

### 3. Governing after Protests. The Case for Political Participation in Post-2009 Iran

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While driving on Bakeri Expressway in Tehran in 2016, one of the two authors' friend, A., recalled a protest during the summer of 2009, when the people of Iran took to the streets, giving form to what has since come to be known as the 'Green Movement'.<sup>1</sup> In June 2009, and for months later, protests took place in several cities across the country against the re-election of Mahmood Ahmadinejad (r.2005-13) as president of the republic, an election that the protesters considered rigged. The 'Green Movement', or the *fitna* (sedition) as it is called by the forces that countered it, constituted the fiercest challenge to the stability of the Islamic Republic yet. What started as a dispute over the election results spiralled, as the months passed by, into a comprehensive confrontation between the opposition and Ahmadinejad's government, with radical fringes aiming their critique at the regime itself.<sup>2</sup> As A. recalled:

We were in Parkway [an important junction in North Tehran where portraits of martyrs from the Iran-Iraq war are at display], and people were shouting "*Basiji vaghei Hemmat bodo Bakeri*" (the real *bassij* were Hemmat and Bakeri) against the *bassij*<sup>3</sup> that had beaten up their brothers and sisters during the protests. The reality is that if Bakeri and Hemmat were alive, they would protest with us to defend the truth and honour of the Islamic Republic, which they created, and to allow people to protest: how do you think the revolution happened?<sup>4</sup>

This short excerpt of a longer conversation directly speaks to the relevance of the issue of political participation in the Islamic Republic, whose political system synthesises authoritarian and democratic characteristics and subsumes political participation as a fundamental trait of its history and genealogy, thus offering fertile ground to build arguments in favour of expanding it. According to the constitution, in fact, Iranians can participate in

national politics in a number of ways, from voting to protesting, all of which are rights included in the fundamental law.<sup>5</sup> These rights are based on values that resonate not only with the Islamic Republic's historical legacy and revolutionary genesis. They are also religiously legitimised by a specific reading of Shi'ism as a 'theology of discontent' and rebellion, which turns important religious celebrations, such as *Ashura* and *ta'zieh*, into 'theatres of protest'. It is not surprising, therefore, that such religious celebrations have been politicised and utilised to spread revolutionary ideas during the 1970s.<sup>6</sup>

Political participation, and the right to it, are at the core of what Saïd Amir Arjomand defines 'constitutional politics', namely 'the struggle for the definition of social and political order [which] takes place among groups and organizations whose interests align them behind different principles of order'.<sup>7</sup> In fact, political participation, both as a principle and a right, is contested yet, crucially, mobilised by pro-regime and oppositional<sup>8</sup> forces alike. Invocations supporting the expansion of the public sphere and the right to political participation may come from opposed sides, urging the regime to become more inclusive. Although they may have contrasting goals and different nuances, such invocations can have the similar effect of challenging, to a varying degree, the current *status quo*.

Our contribution explores such challenges. It argues that the right to political participation is a cornerstone of Iran's governance which, echoing Janine Wedel, Cris Shore, Gregory Feldman and Stacy Lathrop,<sup>9</sup> is understood as the ensemble of principles and notions sustaining the procedures and structures that govern the interaction between the state and society. It follows that governance in a hybrid regime, such is the Islamic Republic,<sup>10</sup> is sustained and regulated by ideational devices that transcend authoritarianism and come to terms with 'non-authoritarian notions' such as political participation.

This chapter diverges from the rest of the literature focusing on rights and political freedom in Iran. Broadly speaking, most of the literature focusses on the issue of cultural

relativism and Islam versus the universality of rights and secularism, and whether the institutions of the Islamic Republic (the government, the judiciary system, the security forces, etc.) respect the citizens' rights, which come under different labels, be it human rights, women and/or minority rights.<sup>11</sup> Complementary to such perspective, scholarship on Iran has also examined the efforts of progressive and reform-minded groups and individuals critical of the regime to reconcile Islam and different types of rights. Mahmood Monshipouri and Mehdi Zakerian, for example, focus their analysis on the struggle of social actors such as NGOs, student groups and women to accommodate a secular and a religious understanding of human rights.<sup>12</sup>

The authors of this chapter take a different approach. Rather than examine how *ijtihad* (Islamic interpretation) may be stretched to translate secular liberal rights, we draw on the work of Arzoo Osanloo, Mehran Tamadonfar, Naser Ghorbannia among the others, arguing that Iran's legal system is built on both secular and religious epistemologies, and that actors willing to advocate for the expansion of rights may build on either. The concepts of politico-civil rights and democratic participation are inscribed in the history and politics of Iran, and reflected in its hybrid legislation.<sup>13</sup> It follows that the right to political participation is part of a common background that both oppositional and conservative forces share, although differences exist. By examining how it is articulated by different political forces, then, the authors seek to reveal the heterogeneous and contested nature of law-making in Iran, questioning the notion of a Shari'ah-based legislation that is, by nature, unchangeable, or changeable thanks to religious *ijtihad* only.

The analysis at hand focusses on the post-2009 period; that is the period following the tenth presidential election in Iran. This election saw unprecedented political action and radicalised discourses and demands for political participation. Like the Arab uprisings two years later, it produced a suspension of political limitations, offering an opportunity to voice

discontent and articulate diverse ideological visions present in society.<sup>14</sup> This moment of exceptionality was followed by an authoritarian backlash, however, and the post-2009 securitisation of the public sphere, along with the exclusionary politics and the divisions within the elite and the population that ensued from the repression,<sup>15</sup> led public figures from a diverse range of political backgrounds — individuals that the regime regards both as insiders and outsiders — to question the discrepancy between the behaviour of the government and the principles enshrined in the constitution.

The 2009-10 protests were a watershed moment in the history of the Islamic Republic: what governance arrangements were possible after the society and the ruling elite became so polarised as an effect of their *de facto* exclusion from the ruling institutions and the public sphere? This chapter shows that the effort to re-fashion governance after the protests re-ignited the constitutional debate around the foundation of the Islamic Republic, emphasising its epistemological plurality. Individuals calling for the overcoming of social and political polarisation, in fact, built their claim on both the secular and the religious nature of Iran's governance structure, rather than stressing its religious tenets exclusively. This suggests that in order to explain the 'pragmatic' approach to governance dilemmas pillared around individual and collective rights that Islamists in power may adopt, it is necessary to complement theories centred on Islamic moderation, or analyses pivoted on Islamic liberalism, with a richer and multi-sourced understanding of the intersection between politics and religion. Adopting such a broadened perspective, the following pages will first discuss the centrality of demands for political participation and rights in the history of Iran. This is then followed by an analysis of how Iran's legal hybridity has provided a fertile environment for reclaiming political participation as a fundamental right encoded both in history and the law. In a third and final section, the chapter illustrates how both oppositional and pro-regime

forces have utilised such a common historical background and legal plurality to advance the demand for a more inclusive political environment, tolerant of diversity, in the post-2009 era.

### **The genealogy of the ‘right to political participation’**

#### *The historical and political background*

According to Henry Steiner,<sup>16</sup> while political participation is widely recognised across a broad spectrum of countries as a right, its translation into legal provisions has encountered obstacles that are connected to what he calls the different ‘theories of political participation’ that dominate in different countries. The principle of political participation grants citizens the right to take part, directly or through representatives, in the conduct of public affairs by voting in elections and by influencing governmental decision-making. The right to political participation itself, therefore, includes different modes of participation. While some, such as the right to vote, go unquestioned in the majority of national polities, others, such as the right to organise protests and voice dissent publicly, may be a matter of political contention at the national and international levels. As will become apparent below, in Iran the right to political participation constitutes a pillar of Iran’s dominant political culture, yet also remains deeply divisive and contested right.

The notion of rights (*hoquq*, sing. *haq*) has consistently featured across the history of modern-day Iran. Constitutional rights, human rights and civil rights are notions around which political participation, mobilisations, reform and claims of legitimacy have revolved. The public memory of historical events is often based on a rights-centred perspective. Such a memory is important because it informs ordinary citizens’ understanding of their own history and political agency, becoming relevant to the regime too. Two historical events are of particular importance in the Iranian context: the constitutional and the Islamic revolutions. The constitutional revolution (1905-11) is usually regarded as the event that brought notions

such as constitutionalism, political equality and ruler's accountability to Iran. Yadullah Shahibzadeh asserts that this event popularised a democratic language that promoted the idea that the 'people' consists of citizens with equal political and civil rights (*mellat*) and encouraged Iranians to think and talk about their society through a new vocabulary pillared around the notion of rights.<sup>17</sup> Fakhreddin Azimi argues that the constitutional revolution incardinated in ordinary Iranians' worldview the idea that the ruler is bound by a legal framework and has to deliver 'decent governance'.<sup>18</sup> The memory of the constitutional revolution is still powerful in today's Iran.<sup>19</sup> Intellectuals and politicians consistently refer to it in order to legitimise their claims about rights and the rule of law.<sup>20</sup> Although such claims have often sprung from the most progressive pockets of the elite, or the so-called reformist factions, the historical memory of the constitutional revolution is also used by conservative political forces. In this case, ideas such as nationalism and the right to self-determination, along with religious democracy, are celebrated. The figure of Sheik Fazlollah Nouri — a prominent religious scholar who supported constitutionalism yet denounced its later perversion into a 'Westernised' and secular political project — is particularly relevant to the conservative reading of the event, also because Nouri was eventually condemned to death by the more 'liberal' constitutionalist factions.<sup>21</sup>

The memory and legacy of the 1979 revolution too are presented as a struggle for rights by reformist/progressive, conservative and pro-regime forces alike, although differences exist between them. Indeed, while all forces emphasise the role of popular protests in defying the dictatorship of the Shah (*estebdad*), the conservative reading underlines more forcefully the role of Islam as the source of inspiration for such justice-seeking political actions. For example, in a speech to a *bassij* gathering in October 2011, the Supreme Leader Ali Khamenei contextualised the experience of the Islamic revolution in a political and religious effort to attain a superior religious form of *mardomsalari*, or

democracy. While he recognised that different political ideologies, from liberalism to socialism, have positive aspects, he argues that Islam is the sum of them all and that the revolution has implemented their positive aspects through Islam. It follows that more than a struggle for rights, liberal freedoms and social justice, the revolution was a struggle for Islam.<sup>22</sup> Reformist and progressive forces, on their part, propose a reading of the revolution emphasising its rights-oriented and justice-seeking nature, often turning celebrations commemorating the revolution into an occasion to re-affirm demands for political inclusion. In a tense political environment, characterised by a steady contention against the conservative forces, during his speech on the twenty-fifth anniversary of the revolution, the reformist ex-president Mohammad Khatami (r.1997-2005) warned the conservatives that ignoring the desire for political participation and inclusion, and perpetuating exclusion of political forces critical of the regime, betrays the ideals of the revolution and alienates popular support.<sup>23</sup> A similar argument is suggested by a political advertisement circulated after Hassan Rouhani was elected to the presidency of the republic for the first time in 2013. The advert conveyed a message of national reconciliation and political tolerance after the 2009 crisis and featured excerpts from speeches by prominent political personalities of Iran's history, from Ayatollah Khomeini, the leader of the 1979 revolution and the first Supreme Leader of the Islamic Republic, to the former Prime Minister Mohammad Mossadegh, who nationalised Iran's oil company and was overthrown by a coup orchestrated with the help of the UK in 1953, and Ayatollah Taleqani, a democratic leader during the 1979 revolution, who talk about the right of Iranians to be the 'masters of their own future'.<sup>24</sup> These examples suggest that the right to political participation is relevant to the memory of different political forces in Iran, which use it to both voice criticism of the regime and celebrate it.

### *Legal hybridity*

While historical public memory plays an important role in engendering demands for rights, it is not the only source available to extend demands for more inclusive political participation. In fact, the codification of the law in the post-revolutionary era, despite claiming to return to Islam, is characterised by legal pluralism and references to a number of epistemologies, both secular and religious, which also offer opportunity to extend such demands.

Arzoo Osanloo explains in this regard that, after the 1979 revolution, the willingness to bridge the structure of the newly established republican state and the ideological underpinnings of Shari‘ah could not solve the dilemma of how to administer the new law. As a legal codification became necessary, the leaders of the Islamic Republic decided to administer Shari‘ah through the European civil law system, which had been the model of judicial organisation during the previous regime.<sup>25</sup> Additionally, Mehran Tamadonfar notes that the legislation derived from Shari‘ah primary sources was developed by scholars who focussed on the area of private law and had very little to say about public law or affairs of the state. These private laws traditionally formulated rules that could resolve disputes around sales, contracts and matters of worship, but could not be stretched to include areas such as governance, administration or finance.<sup>26</sup> The irony here is that those supposed to bring down the Westernised, corrupt legal system inherited from pre-1979 Iran, with its corollary of morally corrupted values, contributed to reinforce it.<sup>27</sup>

It follows that what was made available to the population was a hybrid legal system which includes both Islamic, Shari‘ah-based provisions as well as the secular remnants from the pre-revolutionary regime. This allowed the co-existence of a double legal epistemology, one based on religion and one based on a liberal and secular understanding of rights. Counter-hegemonic discourses or critiques that are pillared around the notion of rights may therefore combine the two. On such basis, Osanloo emphasises in her work that the expansion of women’s rights in realms such as divorce or child custody goes beyond any efforts to



reconcile Islam and liberalism or expand religious interpretation, as it is usually asserted within scholarship. Rights advocates, in fact, draw on legal hybridity — or what she terms ‘Islamico-civil law’— and often on the secular nature of legal provisions, to make claims to the Islamic republican state and its institutions.<sup>28</sup>

Beyond women’s rights, another instance of such legal hybridity is the contested participation of Iran in the secular and liberal international legal order on the matter of human rights. The Islamic Republic has ratified multiple international rights conventions yet, at the same time, these rights regimes face strong and ongoing criticism from the country’s political elites. As Iran ratified international conventions and treaties, it had to establish domestic institutions tasked with guaranteeing their implementation and respect.<sup>29</sup> This is the case for example with the *Settad-e Hoquq-e Bashar* (Iranian High Council for Human Rights, IHCHR), which was established after Iran became a signatory to the International Covenant on Economic, Social and Cultural Rights in 1975.<sup>30</sup>

This council embodies Iran’s compliance with international norms, but is also used to denounce the flaws of liberal-secular international law and elevate an Islamic understanding of rights, while reversing the accusations of rights violations made against Iran in the international arena. An example of this are the declarations of Mohammad Javad Larijani, secretary of the IHCHR, at the presentation of the fourth report on human rights in Iran, authored by the United Nations (UN) Special Rapporteur Ahmad Shaheed in 2013. In order to reverse the UN allegations, Larijani accused Western governments to be violators too. As reported by Iran’s *PressTV*, these counter-accusations were echoed by other Iranian experts too who pointed at the repression of anti-austerity protests by European governments as examples of such violations,<sup>31</sup> thus implicitly recognising human rights as a norm worth respecting. In yet another speech, however, Larijani strongly criticised the liberal international norm of human rights itself, along with the UN. In response to accusations of

human rights violations, he asserted that those allegations have the only purpose of justifying the very existence of the UN and, consequently, safeguarding US and European world hegemony, of which the UN are an agent.<sup>32</sup> The Islamic Republic, Larijani argues in the same intervention, built a socio-political system based on Islamic rationality, rather than secular liberal rationality. Yet, as discussed in this chapter, its legal system is significantly informed by secular laws.

The celebration of the superiority of Islamic human rights is a common theme. These are seen as more complete and comprehensive because they have a divine and thus infallible meta-foundation, whereas universal human rights have a human origin which is epistemologically flawed. As one deputy of the parliament's Commission for National Security and Foreign Policy (CNSFP) argued: 'universal human rights are materialistically defined, and they consider only the worldly rights of human beings, but Islam considers both: worldly rights and also moral and afterlife rights'.<sup>33</sup> These words are echoed by Morteza Rezaeian, a contributor to the website 'Hawzah.net' — a website established by state-sponsored religious centres in Mashad and Qom providing interpretation (*tafsir*) of the Qur'an<sup>34</sup> — who asserts that

[a]ll the articles brought up in the declarations of human rights exclusively refer to the material aspect of human life and there is no sign of human moral rights, while in the school of Islam, the human's social identity is recognised in morality and beliefs, and it holds that moral and ethical rules are rights of spiritual life and are stabilised in the human, and when they are, material rights will be retained as well in a proper manner.<sup>35</sup>

The presence of a double epistemological nature of Iran's law is here evident, and institutions such as the IHCHR have a double function. On the one side, they keep Iran

embedded in a secular and liberal international legal order. On the other side, they give Iran's policymakers involved in that very international order a forum to condemn it, while glorifying a nativist-Islamic version of human rights. However, to those willing to condemn the Islamic Republic's human rights record and the state's authoritarian interventions, the IHCHR provides the opportunity to do so on a secular base, because the council implicitly recognises that the liberal international norm of human rights matters, well-representing the institutional and legal hybridity of Iran's governance.

### **Contending the right to political participation**

#### *The challenge coming from the outsiders*

As discussed, disputes around the right to political participation are core to domestic politics and law-making in the Islamic Republic, given its history and the opportunities for reclaiming rights provided by its legal hybridity. Additionally, the end of the Iran-Iraq war (1980-8) resulted in the emergence of a less securitised socio-political environment, precipitating the spread of contentious practices and political ideas. Since the end of the war in 1988 in fact, major socio-economic changes have occurred, along with the blooming of limited political plurality. At the elite level, these transformations originated from within the so-called Islamic left since early 1990s, namely when it was marginalised by rival political factions causing a re-thinking of its standpoints on a number of issues.<sup>36</sup> As a corollary of elite factionalism, a quasi-institutionalised and routinised network of intellectuals, academics, theologians, jurists, political strategists and journalists associated to the Islamic left — among whom were Abdolkarim Soroush, Abbas Abdi, Said Hajjarian, Akbar Ganji, Mohsen Kadivar, Mohammad Mojtahed Shabestari and others — critically reviewed their previous positions and turned to a rights-friendly, almost liberal, vision of the world.<sup>37</sup> The 1997 election of the reformist Khatami to the presidency catapulted such visions into the wider public sphere,

enraging the conservative establishment that reacted with arrests, repression and censorship. Khatami's supporters and like-minded intellectuals were labelled as *gheyr-e khodi*, or outsiders, in order to emphasise that their ideas were alien to the principles of the Islamic Republic and fell outside the constitution. On such basis, the Ayatollah Mesbah Yazdi, a hard-liner, called for 'shutting the mouth' of reformist intellectuals and their supporters.<sup>38</sup> Khatami's two consecutive governments allowed for the emergence of, and gave resonance to, demands for enlarging political inclusion and participation. After Khatami's mandates came to an end and a conservative government under Mahmood Ahmadinejad was elected, these demands survived and, to some extent, radicalised, creating the necessary social and activist environment for the 'Green Movement' protests.<sup>39</sup>

The role played by legal hybridity in legitimising such demands for political participation and legal reform is well-represented by the reliance on liberal and secular rights, as enshrined in international conventions, by the campaign group Yek Milyun Emza bara-ye Laghv-e Qavanin-e Tab'iz Amiz (One Million Signature Campaign, OMSC). The OMSC sought to collect one million signatures in support of granting women equal legal status with men, thus departing from the Islamic principle of complementarity between men and women. For the two years since its establishment in 2006,<sup>40</sup> it endured harsh repression by conservative authorities and security forces. Noushin Ahmadi Khorasani, one of the founders of the campaign, explains that 'the reconciliation of Islam and feminism in the Campaign is the reconciliation of feminism with millions of Muslims who live with their religion, but who do not seek to draw their power, identity, and legitimacy from it'.<sup>41</sup> She continues arguing that

[t]he fifth generation of "circumstantial" feminists we see in Iran today are not, by and large, a group that first asks whether or not something is Islamic before deciding what to make of it.

They are not anti-Islamic, but they have distanced themselves from struggles over political and religious authority (the Islamic Republic claims both), and they base their activities on their practical demands rather than on concerns about identity or ideology.<sup>42</sup>

Ahmadi Khorasani states that the campaign is not interested in contributing to the project of Islamic feminism either, because it is not ‘willing to value ideological correctness over the primary demands of women’.<sup>43</sup> The campaign took inspiration from the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) which was ratified by the Iranian parliament in 2003, but later rejected by the Guardian Council for its incompatibility with Shari‘ah. The resilience of the inspiration provided by the CEDAW is also evident in the statement of the ‘Coalition of Iranian Women’s Movement for Voicing their Demands in the Election’ which regrouped activists from the OMSC following repression. The coalition detailed its demands to the candidates of the 2009 presidential election, the first one being the ratification of the CEDAW.<sup>44</sup>

Alongside legal hybridity, Iran’s revolutionary legacy also provided the *gheyr-e khodi* with the necessary ideological grounds for advancing their criticism of, and demands towards, the regime. One such example concerns the declarations of the two ‘accidental leaders’ of the ‘Green Movement’, Mir Hussein Moussavi and Mehdi Karroubi, who despite their participation in the revolution and institutional life of the Islamic Republic, are considered outsiders by the conservative elite in power.<sup>45</sup> They have consistently referred to the national history and revolutionary legacy to justify their demands for change and political participation. For instance, in his statement number 18, Moussavi states that

[w]e are still standing tall and proud on the first anniversary of the tenth presidential elections despite our whipped body, which endures bruises and imprisonments. Our demands are the

same: freedom, social justice and the formation of [legitimate] national governance. We are confident of victory, hoping for the will and support of God, because we have not demanded anything other than the restoration of our national rights [...] Today, people know those who have trampled on the basic rights of the nation. People are aware of repeated violations of human rights and the lack of human dignity within the judiciary and intelligence division. People are aware of how far the totalitarians have advanced in desecrating common national legacies, especially with regards to fundamental human rights.<sup>46</sup>

Poor respect for the law and the constitution, which is understood as the source of rights, is equated to un-Islamic and anti-revolutionary attitudes. In his statement commemorating the anniversary of the birth of the ‘Green Movement’, Karroubi asserts that:

This year we were unfortunately lacking in the [recognition of the] people’s rights under the Constitution. Instead, these fundamental rights were replaced by extreme repression through brutal force, which had no regard for the sanctity of life. Despite all this darkness and bitterness, we still remain hopeful that the train which has been derailed from the foundations of our Constitution, our Revolution and our Imam, will return to its original path; that the wrong-doers repent and, in doing so, pave the way for dialogue and interaction.<sup>47</sup>

He continues:

Who from the beginning [could have] interpreted the assertion of justified demands and the inquiry into [our] votes to be counter to the *velayat-e faqih*?<sup>48</sup> Why, by means of the *velayat-e faqih*, has a hatchet been taken to the very roots of the Constitution and the Islamic Republic, both of which were founded on the people’s votes? Why has the authority of the *velayat-e*

*faqih* been so greatly extended? I doubt that so much authority and power were given to the Prophets themselves, or the infallible [Shi‘a] Imams. I even doubt that God considers himself to have the right to deal with his servants in the same way [that the Supreme Leader does]! Historically, Shi‘a Islam considers criticism of the ruler not only necessary but a requirement based on the Sharia law stipulation that describes advising the leader of Muslims.<sup>49</sup>

Karroubi and Moussavi not only appeal to the revolutionary legacy to legitimise their demands. They also draw on Iran’s legal hybridity, given that they discuss the constitution and the rights guaranteed by it both as a worldly and religious matter. Ironically, Karroubi suggests that the current amount of power vested in the Supreme Leader Khamenei exceeds that of God. They both pledge loyalty to Islam, the revolution and Khomeini, and place those who ordered and carried out the repression of the protests in 2009 outside of the constitution and the revolutionary tradition. In so doing, they seek to reclaim the revolution and its ideals, based on people’s democratic rights, somehow reversing the accusation that they are the *gheyr-e khodi*, or outsiders in Iranian politics.

#### *The challenge coming from the insiders*

As discussed, the repression of the 2009 protests became a real watershed moment in Iran’s contemporary history and *gheyr-e khodis* were not alone in questioning the Supreme Leader Khamenei and the government on their respect of Iranians’ rights. In fact, *khodi* people, or the insiders, have been critical too.<sup>50</sup> A substantial blow to the regime came from amidst the martyrs’ families. In Iran, the memory of the Iran-Iraq war is perpetuated and reproduced by the daily remembrance of the martyrs or *shahidan* (sing. *shahid*). Not only the capital Tehran and other minor cities are full of murals and portrays of those who gave their life in the war, but a potent ensemble of museums, mausoleums, and civil rituals is tasked with keeping their

memory alive. Considering this, the critical stance that some of the family members of well-known martyrs took after the repression in 2009-10, represented a significant challenge for the regime, which had to face disapproval coming from a category of *khodi par excellence*.

As mentioned earlier in the chapter, one slogan chanted during the protests in 2009-10 was ‘*Basiji vaghei Hemmat bodo Bakeri*’,<sup>51</sup> meaning that the real *bassij* were those who gave their life to defend Iran during the war, as the martyrs Mohammad Ebrahim Hemmat and Mehdi Bakeri had done, and not those who repressed their brothers and sisters during the peaceful protests. The Bakeri family is famous in Iran as it gave three young brothers to the struggle against the Shah first and against Iraq later. Hamid Bakeri’s daughter Assieh, during a speech at the University of Tehran in the autumn of 2009, declared that ‘[i]f my father and my uncle were alive today, they would have not tolerated these atrocities carried out in the name of the martyrs by the *bassij* against the people. If they were alive today they would be in prison’.<sup>52</sup> Other family members too reacted to the crackdown on protesters by raising criticism of the regime. Assieh’s mother, Hamid Bakeri’s widow Fatemeh Amirani, publicly criticised Ali Jafari — the commander of the Islamic Revolutionary Guard Corps (IRGC) of which her husband was a commander during the war — for repressing the protests. In a public letter to Jafari, she described the re-election of Ahmadinejad as a coup d’état and warned that the violence against protesters would only cause damage to the regime, which would eventually lose its legitimacy. Confirming that today’s *bassij* are different from the *bassij* during the Iran-Iraq war, Amirani also wrote that the asymmetry of power between the Shah’s regime and the people was less dramatic than the one in the Islamic Republic today, where one side ‘has all the means of power and the other side [the people] [is] without any power’.<sup>53</sup> The sister of the three martyred Bakeri brothers, Zahra, also made her voice heard in a letter to the Iranian authorities, in which she compared imprisonment during the Shah’s time and after the revolution. She concluded that, while today family members have no right



to talk to lawyers or have information, before the revolution they could even talk to international human rights organisations and denounce unlawful detentions.<sup>54</sup> The Bakeri family paid for their outspoken criticism with arrests and harassment, along with members of other martyrs' families such as the Hemmat family.<sup>55</sup>

Other examples of 'internal criticism' have come from two well-known intellectual figures, namely Mohammad Nourizad and Emad Afrough. Nourizad is a former columnist of the hard-line newspaper *Keyhan* and a film director, while Afrough is a conservative intellectual and former MP. Nourizad, who was imprisoned after his initial criticism of the crackdown, wrote fifteen open letters to Khamenei in which he defended the right of the people to protest and have their criticism answered, not merely repressed: 'I am saying that when it is accepted [...] that protesting is people's rights, this protest will not necessarily lead to our downfall. We should understand this not take this right away from people'.<sup>56</sup>

Afrough pushed his criticism as far as to discuss and criticise the rule of the Supreme Leader during an interview on state TV in January 2012. While talking about the notion of *mardomsalari dini* (religious democracy), he emphasised that this is composed of two distinct aspects, namely religious rule and the democratic legitimacy of it, underlining that religious rule has to be accepted by the people. He then discussed the notion according to which divine and human government are bridged together through a leader, as indicated by the role models of the Imam Ali and Khomeini, and today by Khamenei. During this discussion, he declared however that 'there must be guarantees [as] the country can't be ruled by one single leader, by one single person'. He added in fact that 'we have to rule considering the people's rights' and called for an active questioning of the rule of the Supreme Leader who has to respond, or else being 'automatically dismissed'.<sup>57</sup>

Criticism came from the security forces as well. Hossein Alaei, a retired IRGC general and a war hero, authored an op-ed published in January 2012 in the newspaper

*Etela'at* in which he implicitly compared the current situation in Iran with the one during the Shah's time. He suggested that the Shah and Khamenei may have commonalities when it comes to the way they treat political opponents, and referred to the house arrest of dissidents, implicitly talking about Karroubi and Moussavi. The article featured a series of questions such as 'If, instead of placing some [prominent political figures] under house arrest, sending others to exile, and jailing political activists, [the Shah] had opened a dialogue with them, would [he] have been forced to flee the country?'.<sup>58</sup> The letter sparked debate and criticism of Alaei, against whom sit-ins and open letters were organised and published. He later declared that his op-ed was misinterpreted.

Like outsiders, insiders too have drawn on secular and religious references to justify demands for extending the right to political participation to dissidents and excluded political figures. They, who highlighted that being insiders does not necessarily equate with supporting the violent repression of the 'Green Movement' or being anti-democratic, have in fact referred to the right of the people to protest and to the tenets of a democratic government, invoking principles of legal plurality and discussing historical examples relevant to today's Iranian elite.

## **Conclusion**

Like the Arab uprisings, the 'Green Movement' represented a moment of exception, with the Iranian society witnessing an unprecedented opportunity to express a diverse range of political opinions without significant limitations. However, this moment did not last long and soon violent repression quashed the street protests. What governance is possible after such disruptive/repressive events? As this chapter sought to illustrate, calls for enlarging political participation have aimed at overcoming social and political polarisation, resulting in the strengthening of both the secular and the religious legal-political epistemologies that inform

Iran's governance system. Indeed, in line with scholars arguing that the Islamic Republic has paradoxically accelerated a process of secularisation,<sup>59</sup> this chapter demonstrated how secular and liberal referents have been mobilised in order to reclaim the right to political participation by different categories of citizens and political elites following the 2009-10 repression. As securitisation threatened to close down the public sphere in the post-2009 era, secular-inspired demands for political inclusion expressed by 'insiders' of the regime have become even more significant in highlighting the plurality of Iran's governance foundations.

While this 'secular' discourse has by no means surpassed Islam as the predominant source of legitimacy for the ruling elite, or as a moral compass in society, this analysis suggests that a number of ideological and linguistic frameworks are at work to articulate the need to strike a 'governance balance' between the regime's security and the right to political participation.

Based on these findings, this chapter calls for a pluralistic approach to the study of the choices that Islamists in power make when it comes to governance, emphasising that the ideological foundations informing governance arrangements are hybrid. Therefore, they offer a diversified epistemological background to build the case for revising governance arrangements beyond Islam, even in contexts that are seemingly rigid such as that of the Islamic Republic of Iran.

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<sup>2</sup> Reisinezhad, Arash (2015), 'The Iranian Green Movement: Fragmented Collective Action and Fragile Collective Identity', *Iranian Studies*, 48:2, pp. 193-222; Jahanbegloo, Ramin (2011), 'The Green Movement and the Dignity of Nonviolence in Iran', *Dissent Magazine*, 28 February, <[www.dissentmagazine.org/online\\_articles/the-green-movement-and-the-dignity-of-nonviolence-in-iran](http://www.dissentmagazine.org/online_articles/the-green-movement-and-the-dignity-of-nonviolence-in-iran)> (last accessed 18 May 2017).

<sup>3</sup> The *bassij* (mobilisation) force is a voluntary militia founded by the former Supreme Leader Ruhollah Khomeini in early 1980s to protect the revolution and Iran during the Iran-Iraq war. Today, it depends on the Islamic Revolutionary Guard Corps (IRGC) command. *Bassij* members were widely employed to repress the protests in 2009-10. Here, A. refers to Mohammad Ebrahim Hemmat and Mehdi Bakeri, two members of the *bassij* and military commanders in the Iran-Iraq war, who became war heroes.

<sup>4</sup> Interview with A., July 2016, Tehran.

<sup>5</sup> Tamadonfar, Mehran (2001), 'Islam, Law, and Political Control in Contemporary Iran', *Journal for the Scientific Study of Religion*, 40:2, pp. 207-8.

<sup>6</sup> Dabashi, Hamid (2005), 'Ta'ziyeh as Theatre of Protest', *The Drama Review*, 49:4, pp. 91-9.

<sup>7</sup> Arjomand, Saïd Amir (2000), 'Civil Society and the Rule of Law in the Constitutional Politics of Iran under Khatami', *Social Research*, 67:2, pp. 283.

<sup>8</sup> The authors use binary contrapositions (pro-regime vs oppositional; conservative/hard-line vs reformist/progressive; insiders vs outsiders) to articulate divisions within both the political

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elite and, more broadly, among social and political actors. While the authors are aware of the internal diversification of such groups, they deploy this division for analytical purposes.

<sup>9</sup> Wedel, Janine, Cris Shore, Gregory Feldman and Stacy Lathrop (2005), 'Toward an Anthropology of Public Policy', *The Annals of the American Academy of Political and Social Science*, 600:1, pp. 30-51.

<sup>10</sup> Abdolmohammadi, Pejman and Giampiero Cama (2015), 'Iran as a Peculiar Hybrid Regime: Structure and Dynamics of the Islamic Republic', *British Journal of Middle Eastern Studies* 42:4, pp. 558-78.

<sup>11</sup> Afshari, Reza (2011), *Human Rights in Iran: The Abuse of Cultural Relativism*. 2nd edn. Philadelphia: University of Pennsylvania Press; Monshipouri, Mahmood (ed.) (2011), *Human Rights in the Middle East*. Basingstoke: Palgrave Macmillan; Mayer, Ann Elizabeth (2015), *Islam and Human Rights: Tradition and Politics*. 5th edn. Boulder: Westview Press.

<sup>12</sup> Monshipouri, Mahmood and Mehdi Zakerian (2016), 'The State of Human Rights in Iran', in Mahmood Monshipouri (ed.), *Inside the Islamic Republic: Social Change in post-Khomeini Iran*. London: Hurst, pp. 151-76.

<sup>13</sup> On legal pluralism/hybridity see e.g. Tas, Latif (2016), *Legal Pluralism in Action: Dispute Resolution and the Kurdish Peace Committee*. London: Routledge; Gould, Rebecca (2015), 'Ijtihād against Madhhab: Legal Hybridity and the Meanings of Modernity in Early Modern Daghestan', *Comparative Studies in Society and History*, 5:1, pp. 35–66.

<sup>14</sup> Holliday, Shabnam and Paola Rivetti (2016), 'Divided We Stand? The Heterogeneous Political Identities of Iran's 2009-2010 Uprisings', in Shabnam Holliday and Philip Leech (eds.), *Political Identities and Popular Uprisings in the Middle East*. London: Rowman & Littlefield, p. 31.

<sup>15</sup> Yasmin Alem wrote that since 2009 polls have become increasingly exclusionary because of the potentially destabilising nature of elections. Alem, Yasmin (2016), 'Politics Power and

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Prospects for Reform’, in Daniel Brumberg and Farideh Farhi (eds.), *Power and Change in Iran: Politics of Contention and Conciliation*. Bloomington: Indiana University Press, p. 188.

<sup>16</sup> Steiner, Henry J. (1988), ‘Political Participation as a Human right’, *Harvard Human Rights Yearbook*, 1, pp. 77-134.

<sup>17</sup> Shahibzadeh, Yadullah (2015), *The Iranian Political Language*. Basingstoke: Palgrave Macmillan, p. 19.

<sup>18</sup> Azimi, Fakhreddin (2008), *Quest for Democracy in Iran: A Century of Struggle against Authoritarian Rule*. Harvard: Harvard University Press, pp. 2-3.

<sup>19</sup> Hashemi, Nader (2010), ‘Religious Disputation and Democratic Constitutionalism: The Enduring Legacy of the Constitutional Revolution on the Struggle for Democracy in Iran’, *Constellations*, 17:1, pp. 50-60.

<sup>20</sup> For instance, magazines linked to the reformist movement and liberal forces have devoted special issues to the constitutional revolution (see *Goftogu*, 51, 1387/2008). The magazine *Cheshmandaz-e Iran*, close to the nationalist movement, published a series of articles linking the revolution to the Iranian people’s quest for democracy. See the double interview published in 1382/2003: ‘Sad Sal-e tamrin mardomsalari va mahar-e qodrat. Goftogu ba Doktor Hosein Aftajar (Hundred years of exercising democracy and limitation to power. Conversation with Dr Hosein Aftajar)’, *Cheshmandaz-e Iran*, 21, pp. 21-33 and 22, pp. 76-87.

<sup>21</sup> Mirfakhraie, Amir (2016), ‘Phobias, Selves and Citizens in Iranian Textbook’, in Hisham Ramadan and Jeff Shantz (eds.), *Manufacturing Phobias: The Political Production of Fear in Theory and Practice*. Toronto: University of Toronto Press, p. 88.

<sup>22</sup> Video: ‘Khamenei: Islamic Republic is Democracy, Freedom, Socialism in its own way’ YouTube, 2011, <[www.lenziran.com/2011/10/khamenei-islamic-republic-is-democracy-freedom-socialism-in-its-own-terms](http://www.lenziran.com/2011/10/khamenei-islamic-republic-is-democracy-freedom-socialism-in-its-own-terms)> (last accessed 15 May 2017).

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<sup>23</sup> Fathi, Nazila (2004), 'President Khatami warns clerics ruling Iran against extremism', *The New York Times*, 12 February, <[www.nytimes.com/2004/02/12/world/president-khatami-warns-clerics-ruling-iran-against-extremism.html?\\_r=0](http://www.nytimes.com/2004/02/12/world/president-khatami-warns-clerics-ruling-iran-against-extremism.html?_r=0)> (last accessed 15 May 2017).

<sup>24</sup> Video: 'Nosafar', YouTube, 25 November 2013, <[www.youtube.com/watch?v=Oj64-2bLq8k](http://www.youtube.com/watch?v=Oj64-2bLq8k)> (last accessed 16 May 2017).

<sup>25</sup> Osanloo, Arzoo (2008), 'Whence the Law: The Politics of Women's Rights, Regime Change, and the Vestiges of Reform in the Islamic Republic of Iran', *Radical History Review*, 101, pp. 42-58.

<sup>26</sup> Tamadonfar, 'Islam, Law, and Political Control in Contemporary Iran', pp. 209-10.

<sup>27</sup> Ghorbannia, Naser (2016), 'The Influence of Religion on Law in the Iranian Legal System', in Vernon V. Palmer, Mohamed Y. Mattar and Anna Koppel (eds.), *Mixed Legal Systems, East and West*. London: Routledge, pp. 209-12.

<sup>28</sup> Ibidem; Osanloo, Arzoo (2009), *The Politics of Women's Rights in Iran*. Princeton: Princeton University Press.

<sup>29</sup> For the list of ratified treaties see UN Human Rights, Office of the High Commissioner website

<[http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN)> (last accessed 15 May 2017).

<sup>30</sup> Today, the IHCHR operates within the judiciary system, whose head, Sadegh Larijani, is appointed by the Supreme Leader Khamenei. Sadegh Larijani is the brother of Mohammad Javad Larijani, the secretary of the IHCHR.

<sup>31</sup> Kojouri, Saman (2013), 'Larijani: UN human rights report financially supported by US, West', *PressTV*, 9 March, <[http://www.dailymotion.com/video/xy2o0p\\_larijani-un-human-rights-report-financially-supported-by-us-west\\_news](http://www.dailymotion.com/video/xy2o0p_larijani-un-human-rights-report-financially-supported-by-us-west_news)> (last accessed 2 June 2017).

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<sup>32</sup> Video: ‘Mohammad Javad Larijani Speech in UNHRC’, YouTube, 2012  
<[www.youtube.com/watch?v=F8BR4FDnmn4](http://www.youtube.com/watch?v=F8BR4FDnmn4)> (last accessed 15 May 2017).

<sup>33</sup> Interview with a member of the CNSFP, November 2012, Tehran.

<sup>34</sup> Rahimi, Babak (2008), ‘The Politics of the Internet in Iran’, in Mehdi Semati (ed.), *Media, Culture and Society in Iran: Living with Globalization and the Islamic State*. London: Routledge, p. 43.

<sup>35</sup> Rezaeian, Morteza (1384/2005), ‘Hoquq va siyasat: hoquq-e bashar va demukrasi (Rights and politics: human rights and democracy)’, *Hawzah.net*, <[www.hawzah.net/fa/magart.html?MagazineID=0&MagazineNumberID=5050&MagazineArticleID=44790](http://www.hawzah.net/fa/magart.html?MagazineID=0&MagazineNumberID=5050&MagazineArticleID=44790)> (last accessed 16 May 2017).

<sup>36</sup> Moslem, Mehdi (2002), *Factional Politics in post-Khomeini Iran*. Syracuse: Syracuse University Press.

<sup>37</sup> Sadeghi-Boroujerdi, Eskandar (2014), *Disenchanted Political Theology in post-Revolutionary Iran: Reform, Religious Intellectualism and the Death of Utopia*. PhD thesis, University of Oxford; Sadri, Mahmoud (2001), ‘Sacral Defense of Secularism: The Political Theologies of Soroush, Shabestari, and Kadivar’, *International Journal of Politics, Culture, and Society*, 15:2, pp. 257-70.

<sup>38</sup> Bayat, Asef (2013), ‘The Making of post-Islamism in Iran’, in Asef Bayat (ed.), *Post-Islamism: The Many Faces of Political Islam*. Oxford: Oxford University Press, pp. 62-3.

<sup>39</sup> Rivetti, Paola (2017), ‘Political Activism in Iran: Strategies for Survival, Possibilities for Resistance and Authoritarianism’, *Democratization*, ahead-of-print, <<http://www.tandfonline.com/doi/full/10.1080/13510347.2017.1293658>>.

<sup>40</sup> Bøe, Marianne (2015), *Family Law in Contemporary Iran: Women’s Rights Activism and Shari’a*. London: I.B. Tauris, p. 164.



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<sup>41</sup> Ahmadi Khorasani, Noushin (2009), *Campaign for Equality: The Inside Story*. Women's Learning Partnership, p. 50.

<sup>42</sup> Ibid., p. 49.

<sup>43</sup> Ibid., p. 50.

<sup>44</sup> Anon. (2009), 'The Coalition of Iranian Women States its Election Demands', *The Feminist School*, <[www.feministschool.com/english/spip.php?page=print&id\\_article=290](http://www.feministschool.com/english/spip.php?page=print&id_article=290)> (last accessed 15 May 2017). Similar demands have been advanced by a women's coalition ahead of the 2017 presidential election. See e.g. 'Motalebat-e bakhshi az fa'alan-e hoze-ye زنان az kandidaha-ye riasat-e jomhuri (The demands of a section of activist from the women's field to presidential candidates)', *Emtedad*, 16 Ordibehesht 1396/6 May 2017, <<http://emtedad.net/2702-2/>> (last accessed 16 May 2017).

<sup>45</sup> The Supreme Leader Khamenei accused the two leaders of being against Islam and the Islamic Republic. See video: 'Leader Meets with Basijis', 24 October 2010, <<http://english.khamenei.ir/news/1370/Leader-Meets-with-Basijis>> (last accessed 15 May 2017). Mohammad Javad Larijani echoes Khamenei's words, arguing that the reformists in jail are agitators who did not respect the law. He said that Moussavi and Karroubi participated in a coup d'état against the state because, even before results were announced, they claimed victory and called the people to the street to bring down the government. See video: 'Euronews Interview: Larijani on Iran's new democracy', 13 March 2012, <[www.youtube.com/watch?v=cwipRsIKlO0&feature=related](http://www.youtube.com/watch?v=cwipRsIKlO0&feature=related)> (last accessed 15 May 2017).

<sup>46</sup> 'Mir Hossein Mousavi's 18th Statement', *Khordad* 88, 16 June 2010, <<http://khordaad88.com/?p=1691>> (last accessed 15 May 2017).

<sup>47</sup> 'Complete Statement for the Anniversary of the Birth of the Green Movement', *Khordad* 88, 20 June 2010, <<http://khordaad88.com/?p=1696>> (last accessed 15 May 2017).

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<sup>48</sup> The *velayat-e faqih* (guardianship of the jurist) is the core principle justifying the office of the Supreme Leader, who is given the duty of custodianship over the people during the temporary absence of the occulted Imam.

<sup>49</sup> ‘Complete Statement for the Anniversary of the Birth of the Green Movement’.

<sup>50</sup> On this, Shirin Saeidi offers insights from the Hizbollah movement in Iran, considered to be the most loyal social and political group to the regime. In her work, she emphasises how notions and definition of rights and self-determination as propagated by the regime are critically received and even re-interpreted by Hizbollahi people. See Saeidi, Shirin (2018), ‘Iran’s Hezbollah and Citizenship Politics: The Surprises of Religious Legislation in a Hybrid Regime’, in Nils A. Butenschøn and Roel Meijer (eds.), *The Middle East in Transition: The Centrality of Citizenship*. Cheltenham: Edward Elgar.

<sup>51</sup> See also Anon. (2009), ‘Where Is Your 63 Percent?’, *The Atlantic*, 18 September, <[www.theatlantic.com/daily-dish/archive/2009/09/-where-is-your-63-percent/196378/](http://www.theatlantic.com/daily-dish/archive/2009/09/-where-is-your-63-percent/196378/)> ([last accessed 15 May 2017](#)).

<sup>52</sup> Video: ‘Hamid Bakeri’s daughter Speech at University of Tehran’, YouTube, 2009, <[www.youtube.com/watch?v=wn5LReerlmg](http://www.youtube.com/watch?v=wn5LReerlmg)> (last accessed 15 May 2017).

<sup>53</sup> Anon. (2010), ‘Widow of renowned Iran commander accuses IRGC head of treason’, *Radio Free Europe/Radio Liberty*, 21 September, <[www.rferl.org/content/Widow\\_Of\\_Renowned\\_Iran\\_Commander\\_Accuses\\_IRGC\\_Head\\_Of\\_Treason/2164446.html](http://www.rferl.org/content/Widow_Of_Renowned_Iran_Commander_Accuses_IRGC_Head_Of_Treason/2164446.html)> ([last accessed 15 May 2017](#)).

<sup>54</sup> ‘Matne kamel-e sargoshadeh Zahra Bakeri, khahare shahidan-e Bakeri, dar pasokh be ehanat-e kodetagan be khanevade-ye shohada (Full text of the open letter of Zahra Bakeri, Bakeri martyrs’ sister, in response to the insulting accusation of coup d’état against the family)’, *Rah-e sabz*, 15 Shahrivar 1388/6 September 2009, <[www.rahesabz.net/story/1195/](http://www.rahesabz.net/story/1195/)> (last accessed [15 May 2017](#)).

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<sup>55</sup> Anon. (2010), 'Plainclothes forces harass families of Iran-Iraq war heroes', *Center for Human Rights in Iran*, 5 October, <[www.iranhumanrights.org/2010/10/forces-harass-families/](http://www.iranhumanrights.org/2010/10/forces-harass-families/)> (last accessed [15 May 2017](#)).

<sup>56</sup> Cited in Muktari, Shadi (2016), "'This government is neither Islamic nor a republic': Responses to 2009 Postelection Crackdown', in Daniel Brumberg and Farideh Farhi (eds.), *Power and Change in Iran*, p. 268.

<sup>57</sup> Anon., (2012), 'Former Iranian MP Emad Afrough in rare criticism of Khamenei on Iranian TV: "a country cannot be governed by a single leader"', *Memri TV*, 14 January, <[www.memritv.org/clip/en/3276.htm](http://www.memritv.org/clip/en/3276.htm)> (last accessed [15 May 2017](#)).

<sup>58</sup> Esfandiari, Golnaz (2012), 'Former senior IRGC commander comes under attack', *Radio Free Europe/Radio Liberty*, 15 January, <[www.rferl.org/a/iran\\_former\\_irgc\\_commander\\_under\\_attack/24452204.html](http://www.rferl.org/a/iran_former_irgc_commander_under_attack/24452204.html)> (last accessed [15 May 2017](#)).

<sup>59</sup> See e.g. Ghobadzadeh, Naser (2014), *Religious Secularity: A Theological Challenge to the Islamic State*. New York: Oxford University Press; Matsunaga, Yasuyuki (2009), 'The Secularization of a Faqih-headed Revolutionary Islamic State of Iran: Its Mechanisms, Processes, and Prospects', *Comparative Studies of South Asia, Africa and the Middle East*, 29:3, pp. 468-82.