclusion that practical case studies may offer evidence for a theory of human rights universalism, and that the human rights system is therefore worth pursuing in the future, not only as a substantiated moral goal, but also as the necessary protective shield of local advocacy promoting human rights values. However, the autonomy protected by human rights needs to be recognised by those professionally engaging with them. Critics of the human rights system must realise that these rights are not something imposed on helpless victims. Instead, they empower the subjectivity of individual persons and therefore civic activism is an important factor. In addition, theorists engaging with human rights legitimacy should not claim interpretive authority over all contexts of implementation. The assumption of universality should include a certain amount of free inspiration, e.g. legitimisations one doesn't agree with.¹³¹ This lies at the core of the human rights idea and human dignity, which promote self-realisation, autonomy and authorship over one's own life. Individual authorship and autonomy – the branch on which we all sit – leads to individual legitimisation of human rights values. Therefore, bridging the gap between human rights theory and human rights practice in the future will not be achieved by abandoning the international human rights system, but will require increased attention directed at grassroots movements, as human rights ideals are at their core not something meant to be imposed on people, but something they have the right to claim for themselves.

Ultimately, the universal legitimacy of international human rights law comes not from a global network dictating common values, but from the civil society of disparate contexts recognising their status as rights-holders. “Law is at its deepest level a mirror image of the self-perception of humanity.”¹³² Perhaps the self-perception of Iran's women should be enough to support the legitimacy of the law they are seeking.

¹²⁹ Sikkink (n 4) 14-16.

¹³⁰ Ebadi and Ghaemi (n 38).

¹³¹ E.g. secular-minded people who don't agree with Islamic feminist interpretations of human rights (cf. III.2) can still acknowledge their legitimacy within the Iranian context.

¹³² Matthias Mahlmann, 'Ethics, Law and the Challenge of Cognitive Science' (2007) 8 German Law Journal 577, 579.

V. Conclusion

The purpose of this article has not been to instrumentalise the Iranian women's movement to make a point about human rights. On the contrary, it has been about emphasising their struggle, making their voices heard and acknowledging individual authorship for people of all origins. The human rights idea is not constrained by time or space. It is neither owned by international actors, nor Western governments, nor presumptuous academics. It lives within every human being as the desire for an autonomous life.

The Iranian case study leads to the conclusion that a theory of human rights universalism may be further substantiated by practical evidence, and that such a theory appears to be correct in the Iranian case study. Human rights law exists for the purpose of guaranteeing individuals' right to a dignified life and empowering them in claiming this for themselves. The human rights idea is ultimately enlivened by those it empowers, by the disenfranchised it means to protect. Despite human rights law being characterised as a foreign project by the authorities, the Iranian case study proves their legitimacy within the country. The One Million Signatures Campaign can be viewed as either a small-scale success or a brave, but failed attempt to secure improvements in women's status within Iran – the important thing is neither the values, the aspirations, nor the will to keep fighting have died out since then. If the case of the Iranian women's rights movement does not offer an uplifting tale about human rights progress, it is at least a testament to the fierceness and the inalienability of the human rights idea.

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