

**AGENTS OF CHANGE OR AGENTS OF THE STATUS QUO: IRANIAN
LAWYERS' APPROACHES TO WOMEN SEEKING DIVORCE IN THE
CONTEXT OF DISCRIMINATORY DIVORCE LAW**

by

Atieh Babakhani

A dissertation submitted to the Faculty of the University of Delaware in partial
fulfillment of the requirements for the degree of Doctor of Philosophy in Sociology

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Atieh Babakhani

Approved: _____
Eric Rise, Ph.D.
Interim Chair of the Department of Sociology and Criminal Justice

Approved: _____
Dean John A. Pelesko, Ph.D.
Dean of the College of Arts and Sciences

Approved: _____
Louis F. Rossi, Ph.D.
Vice Provost for Graduate and Professional Education and
Dean of the Graduate College

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Chrysanthi Leon, J.D., Ph.D.
Professor in charge of dissertation

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Asia Friedman, Ph.D.
Member of dissertation committee

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Susan Miller, Ph.D.
Member of dissertation committee

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Swethaa S. Ballakrishnen, Ph.D.
Member of dissertation committee

DEDICATIONS

This dissertation is dedicated to the courageous women of Iran and the inspiring Woman, Life, Freedom movement.

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ABSTRACT

Since the 1979 revolution in Iran, the state has relegated women to a subordinate position, treating them as second-class citizens. Existing literature on women's rights in Iran predominantly focuses on elucidating the role of the revolutionary state in oppressing women, and the resilience of women's movements in combating discriminatory state policies. However, there remains a significant gap in understanding how Iranian lawyers, as distinct agents from other social activists, contribute to or resist gender inequality through legal means such as asserting rights, individual litigation, or providing legal counseling and services. This gap extends beyond the Iranian context, as the broader socio-legal literature has inadequately addressed the nuances of everyday practices of ordinary lawyers functioning within authoritarian regimes with civil law systems, and their impacts on the perpetuation and/or disruption of various forms of inequality, including gender inequality. To fill these gaps, this qualitative study investigates the strategies employed by Iranian family lawyers in cases of unilateral divorce initiated by women. By conducting interviews with a sample of family lawyers (n=30) and divorced women (n=30) in Iran, the study examines how lawyers, as distinct agents from other social actors, contribute to either destabilizing or reinforcing institutionalized gender inequality through their utilization of legal means within their everyday practices; how lawyers

(re)shape the demands, expectations, and opportunities of their clients, shedding light on their role in influencing the decision-making process within the context of unilateral divorce; 3) and, ultimately, how lawyers reinforce and/or disrupt gender ideologies, particularly the gendered expectations imposed on married women. The findings of this study offer valuable insights into the role of everyday practices of non-cause lawyers in perpetuating or challenging gender inequality, as well as the factors that influence their approach to lawyering and legal mobilization, particularly when dealing with non-conventional and controversial cases. I propose a typology of non-cause lawyers, distinguishing between lawyers who adopt a semi-bystander role and lawyers who embrace an incrementalist approach. This typology provides an understanding of how professional responsibility is perceived, talked about, and acted upon within the legal profession in an understudied context. Furthermore, this typology classifies lawyers according to their perceptions of obstacles to legal mobilization and the viable approaches they identify for achieving reform within these constraints. Finally, my findings have significant implications for the women's rights activists in Iran, suggesting that their efforts could also be directed towards educating lawyers dealing with cases that have consequences for women's rights.

Chapter 1

INTRODUCTION

During the second meeting of the “National Headquarters of Women and Family” in January 2022, Seyyed Ebrahim Raisi, the current president of Iran, who is known for his hardline stance on women, stressed the crucial role of women in building a “healthy society” and emphasized the interconnectedness of women’s issues and family matters. He urged the National Headquarters to provide advice regarding marital issues based on Islamic standards instead of “Western” ideas and requested family lawyers and consultants to prioritize peacemaking and compromise over divorce. This stance mirrors that of the Islamic Republic, which prioritizes the family as a fundamental unit for fostering a robust and flourishing society. Furthermore, his remarks underscore the significant role assigned to women in preserving the sanctity of the family, which serves as a critical link in the societal fabric. This particular perspective on women and their roles within the family has emerged following the repeal of the “Westernized” Family Protection Law of 1967 shortly after the 1979 revolution. It has since become the prevailing viewpoint embraced by the state and other relevant stakeholders. Despite numerous revisions made to the Family Protection Law since its enactment in 1982, the law continues to reinforce gender-based discrimination in several areas, including divorce and child custody.

An abundance of research has been devoted to exploring the role of the state and its apparatus in the construction and perpetuation of gender inequality in Iran (Alikarami, 2019; Farzaneh, 2014; Kar, 2007; Moghadam, 2004). Feminist scholars have long asserted that the modern state is inherently patriarchal and operates to serve the interests of men while subordinating women (Brush, 2003; Connell, 1990; Eisenstein, 2018; MacKinnon, 1989; Smart, 2002). Within this framework, the presumed neutrality of law and legal institutions is challenged as it is argued that even seemingly gender-neutral laws are shaped by underlying gender assumptions and ideologies, highlighting the potential for unequal treatment and outcomes based on gender. As such, laws play a critical role in upholding and legitimizing gender inequality by simultaneously creating and reinforcing gendered hierarchies and roles (MacKinnon, 1982, 1989; Weisberg, 1993) while also shaping and perpetuating them through discourse and constructing social categories (Smart, 1992).

In response to systemic gender discrimination, women's rights activists in Iran have been determined in their efforts to dismantle gender inequality, advance legal reforms, and empower women (Hoodfar & Sadeghi, 2009; Mahmoudi, 2019; Mohammadi, 2013; Sameh, 2010; Tohidi, 2016). Given the constrained efficacy of legal mechanisms, such as litigation, in addressing gender inequality and driving social change, activists and rights lawyers frequently employ extra-judicial strategies to advance their cause. These strategies often involve organizing and engaging in social movements that seek to challenge the status quo through empowering civil

society, mobilizing grassroots initiatives, and shaping public opinion from bottom-up (Alikarami, 2019; Barlow, 2012; Barlow & Akbarzadeh, 2018).

While scholars have extensively studied the strategies and practices of the women's rights movement in Iran, questions remain regarding the roles played by lawyers—as the primary legal actors who engage with individuals during the initial phases of disputes—in both challenging and reinforcing discriminatory laws in Iran. This inquiry is particularly relevant in cases where gender serves as a decisive factor, such as divorce cases initiated by women, as they exemplify “extreme” instances that reinforce gender inequality. As Zussman (2004) argues, studying extreme cases provides valuable insights into the underlying mechanisms that generate and perpetuate inequality. Furthermore, focusing on divorce cases is particularly important due to the significant discretionary power held by judges in these cases in Iran, which is not commonly found in civil law systems. This suggests the potential for lawyers to influence the outcomes of these cases, underscoring the significance of studying their arguments and strategies. Although lawyers operating within a civil law system cannot directly modify laws through litigation, they can still contest the legal reasoning developed by judges, thereby contributing to the emergence of new legal precedents. Examining these issues becomes even more crucial in light of the ongoing Woman,

Life, Freedom movement,¹ as it is imperative to understand the roles played by various actors in perpetuating or disrupting systemic gender discrimination.

Against this background, this study delves into the practices of Iranian family lawyers in handling the most challenging cases in Iran's family courts—divorce cases initiated by women and makes four contributions. First, the study seeks to explore the role of family lawyers, as persuasive agents of transformation (Menkel-Meadow, 1985), in both perpetuating and disrupting gender inequality and ideologies through the process of dispute transformation and resolution. Among the studies that specifically examine divorce lawyers' practices (Griffiths, 1986; Kressel et al., 1983; Li, 2015; Mather et al., 2001; Sarat & Felstiner, 1986, 1995), limited attention has been given to the practices of lawyers in fault-based divorce systems or contexts where men and women are not granted equal rights under family law (personal law). Moreover, the literature on the role of divorce lawyers in dispute transformation and resolution has often overlooked the role of gender as a social institution in shaping lawyers' understanding of their clients' grievances as well as their strategies and approaches, which can have significant implications for the reconstruction and/or disruption of gender ideologies and inequality.

¹ The arrest of Mahsa (Jina) Amini, a 22-year-old Kurdish woman, by the "morality police" for alleged improper hijab wearing, followed by her suspicious death on September 16, 2022, amidst allegations of torture during her time in police custody, has sparked unparalleled protests throughout Iran, primarily led by women. Women across the country have taken to the streets, protesting against state-sponsored violence targeting women and the entrenched gender discrimination that has persisted for decades. The central slogan of these protests is "Woman, Life, Freedom," encapsulating their demand for an end to gender oppression and inequality. This slogan has become synonymous with the movement.

Second, through interviews with family lawyers and divorced women who either sought consultation or engaged a lawyer's services, this study investigates how lawyers' perspectives on the legal system influence women's interpretations of their grievances, demands, and opportunities, as well as their ability to assert their rights. Since much of the existing literature on the legal complexities of divorce for women in countries which have Islamic family law focuses on divorce-seeking women's experiences with judges and mediators (Basu, 2012; Essop, 2022; Giunchi, 2022; O'Shaughnessy, 2009; Solanki, 2011), it is important to understand how women's approaches to their divorce petitions are influenced by lawyers, as intermediaries between women and the legal system. As Li (2015) argues, lawyers "can either apply established legal terms and categories to frame women's grievances and stake out claims accordingly, or [they] can challenge such terms and categories in search of new frontiers in women's empowerment" (p. 156).

Third, I also explore the extent to which lawyers' approaches align with women's expectations. Looking at how legal representation is experienced from the client's perspective, this dissertation also contributes to the limited literature on procedural justice in the context of lawyer-client relations (Cunningham, 2013; Howieson, 2008; North & North, 1994; Tyler, 1988) and the predominantly theoretical literature on client-centered lawyering (Binder & Price, 1977; Dinerstein, 1990; Ellmann, 1986; Jacobs, 1997).

Fourth, this study sheds light on the factors that inform lawyers' approaches to using legal strategies, such as rights assertion and individual litigation, to contest the

gender inequality ingrained in family law and perpetuated by judicial practice. By exploring these factors, my study engages in current debates surrounding the potential and limitations of legal mobilization by lawyers operating within authoritarian regimes (Chua, 2012, 2019; Moustafa, 2014; Van der Vet, 2018), as well as the barriers that may impede legal mobilization efforts (De Fazio, 2012; Hilson, 2002; Michel, 2020; Vanhala, 2012, 2018). I shift the attention from legal mobilization by cause lawyers to the everyday practices of non-cause lawyers in authoritarian regimes and their approaches to legal mobilization, which have received comparatively less scholarly scrutiny.

In what follows, I provide a brief overview of the theoretical debates that have guided my study of family lawyers' approaches to women's divorce requests in Iran.

Theoretical Debates

This dissertation engages with five theoretical debates. First, it draws on the existing literature concerning the role of lawyers in dispute transformation and resolution. Second, it engages with the literature that explores the potential of lawyer-client relationships to empower and/or perpetuate the disadvantaged position of clients, particularly those belonging to marginalized groups. Third, it draws upon theories that conceptualize gender as an institution and a primary frame to explore how gender influences lawyer-client interactions and how it is reinforced and/or disrupted within lawyer-client relationships. Fourth, this study engages with the literature on legal mobilization within authoritarian regimes, highlighting the potential

for and barriers to legal mobilization in such contexts. Finally, it builds upon the existing literature on mobilization efforts to reform family law in Muslim countries, focusing on the barriers and facilitators to reform.

Lawyer-Client Relationships

In this section I discuss the existing literature concerning lawyer-client interactions, with a specific focus on the pivotal role that lawyers play in shaping clients' understanding and approaches regarding disputes. I also explain some of the approaches employed by lawyers when interacting with their clients, thereby bringing into focus the potential outcomes that arise from these interactions. Additionally, I emphasize how these interactions can either reinforce the disadvantaged position of clients or act as a catalyst for their empowerment.

Lawyers and Dispute Transformation and Resolution

From the early stages of dispute emergence and its subsequent transformation, lawyers actively participate in their clients' decision-making processes. Disputes are social constructions and, therefore, not fixed or static entities (Felstiner et al., 1980). They are shaped and transformed through a complex process known as "dispute transformation." Felstiner and colleagues (1980), who are recognized as seminal scholars in the socio-legal field, argue that understanding the social structures of disputing requires a close examination of the early stages of disputes. The authors argue that the dynamics of disputes are often shaped through the sequential process of

“naming,” “blaming,” and “claiming.” According to this paradigm, individuals must first perceive an experience as injurious, subsequently attribute responsibility to another party, and finally seek remedy or redress from the responsible party for their grievance (Felstiner et al., 1980). These stages mark the progression of disputes towards the potential development of a legal case or the pursuit of alternative avenues.

In the process of dispute transformation, the parties to the dispute are considered the “central agents,” and their progression from one stage to another is influenced by various factors, such as their behaviors, personal characteristics, interests, social positions, relationships with each other, and ideologies (Felstiner et al., 1980; Genn & Paterson, 2001). In transitioning among stages, “third parties,” also referred to as “audiences” by some scholars (Felstiner et al., 1980; May & Stengel, 1990; Șerban, 2014), or as “negotiating audiences” by others (Olesen & Hammerslev, 2023), can have a direct or indirect influence on the transformation process. Having the support of an audience throughout the transformation process can be challenging for injured parties, particularly if they belong to a socially marginalized group (see Shdaimah, 2011).

“Professional” negotiating audiences, such as lawyers, are known to have a significant impact on the way legal disputes develop. Lawyers’ conversations with clients often follow a common pattern, which can confer legitimacy on specific modes of comprehension, behavior, and legal approaches while dismissing others (see Blumberg, 1967; Felstiner et al., 1980; Flood, 2013; Li, 2015; Miller & Sarat, 1980; Sarat & Felstiner, 1986, 1988; Travers, 1997). Lawyers typically assist the injured

party in categorizing or naming their legal problem, emphasizing the exclusion of emotions and extraneous factors from the matter at hand (Sarat & Felstiner, 1995). Moreover, lawyers may interpret grievances in a way that shapes their clients' decisions to align with the lawyers' own interests (Felstiner et al., 1980; Relis, 2009) or the expectations of their fellow practitioners (Menkel-Meadow, 1985). This initial categorization by lawyers could potentially "cool out" legitimate grievances and place them into a more manageable legal category (Sarat & Felstiner, 1986, 1995). Additionally, this categorization serves to prevent unpredictability and delays in the dispute resolution process (Mather & Yngvesson, 1980; Michelson, 2006; Sarat & Felstiner, 1986, 1995). Additionally, it serves to facilitate negotiations (Menkel-Meadow, 1985).

In order to take control over the meanings associated with clients' stories, lawyers focus the conversation on "specific professional linguistic codes" and translate injured parties' concerns into "legally relevant matters" (Carrie Menkel-Meadow, 1985; Olesen & Hammerslev, 2023, p. 133). As agents who "hold the keys that open or close the gates of the legal system" (Jacob, 1986, p. 188, cited in Martin & Daniels 1997, p. 26), lawyers educate or mislead individuals on the practical limitations of legal remedies. As such, they may discourage clients from pursuing claims or even question the availability of remedies (Felstiner et al., 1980). This approach can be framed as setting more "realistic" and "reasonable" goals and expectations for their clients (Mather et al., 2001, p. 97; Michelson, 2006; Sarat & Felstiner, 1995, p. 53). While clients may have a generalized belief in the impartiality

and accuracy of legal rules and institutions (Sarat & Felstiner, 1986), lawyers strive to inculcate a sense of legal realism in their clients. From lawyers' perspectives, justice sometimes must be reduced to what the law can practically provide (Sarat & Felstiner, 1986). For instance, divorce lawyers shape clients' stories to align with their own perception of legal reality (Sarat & Felstiner, 1986, 1995) or to satisfy their expectations of reasonableness (Mather & Yngvesson, 1980; Mather et al., 2001).

Due to the pivotal role played by lawyers in interpreting and assigning meanings to their clients' grievances and determining the legitimacy of claims and validity, lawyers have the potential to limit clients' autonomy, reinforce existing power structures, and/or empower them throughout this process, particularly when those clients belong to disadvantaged groups. In response to the conventional paradigm that prioritizes lawyers' professional judgment and expertise over clients' preferences (Gordon, 1988; Simon, 1991; Zacharias, 2004), a shift towards a "client-centered model" emerged in the United States during the late 1970s. This alternative approach advocates for establishing meaningful lawyer-client relationships that promote clients' autonomy and empowerment, deviating from the historically paternalistic and adversarial approach to litigation (Binder et al., 2004; Binder & Price, 1977; Dinerstein, 1990).

The client-centered model comprises four main components, namely: recognizing the significance of non-legal factors in the client's case, comprehending the client's perspectives and values, limiting the role of lawyers' professional expertise, and collaborating with clients to facilitate informed decisions and develop

legal strategies (Binder & Price, 1977; Ellmann, 1986; Freedman, 2011). Client-centered lawyering has inspired other approaches to legal representation that aim to empower clients and their communities, such as rebellious lawyering (Lopez, 1992) and movement lawyering (Cummings, 2020), all of which fall under the broader framework of community lawyering (Ancheta, 1993).

The approach that the lawyer takes in representing a client becomes more critical when representing individuals who face multiple and intersecting disadvantages, as it has the potential to perpetuate the very power dynamics they seek to challenge. While lawyers who represent marginalized individuals use the law to empower them, they may perpetuate the marginalization of clients within a “supporting and caring context” where “the perpetrator of the subordination is one who the client views as a helper or a champion” (Binder et al., 2004; Binder & Price, 1977; Dinerstein, 1990); to address this concern, some argue against the concept of “regnant lawyering,” which assumes that lawyers possess superior knowledge to determine what can be achieved for the client, who is viewed as “the passive, relatively powerless layperson” (Ancheta, 1993, p. 1370; Lopez, 1992). Instead, adopting a client-centered approach in legal representation is advocated, particularly for disadvantaged groups, as it has the potential to enhance individual client autonomy, empower economically and politically marginalized clients, and lead to more favorable outcomes for clients (Dinerstein, 1990). This approach is recommended when representing low-income individuals (Dinerstein, 1990; Lopez, 1992; Marshall, 2000), survivors of domestic violence (Bryant & Arias, 1992; Carey

& Solomon, 2014; Stoevers, 2012), victims of human rights violations (Haynes, 2006), and other similarly situated groups. By adopting a client-centered model, lawyers can not only empower their clients but also help prevent their re-victimization (Haynes, 2006; Stoevers, 2012)

In the context of family law cases, such as divorce and child custody battles, family lawyers may play a dominant role in the lawyer-client relationship, potentially making decisions for their clients instead of empowering them to make their own choices (Mather et al., 1995). However, it is important to recognize that the power dynamic between lawyers and clients is not fixed but rather fluid (Sarat & Felstiner, 1995), and their approaches can vary along a spectrum from a client-centered to a lawyer-centered approach.

While the concept of client-centered lawyering is theoretically grounded as an effective approach to legal representation, its implementation in practice can be complex and challenging. Although the theory emphasizes that the client should be the central focus of the lawyer's work, in practice, individuals from marginalized communities, such as people of color and women, may still find themselves marginalized within the lawyer-client relationship. This is due to the limited consideration of how the intersectionality of a client's identity may influence the dynamics of the lawyer-client relationship within the client-centered approach (Jacobs, 1997).

The literature on client-centered lawyering has primarily focused on theoretical discussions and debates (Lawton, 2015; Miller, 1994), and there has been a lack of

empirical research on the challenges associated with its implementation. Shdaimah's (2011) empirical study of "progressive lawyering" within the realm of poverty law offers a noteworthy contribution by shedding light on the intricate dynamics of client-centered lawyering in practice. While client-centered lawyering may seem ideal in theory, the "situated practice" of "progressive lawyers" demonstrates the inherent complexities involved in representing marginalized clients, particularly in finding the right balance between clients' autonomy and the lawyer's own professional expertise (Shdaimah, 2011, p. xiii). The study highlights the necessity for lawyers dedicated to social justice to adeptly navigate the inherent tensions between empowering clients, upholding their autonomy, and effectively assessing their capacity to independently engage in decision-making and take autonomous actions (Shdaimah, 2011).

A notable gap in this reviewed literature is the absence of clients' perspectives on client-centered lawyering, as underscored by scholars like Lopez (1996) and Shdaimah (2011). This gap in the literature has led to a limited understanding of how clients actually experience and perceive client-centered lawyering in practice. By incorporating clients' perspectives, researchers can explore how clients define and understand concepts such as "empowerment" and "best interests." This also enables researchers to identify the factors that shape clients' perceptions of the performance and effectiveness of their legal representation.

Another gap in the reviewed literature pertains to the absence of a gender perspective in the study of lawyer-client interaction, particularly in the context of dispute transformation and resolution. This research specifically aims to address this

gap by investigating how gender influences lawyers' perceptions of women's grievances, needs, and expectations. Moreover, the current study seeks to explore how lawyers' approaches to negotiation and their settlement strategies may perpetuate and/or disrupt gender inequality, which is embedded in every society. To answer these questions, it is necessary to first establish a clear understanding of the concept of gender and how it is being conceptualized within the context of this study.

Gender as a Social Institution

Legal professionals' practices, decisions, and advice to clients are particularly important sites in which hegemonic gender beliefs are reinforced, problematized, and reconstructed. Studies on the legal processing of gender-based violence complaints have revealed that prosecutors and the police evaluate the legitimacy of the survivors' claims "within bounded societal, political, and legal norms about gendered behavior, sexuality, and crime" against the characteristics of the "ideal victim" (Christie, 1986; Corrigan & Shdaimah, 2016, p. 447; Du Mont & Myhr, 2000; Frohmann, 1991, 1997). Similarly, in the context of workplace discrimination cases, this evaluation process reinforces gender beliefs about "normative" gender behavior, as lawyers construct their cases around race and gender categories, which clients must then conform to (Berrey et al., 2017). In the context of judicial decision-making in the US, studies illustrate that women who have suffered domestic violence and are engaged in child custody disputes encounter judges whose gender biases taint their decision-making, even though the law appears ostensibly gender neutral (Bemiller, 2008; Czapanskiy,

1993; Meier, 2002; Meier & Dickson, 2017; Slote et al., 2005). Studies on the implementation of reformed family laws in Muslim countries have demonstrated that judges may still rely on “gendered legal discourse,” such as stereotypes about women’s rationality and different gender roles for husbands and wives, despite reforms aimed at ensuring gender equality (Al-Sharmani, 2009; Basu, 2012).

Despite the extensive literature on the role of implicit and explicit gender biases in legal decision-making, the potential for family lawyers to demonstrate bias against women in divorce proceedings has yet to be fully explored. A recent study has attempted to fill this gap by examining the impact of gender bias on family lawyers’ decision-making in divorce cases, specifically regarding the division of marital assets (Shinall, 2018). Although women’s relatively disadvantaged outcomes after divorce have been linked to their inclination to adhere to traditional gender roles during marriage, particularly the role of caregiver, the findings of this experimental vignette study indicated that gender bias significantly affected asset allocation, with male breadwinners being awarded a greater share of the marital estate (Shinall, 2018). This study also revealed that both male and female participants demonstrated “at least *some* bias against women in the divorce setting” (Shinall, 2018, p. 1901). While this study specifically examines the impact of lawyers’ gender biases on the economic disparity between men and women following divorce, there remains a significant gap in the exploration of how gender frames other decisions and advice provided by family lawyers. Moreover, while the reviewed literature has examined the influences of gender bias on the behavior, decisions, and practices of legal actors, it has often

overlooked the discussion on the mechanisms by which gender beliefs specifically bias the expectations and behaviors of these actors. Understanding how gender bias operates requires a precise conceptualization of gender and its functioning.

As a social institution (Martin, 2004), gender is embedded “not just in our personalities, our cultural rules, or institutions but in all of these” (Risman, 2004, p. 433). It is embedded in real, symbolic, and discursive ways. From a social constructionist perspective, gender is (re)constructed, enacted, negotiated, and disputed on the individual, interactional, and institutional levels (Risman, 2004). Framing gender as a social institution allows for an examination of power differentials and dynamics operating at multiple layers of society (Martin, 2004, p. 1258). As an axis of power, gender operates in conjunction with intersecting axes of oppression, establishing a hierarchical framework that shapes societal organization. Moreover, this conceptualization recognizes the simultaneous role of structural forces and human practices/agency in the ongoing (re)construction of gender. In order to comprehensively understand the persistence and reinforcement of systemic gender inequality, it is necessary to conduct an in-depth exploration of how gender is constructed and maintained at different levels.

In everyday interactions, appropriate gender behaviors and expectations are communicated and ideal femininities and masculinities are situationally accomplished through “doing gender” (West & Zimmerman, 1987). As Butler (2004) puts it, “One does not ‘do’ one’s gender alone. One is always ‘doing’ with or for another, even if the other is only imaginary” (p. 1). Gender is always done in relation to others, and

“those who fail to do their gender right” (Butler, 1990, p. 178) or to comply with norms of femininity or hegemonic masculinity (Connell & Messerschmidt, 2005) are stigmatized and punished as “gender deviants.” Ridgeway (2009, 2011) highlights the significance of social interactions as the primary driver of gender inequality.

Ridgeway (2011) argues that gender functions as a “primary cultural frame” that provides individuals with a fundamental source of information as they navigate various social obligations and activities. In any given situation, “gender frames” or “background expectations”—which operate as an unconscious cognitive sorting process—can become salient (Ridgeway; 2009, p. 150; 2011, p. 70). While the gender frames employed by individuals can vary considerably based on historical, cultural, and situational factors, all such framing efforts are geared towards dividing the world into ostensibly natural masculine and feminine realms, capabilities, and behaviors (Ridgeway, 2011).

At the institutional level, gender, as a social institution, is intricately interconnected with other institutions such as religion and family (Martin, 2004). In the family context, gender norms are enforced not only by couples, but also by society as a whole (Connell, 2011; Risman, 1998). Thus, deviation from the prescribed gender expectations may result in social disapproval and stigmatization (West & Zimmerman, 1987). Additionally, the intertwined nature of the relationship between gender and the state facilitates the codification of gender norms into laws, signifying the state’s influence and dominance over various institutions, including family, religion, and gender (Martin, 2004, p. 1259). In the context of family law, the establishment of legal

identities based on gender within the institution of marriage, accompanied by a predefined set of rights and responsibilities, highlights the interplay between gender norms and legal frameworks (Al-Sharmani, 2017). This institutionalization of gender norms within family law reinforces gender inequality by (re)constructing and reinforcing societal expectations regarding gender roles and behaviors.

The institutionalized nature of hegemonic gender beliefs presents a challenge for individuals who wish to resist them, as they often “unwittingly” comply with these beliefs, thereby contributing to the perpetuation of gender inequality (Ridgeway, 2011, p. 85). In other words, since gender structures are deeply embedded in various sectors of social life, such as practices, images, ideologies, and power distributions (Acker, 1992), it is impossible for everyday practices to be completely devoid of gender structures. Even attempts to contest, renegotiate, or redefine gender relations are developed “within a set of concrete constraints that reveal and define the blueprint” of what Kandiyoti (1988) calls the “patriarchal bargain” (p. 275). Within this framework, endeavors towards achieving gender equality are conducted within a hierarchical system, ultimately reifying women’s subordination and perpetuating gender inequality (Hasso, 2014). Thus, even when laws appear to be gender neutral, gender inequality cannot be undone. Mehra (1998) argues that even when laws seem objective, “they are mediated through the traditional gendered notion of women and social customs, thereby (re)producing within the ‘objective’ legal order, norms that closely parallel the social structure” (p. 95). This mediation can be done by legal actors. Therefore, to understand the persistence of gender inequality within a social context, it is essential

to explore how gender is perceived, reconstructed, reinforced, and disrupted across different levels. This includes examining the interactional level where lawyer-client interactions occur.

Legal Mobilization for Social and Legal Change

As lawyers engage in the process of dispute transformation, they have the ability to reshape their clients' demands and expectations, potentially escalating the intensity of disputes (Mather et al., 2001). Amplifying disputes by lawyers is driven by diverse motivations such as the pursuit of group interests or the advancement of specific causes (Sarat & Scheingold, 1998, 2001, 2005), which may prompt lawyers to strategically mobilize the law as a tool. Lawyers employ a range of "social, professional, political, and cultural practices" to mobilize the law, with the aim of either propelling reforms forward or obstructing them (Marshall & Hale, 2014, p. 303). Mobilizing the law to advance or counter social and legal reform can be part of everyday legal practices (Etienne, 2005).

Legal mobilization can be defined in various ways, depending on the context of the research. In this study, the term "legal mobilization" is defined in line with Vanhala's (2011) conceptualization, which refers to the process through which individuals or groups employ "legal norms, discourse, or symbols to influence policy or behavior." Since this study focuses on individual lawyers, legal mobilization pertains to the use of legal means by individual lawyers. This includes both formal actions, such as filing a case, as well as quasi-formal actions, such as participating in

mediations, engaging in dispute resolution processes, providing legal services to clients, educating them about their rights, and actively encouraging them to assert their rights (Chua, 2019; McCann, 2006).

Scholars have approached legal mobilization from various perspectives, examining its effectiveness in driving social and legal changes (McCann, 1994; McCann & Silverstein, 1998; Rosenberg, 2008; Scheingold, 1974), the capacities of litigants and organizational support in shaping mobilization's methods, objectives, and success (Epp, 1998; Galanter, 1974; McCann, 1994), the impact of legal opportunity structures on the success or failure of legal mobilization (Andersen, 2006; De Fazio, 2012; Fuchs, 2013; Hilson, 2002; Vanhala, 2012, 2018), and the role of political context in facilitating or hindering legal mobilization (Chua, 2012, 2015; Tam, 2012; Van der Vet, 2018). In particular, my dissertation is in conversation with the growing literature on legal mobilization in authoritarian regimes by focusing on the approaches of legal actors to legal mobilization.

Socio-legal scholars have questioned the efficacy of legal mobilization in inducing social and legal changes, citing limitations such as the constrained capacity of courts to bring about social reform, the possibility of diverting attention from other non-legal tactics, and the potential for backlash or counter-mobilization (Rosenberg, 2008; Scheingold, 2004). However, the strategic use of legal tactics and the “radiating effects” of legal mobilization, including litigation, have made legal mobilization a potent tool for effectuating change in policy domains and fostering public awareness (Andersen, 2006; Galanter, 1983; McCann, 1994; NeJamie, 2011; Silverstein, 1996).

The double-edged role of legal strategies suggests that while court victories may not always result in immediate social and legal change (Keck, 2009; McCann, 1994), rights-talk and litigation can facilitate the formation of rights-based movements (McCann & Silverstein, 1998). Additionally, legal proceedings can ignite a sense of rights awareness among movement members and evoke both resentment and hope (Levitsky, 2006). Legal mobilization also has the potential to enhance access to justice for marginalized groups (Epp, 1998; Merry, 2003; Wilson & Rodríguez Cordero, 2006). For instance, in the context of gender equality, legal avenues have been strategically utilized, both collectively and individually, to challenge wage discrimination (McCann, 1994) promote gender equality in the workplace (Fuchs, 2013; Wang & Liu, 2020; Woodward, 2015), advocate for gender equality in family law (Subramanian, 2008; Zaki, 2017, 2018), and combat violence against women (Göksel & Morse, 2022; Millns & Skeet, 2013).

While legal mobilization is more prevalent in the US and other democratic European countries, legal actors in authoritarian regimes have not overlooked the potential of legal mobilization.

Legal Mobilization in Authoritarian Regimes

In non-democratic regimes, where the law and courts serve the interests of the state and exert its power, ordinary people as well as activists may face significant obstacles “to defend or develop those rights” (Epp, 1998, p. 18; Tam, 2012) because law and court are often utilized to subvert and restrict rights rather than protect them

(Jones, 2006; Moustafa, 2007; Rajah, 2012). Thus, advocates under authoritarianism have to overcome challenges such as unfair trials and repressive laws that are applied arbitrarily (Dauce, 2015; Pils, 2014; Stern, 2017; Van der Vet, 2018). Moreover, studies on legal mobilization under authoritarianism indicate that in challenging authoritarianism's laws and policies, rights advocates confront obstacles that are less likely to be encountered in liberal democracies. Threats, violence, and even death are a few of the risks that may deter advocates from taking action (Chua, 2019; Lemaitre & Sandvik, 2015; Stern, 2017; Van der Vet, 2018). For instance, women's rights activists in Columbia are at risk of gender-based violence and torture for challenging gender norms and/or engaging in political activism (Lemaitre & Sandvik, 2015). In Russia, human rights advocates face arrests, arbitrary criminal prosecutions, and treason charges (Van der Vet, 2018). Outspoken and politically inclined lawyers in China are threatened with disbarment, violence, and detention (Stern, 2017). In Myanmar, authorities have passed laws to contain the opposition, human rights discourse, and civil-political liberties (Chua, 2015).

Despite the constraints imposed by authoritarian regimes, legal actors have relied on legal mobilization as a form of resistance. The literature on legal mobilization under authoritarianism highlights that lawyers employ a range of strategies to oppose and resist arbitrary state power, unfair laws, and policies (Chua, 2019). Legal advocates engaging in resistance through the courts strategically utilize legal strategies to transform the courts into platforms for resistance, challenging the subordinate role of courts to authoritarian regimes and turning them into "lively arenas

of contention” (Chua, 2019; Kazun & Yakovlev, 2019; Moustafa, 2014, p. 282; Van der vet, 2018). For instance, Wilson (2017) observed that during the Ukrainian revolution of 2013–14, cause lawyers provided pro bono legal services to arrested protesters, challenging the state’s efforts to suppress the protests. In the same vein, during the recent uprising in Iran, lawyers provided pro bono legal aid to arrested protesters (Esfandiari, 2022),² further highlighting the use of legal mobilization as a tool of resistance against authoritarianism.

Where pursuing rights-based claims in court is not fruitful, litigation within the courtroom is often de-emphasized and legal actors employ alternative strategies such as public outreach and consciousness raising (Chua, 2018). For instance, Russian lawyers, when confronted with repressive laws targeting human rights NGOs, made strategic choices that included engaging with courts, launching educational platforms, and reaching out to the media (Van der Vet, 2018). However, in cases of treason, where acquittal rates were low, Russian lawyers avoided litigation and relied merely on public outreach efforts (Van der Vet, 2018).

Unfavorable constraints may compel lawyers to incorporate resistance into their everyday practice by developing less visible strategies (Batesmith & Stevens, 2019; Liu & Halliday, 2011; Nesossi, 2015; Stern, 2017). For instance, Batesmith and Stevens’ study (2019) on “everyday lawyering” in Myanmar reveals that by

² The regime arrested thousands of protesters to spread fear among dissidents and stifle continuous protests.

representing clients in routine cases, traditional lawyers uphold their clients' dignity by enabling them to share their stories, thereby empowering clients as part of their everyday acts of resistance. Similarly, Liu and Halliday's study (2011) shows that because of structural constraints, grassroots Chinese criminal defense lawyers who hold liberal values pursue justice and legal proceduralism in their everyday practice, thereby engaging in incremental rather than revolutionary process.

Lawyers are not the only participants in legal mobilization; however, they can play a pivotal role as catalysts or gatekeepers of mobilization (Gallagher, 2006; Hickle, 2022; Marshall & Hale, 2014; McEvoy, 2011; Sarat & Felstiner, 1986; Shdaimah, 2011). Among them, cause lawyers emerge as significant actors who mobilize the law to either advance or challenge social and legal transformation (Sarat, 2005; Sarat & Scheingold, 2006, 1998, 2005, 2006). The extensive literature on cause lawyers around the world suggests that interconnected factors, including lawyers' perceptions of their professional responsibility, their views of the legal system, their views of and relationships with clients, their motivations and goals, and social and political environment in which they operate, have a significant bearing on their decision-making and choice of strategy (Abel, 1995; Hickle, 2022; McEvoy, 2011; Michelson, 2006). However, there has been a lack of focus on how non-cause lawyers who do not intentionally work to preserve the status quo navigate their everyday practice in authoritarian regimes and what factors inform their approaches. Given that non-cause lawyers constitute the majority of lawyers in every setting, studying their approaches to legal mobilization can provide insights into their role in perpetuating or

challenging social and legal inequality. While in civil law countries courts do not actively participate in agenda setting and social reform, court decisions, even in individual cases, can contribute to the development of legal consciousness and have the potential to challenge the status quo. Thus, although lawyers may not have the direct power to challenge existing laws or enact systemic changes through the courts, they can leverage the available legal framework and exploit legal loopholes to advance the individual interests of their clients.

Legal Opportunity Structures

In addition to the political context, the level of legal mobilization through litigation can be varied based on the availability of legal opportunities, including both the structural elements and the contingent aspects of the legal system (Andersen, 2006; De Fazio, 2012; Hilson, 2002; Vanhala, 2012; Wilson & Rodríguez Cordero, 2006). Hilson (2002) developed the concept of “legal opportunity structures” (LOS) to analyze elements within the legal system that indicate the extent of openness or closure of the legal system to legal mobilization. Moreover, LOS theory offers predictions about the prevalence of a strategy among advocates and social movements “when all other things are equal, and where structural constraints and incentives in a country favor a particular strategy” (Vanhala, 2018, p. 385).

The concept of LOS encompasses three key components—access to the legal system, justiciable rights, and judicial receptivity—which collectively shape the strategic choices made by activists and social movements regarding the adoption of

legal mobilization and its prospects for achieving desired outcomes (De Fazio, 2012). Access to the legal system is defined in terms of low procedural barriers, the availability of resources, and the eligibility of individuals and groups to initiate litigation (Andersen, 2006; De Fazio, 2012; Fuchs, 2013). Justiciable rights are a prerequisite of rights-based claim making. More specifically, legal systems have to not only define rights but also define mechanisms for securing rights through courts (De Fazio, 2012). Finally, for advocates to consider courts as a powerful arena for effecting change, the judiciary must indicate receptivity to rights-based claims. Judicial receptivity is defined in terms of the ideological and political preferences of judges (De Fazio, 2012; Hilson, 2002). For instance, politically conservative judges in the US have been blamed for the lack of success of legal efforts to outlaw Jim Crow legislation (De Fazio, 2012). Similarly, the failure of the legal mobilization by the environmental movement in the 1990s in the UK was attributed to judges who had politically conservative agendas (Hilson, 2002). It is worth mentioning that while access to the judiciary and justiciable rights are among the more stable and structural dimensions, judicial receptivity is often understood as the dependent variable (De Fazio, 2012; Hilson, 2002; Vanhala, 2012, 2018).

Studies on legal mobilization demonstrate that unfavorable LOS constrain the ability of activists to mobilize through the judiciary, leading them to either refrain from challenging unjust laws or redirect their efforts towards alternative and potentially contentious methods, such as engaging in protest (De Fazio, 2012; Hilson, 2002). For instance, Fuchs's study (2013) examined the use of strategic litigation to

promote equal payment in four European civil law countries. The study found that Germany, due to the absence of explicit laws recognizing equal pay for equal work and several procedural barriers, had weak legal structure opportunities that were less conducive to legal mobilization. Hilson (2002) conducted a comparative analysis of four distinct social movements in the UK and found that the closure of political and legal opportunities during the 1990s led the lesbian and gay movement in the UK to use alternative tactics, such as protests, in response to discrimination against homosexuals at the workplace.

Legal opportunity structures have become a prominent framework for understanding legal mobilizations. Although this study does not aim to empirically test or apply this theory, certain dimensions of it can help elucidate the approaches of lawyers towards legal mobilization in Iran.

The reviewed literature on legal mobilization in authoritarian regimes offers valuable insights into the potential, limitations, and barriers associated with such mobilization. Given that the particular focus of this study centers on the mobilization within the context of family law in a Muslim-majority country, it is imperative to provide an overview of the endeavors to reform family law in similar contexts and to explain some of the context-specific barriers and facilitators to legal mobilization.

Legal mobilization and Islamic Family Law Reforms
Family law, serving as a legal framework that codifies gender relations, has emerged as a highly contentious and politically charged subject in numerous countries

across the Middle East and North Africa (MENA) region. Family law is often understood to be “the key to the gate of freedom and human rights for women” (Charrad, 2001, p. 5). Thus, advocates for women’s rights, particularly in the Middle East and other Muslim-majority countries, have prioritized the reform of family law due to its direct impact on women’s rights (Anwar & Rumminger, 2007; Charrad, 2001; Htun & Weldon, 2011; Moghadam & Gheytauchi, 2010; Sadiqi, 2008). In these contexts, the reform initiatives have been directed towards advancing more progressive understandings of Islamic laws, leveraging critical analysis of the construction of gender within Islamic legal theory (Ali, 2003; Mir-Hosseini, 1999, 2004; Safi, 2003). Activists and Islamic feminist scholars have made significant efforts to highlight the connection between discriminatory laws and the gender-biased assumptions and frameworks employed by dominant classical Muslim jurists in interpreting classical fiqhi rules. These efforts also shed light on the marginalization of progressive perspectives within this context (Ali, 2016; Mir-Hosseini, 2004). However, the impact of these endeavors varies across countries, with Tunisia implementing laws that prohibit polygamy (Grami, 2008), Morocco setting the minimum age of marriage at 18 for both men and women (Zoglin, 2009), and Pakistan recognizing women’s right to unilateral (no-fault) divorce (Abbasi, 2017), while countries like Iran have seen limited changes despite advocacy efforts.

The extent of reform in family laws aimed at improving women’s status and rights in Muslim countries is influenced by a range of historical, social, and political factors (Esposito & DeLong-Bas, 2001; Pearl & Menski, 1998; Sezgin, 2023). More

specifically, factors such as democracy, colonial history, secularism, oil rents, women's political empowerment, ethnolinguistic and religious diversity, and political violence can contribute to the differences and variations in reform levels among Muslim-majority and minority countries (Sezgin, 2023). In a recent study examining cross-national and historical trends in Muslim family law reform, Sezgin (2023) identified the colonial background as a significant factor in both Muslim-majority and minority countries, with family laws being less reformed in former British colonies compared to former French colonies, although the latter are more likely to be democratic. Additionally, this study found that the relationship between democracy and reform is complex, with a positive and significant relationship between democracy and reform in Muslim-majority countries, but with an inverse relationship in Muslim-minority countries (Sezgin, 2023).

Moreover, the failure of family law reform in countries such as Iran can be attributed to the political institutionalization of religion (Htun & Weldon, 2015) and the arbitrary process by which Islamic traditions have been incorporated into laws (Tucker, 2008). Examining the relationship between egalitarian family laws and the state's approach to religion, Htun and Weldon (2015) found that family law reform can become a challenging task in countries where religion and politics are deeply intertwined and family laws themselves serve as symbolic representations of religious values. As Htun and Weldon (2015) put it, "when religion is institutionalized, patriarchal interpretations—and interpreters—of family law gain greater authority and more immunity to contestation" (p. 453). This phenomenon is evident in Iran, where

conservative religious discourse is employed by the state to serve two purposes. Firstly, it serves as a justification for gender-based discriminatory laws, and secondly, it helps construct a national identity that is positioned in opposition to Western ideals.

Notwithstanding the barriers and failures of reform, some studies show the significant role played by women's rights activists and groups in advancing legal reforms aimed at achieving gender equality in Muslim countries. These efforts have employed diverse strategies, including raising awareness of women's rights under religious laws through grassroots mobilization (see Bordat et al., 2011; Charrad & Stephan, 2020), forging alliances with sympathetic authorities and groups (see Al-Sharmani, 2017; Moors, 2003; Solanki, 2013), proposing model draft laws as part of lobbying and negotiation campaigns to drive change (see Zaki, 2017), and leveraging litigation to promote progressive interpretations of the law by judges (see Haider, 2000; Subramanian, 2008), among other tactics. While highlighting the efforts of cause lawyers and women's rights activists is pertinent, given their active role in propelling transformation, the role of ordinary lawyers, who handle family-related disputes, in perpetuating or disrupting gender inequality codified in family law has not been extensively explored in Muslim countries.

The Organization of the Dissertation

This dissertation is divided into seven parts. Chapter 2 provides an overview of the study's context. Following the 1979 revolution in Iran, women's rights, specifically women's rights under family law, became a primary target for the

revolutionary state. Since the 1979 revolution, the state has used legal means to institutionalize gender essentialism, perpetuating gender hierarchies and relations of dominance and subordination. As a result, women have faced discrimination, including limited job opportunities, enforced hijab, restrictions on contraception, and a lowered marriage age for girls, justified in the name of preserving Iranian cultural and religious values. In this context, the women's rights movement has confronted significant challenges due to the authoritarian nature of the state, which uses the judiciary to suppress and intimidate critics. Emerging from years of oppression and resistance against systemic gender-based discrimination, the current Woman, Life, Freedom movement represents the culmination of collective and individual efforts by Iranian women to challenge and overcome these injustices.

Chapter 3 outlines the methodology used in the study. In this chapter, I provide a thorough description of the sampling process, data collection procedures, data analysis methods, ethical considerations, and a reflexive statement on my positionality. Sixty in-depth phone interviews with family lawyers and divorced women in Iran form the empirical basis for this dissertation. I conducted most of the interviews during the summer of 2019, and completed data collection in the summer of 2022.

Chapter 4 delves into the strategies employed by family lawyers when dealing with divorce requests by women. Drawing on interviews with family lawyers, this chapter seeks to examine the approaches utilized by lawyers in such cases, as well as the factors that influence their strategies and decisions. Additionally, this chapter

highlights how most family lawyers “unwittingly” perpetuate gendered norms and expectations of married women, ultimately reinforcing the subordinate position of married women within the gendered structure of the family and perpetuating gendered legal discourses surrounding marriage and divorce.

Chapter 5 explores the possibilities and limitations of using legal means, such as rights assertion and individual litigation, to achieve social and legal reform in the context of family law in Iran, with a particular focus on non-cause lawyers. Through the development of a typology, this chapter explores the various factors that shape lawyers’ approaches to legal mobilization in confronting the deeply entrenched gender inequality within family law and the corresponding judicial practices. This chapter illuminates whether and how conventional lawyers utilize legal tactics when dealing with cases that are inherently political but appear to revolve around personal and private affairs.

Chapter 6 focuses on the experiences of divorced women who sought advice from or hired family lawyers during the divorce process. Drawing on interviews with divorced women, this chapter investigates women’s help-seeking behavior, including their reasons for seeking a lawyer and the criteria they use to select one. Additionally, the chapter analyzes women’s assessments of lawyers’ approaches to their needs and demands, comparing their own definitions of their best interests with those presented by the lawyers. The chapter also explores whether lawyers shifted women’s perceptions of their grievances, demands, and expectations. Chapter 7 concludes with a comprehensive analysis of the key findings of the study, elucidates its contributions

to the field, outlines the limitations of the research, and provides recommendations for women's rights activists in Iran.

Chapter 2

THE CONTEXT OF INQUIRY

In order to develop a comprehensive understanding of the gender inequality experienced by women in Iran within the domain of family law, this chapter provides an overview of the trajectory of family law, particularly divorce, subsequent to the 1979 revolution. By examining the changes in family law, the underlying factors contributing to these changes are elucidated. Moreover, this chapter explains some of the strategies employed by the women's rights movement in Iran to confront and challenge gender inequality, operating within the confines of an oppressive theocratic regime. The discussion of the difficulties and hindrances encountered by rights lawyers and women's rights activists in Iran enriches the comprehension of this study and underscores its significance.

Legalizing Gender Inequality

Despite the active involvement of women in the 1979 revolution in Iran, they have encountered significant legal, political, and social constraints since the establishment of the Islamic Republic (Mohammadi, 2007; Tohidi, 2016). Religion has subsequently emerged as a powerful political force, regulating the policies of the state regarding gender, as commonly observed in authoritarian contexts (Zubida, 2004). Justifying its discriminatory measures through conservative interpretations of religion, the state has

implemented systems of social control primarily influenced by male actors with the goal of subordinating women in both public and private spheres. This includes employing legal means to institutionalize gender essentialism and uphold gender hierarchies and relations of dominance and subordination. The preservation of religious values is cited as the rationale behind these limitations (Moghadam, 2002, 2003). Within this framework, the state links the protection of cultural and religious values to the maintenance of traditional notions of femininity, particularly expressed through women's attire, marriage customs, and sexual practices (Jaggar, 1998, p.7).

As Hoodfar and Sadr (2010) argue:

Religious doctrine has been (selectively) merged into the powerful, centralizing and historically authoritarian state in Iran in order to pave the way for the conservative religious vision of a 'good Muslim society.' Within this context women have been targeted as markers of identity and have been made the object of social and economic policies and restrictive legal reforms, with major resources directed to their implementation (p. 886).

There is an ongoing debate regarding the impact of these new laws and policies on women in post-revolutionary Iran. On the one hand, some scholars challenge the perspective that the process of Islamization in post-revolutionary Iran exclusively suppresses women, arguing that this viewpoint overlooks the complex and multifaceted changes that have taken place in women's lives since the 1979 revolution (Bahramitash & Esfahani, 2011; Ghamari-Tabrizi, 2016; Moghadam, 2003). These scholars highlight the positive outcomes resulting from the Islamization of society, such as the segregation of public spaces and schools, which provided new avenues for women's public participation and their increased mobility, particularly benefiting

women from religious backgrounds (Mir-Hosseini, 1999; Shahrokni, 2014).

According to Najmabadi (1997):

Almost two decades after the 1979 Islamic Revolution in Iran, against the deepest fears of many of the secular feminist activists of the revolution, not only have women not disappeared from public life, but they have an unmistakably active presence in practically every field of artistic creation, professional achievement, educational and industrial institutions, and even in sports activities (p. 59).

On the other hand, it can be argued that the process of Islamization has yielded varying degrees of satisfaction among women, as their demands and expectations regarding gender equality differ significantly. While certain aspects of the Islamization process may be empowering or beneficial to some women, others may view it as reinforcing gender inequalities and restricting their rights and freedoms. However, the state has not effectively addressed the diverse demands of different groups of women, who hold a wide range of concerns related to gender equality. Women's dissatisfaction and frustration with the gender policies of the state are evident in a national survey conducted by the Center for Women and Family Affairs (2015), wherein most women identified gender discrimination and unemployment as the primary challenges that have a significant impact on their lives. The culmination of this dissatisfaction has manifested itself in a significant manner through the ongoing uprising in Iran. This uprising was triggered by the tragic death of Mahsa (Zhina) Amini, a 22-year-old Kurdish woman, while in custody of the "morality" police. On September 13th, 2022, Amini was arrested on the grounds of not wearing her hijab "properly," which has brought to the forefront the profound issues and tensions related to gender in the

country. This movement serves as a stark reminder of how the state has failed to adapt its laws and policies to evolving social realities and falls short in addressing the rights and concerns of women.

While opinions vary regarding the impact of discriminatory laws and policies on women, particularly those pertaining to the regulation of public spaces, there is a broader consensus regarding the negative consequences of changes in family law on women. Secular and Islamic feminists alike converge in their criticism of specific provisions and implementation of family laws, emphasizing their discriminatory nature (Hoodfar & Sadr, 2010; Mir-Hosseini, 2012; Sameh, 2010). Thus, as discussed later in this chapter, numerous advocacy initiatives aimed at reforming family law have been spearheaded by Islamic feminists.

Gendered Family Law

The family, regarded as a fundamental patriarchal institution, holds a central position within Iranian society,³ serving as a key mechanism for maintaining male dominance. As such, safeguarding the integrity and stability of the family has consistently been a top priority for the state (Moghadam, 2003). In pursuit of this objective and to regulate gender relations and sexuality, the state has enacted a variety of legal measures, particularly within the realm of family law. Iran's family law confers substantial power and dominance upon husbands, expanding their authority beyond the confines of private affairs and allowing them to exert control over various

³ According to the Constitution, the family is “the fundamental unit of Islamic society” (Art. 10).

aspects of their wives' public and social lives, thereby upholding the patriarchal structure of the family. This includes making decisions related to employment, education, and international travel. Additionally, the law imposes restrictions on women's rights to divorce, reserving it as an exclusive privilege for men.

Consequently, Iran's family law can be characterized as a legal framework that institutionalizes and perpetuates patriarchal norms, further exacerbating the disadvantaged position of women in public and private. That said, as I will discuss further, it is important to note that the law does grant family court judges the authority to consider the unique circumstances of each case and exercise discretion in their decision-making process. This provision allows for a certain degree of flexibility in applying the law and considering the specific conditions of the individuals involved, thereby mitigating the discriminatory impact of certain provisions.

Before the 1979 revolution, Iran was among the few Muslim countries which had revised their family laws to ensure a more egalitarian approach. The 1975 reforms, influenced by the efforts of women's rights advocates, introduced equal rights to divorce for both women and men. This was achieved by incorporating a classical *Shi'a fiqhi* rule⁴ into the law, which required the "mandatory insertion of a stipulation in the

⁴ *Fiqh* is defined as "the human attempt to understand divine law (*shari'a*). Whereas *shari'a* is immutable and infallible, *fiqh* is fallible and changeable" (Esposito, 2021). In a more nuanced sense, *Fiqh* constitutes a regulatory schema, assimilating "religious ethical commands and precepts with rare legal sanctions that are a product of jurists' argumentation from primary sources of *shari'a*" (Fatemi, 2006, p. 283). In the Iranian legal context, the foundation of family law is derived from *Fiqhi* principles that have been formally institutionalized into law. Since family law is contingent on jurists' exegesis of *shari'a*, it is fluid (Mir-Hosseini, 2003).

marriage contract by which the husband gives the wife the delegated right to divorce under certain conditions” (Mir-Hosseini, 2012, p. 68). The 1975 Family Protection Act (FPA), an amendment to the 1967 Family Protection Law, made this condition mandatory in marriage contracts. Furthermore, the FPA brought about significant changes, including the termination of the unilateral right of men to divorce and receive child custody, and an increase in the minimum age of marriage from 13 to 18 years old (Mir-Hosseini, 2012). The abolition of the husband’s privilege of divorce represented a significant step towards gender equality in the context of divorce. However, in the aftermath of the revolution, the FPA became one of the early targets for revision. Within two weeks of the revolution, Khomeini’s office declared that the FPA was “non-Islamist” and called for the Islamization of family law (Mir-Hosseini, 2012). Subsequently, a different reading of *shari’a* was introduced into family law, leading to the rollback of numerous rights that had been granted to women under the FPA. By changing the law, the state has sought to not only uphold the institution of the family and restore women to their perceived “true and high” status in Islam but also to maintain and uphold men’s prerogatives under the principles of *shari’a* law (Ahmadi, 2006, p. 36). Mir-Hosseini (2012) posits that the process of “Islamization” of the law in Iran implied two simultaneous but contrasting developments. On the one hand, it served to validate and uphold specific mandates of *fiqh*. On the other hand, there were concerted efforts to protect and provide compensation to women in light of the potential challenges arising from this new approach. These efforts included the introduction of new standard marriage contracts and the incorporation of the notion of

“suffering and hardship” in the law to address the reluctance of clerical judges to grant divorces requested by women, thereby preventing further turmoil that arose from the initial revocation of the FPA (Mir-Hosseini, 2012, p. 69). However, in practice, this amendment replaced the authority of husbands with the discretion of judges, who often displayed reluctance and hesitancy in granting divorce to women (Mir-Hosseini, 2007).

The revised family law reinstated the exclusive right of men to divorce. According to the Iranian Civil Code, “a man can divorce his wife whenever he wishes to do so” (Art. 1133). However, he is obligated to pay *mahr* (husband’s dowry gift)⁵ and other monetary rights upon the request of his wife (Art. 1029). While women are entitled to *mahr* and can demand it at any time after marriage, obtaining the *mahr* can be challenging in practice. Since *mahr* is considered a form of debt, a husband can pay it in installments if he proves insolvency or bankruptcy. In cases where the husband lacks income or assets, he is not obligated to pay the *mahr* and is not subject to imprisonment for non-payment.⁶ The decisions regarding *mahr* payments are made by family court judges.

The subsequent legal changes introduced hurdles for women seeking divorce. Although wives retained the ability to invoke provisions stipulated in the marriage

⁵ *Mahr* is a gift promised to the wife by her husband at the time of marriage and plays a significant role in the divorce process.

⁶ While women mainly use *mahr* as a bargaining tool to urge their husbands to agree to divorce, the parliament has been preparing a bill to revise Article 1082 of the Civil Code making it harder for women to use *mahr* as leverage.

contract for self-initiated divorce, the husband was granted the authority to accept or reject the wife's request for divorce. If the husband consents, the couple can have a mutual consent divorce. However, if the husband withholds consent, the wife may pursue a fault-based judicial divorce based on specific grounds. Article 1130 of the Civil Code grants women the right to divorce, while vesting judges with discretionary authority to grant a divorce should the continuance of the marital relationship be unbearable and engender "hardship and suffering." The amendment to this article in 1982 aimed to establish women's entitlement to judicial divorce (Mir-Hosseini, 2007).

The inclusion of the term "hardship and suffering" in Article 1130, derived from *shari'a* principles (Mohaqheqh Damad, 2003), introduced ambiguities regarding the interpretation of this term. In response, the legislature sought to address this issue by providing specific examples of "suffering" and "hardship." In 1991, The Women's Commission of the Parliament proposed a bill that outlined certain conditions that could be considered as causing hardship in a marriage. Given the contextual nature of hardship and suffering, which varies across time and place, the legislature faced difficulties in anticipating all possible causes. Subsequently, in 2002, Article 1130 was revised to incorporate a *non-exhaustive* list of instances of hardship and suffering.⁷

⁷ According to Article 1130 of the Civil Code:

"The *osr-va-haraj* (intolerable suffering and hardship) mentioned in this Article refers to the conditions that make the continuation of [marital] life intolerable and difficult for the wife; the following circumstances, if proved in the relevant court, shall be considered as a case of *osr-va-haraj*:

1. Husband's desertion of the marital home for at least six successive months or nine months in a year without reasonable excuse.

Through the amendment of Article 1130, the legislature aimed to provide judges with flexibility in interpreting the law in a manner that could potentially address women's interests. The subjective nature of the criteria of "hardship and suffering" as outlined in the threshold of the article (Azim Zadeh Ardebili, 2009) grants judges the authority to exercise discretion and consider both subjective and objective factors when assessing women's hardship and suffering. This delegation of responsibility to judges allows for the incorporation of religious and social norms into their interpretations. Consequently, judges rely on these norms to determine hardship and suffering on a case-by-case basis (Mir-Hosseini, 2000). This, in addition to the broad language of the Article, has resulted in inconsistent interpretations and conflicting rulings in divorce cases. Furthermore, concerns have been raised regarding the ability of male judges to fully comprehend the experiences of women in terms of suffering and hardship (Azim Zadeh Ardebili, 2009). The combination of vague legal drafting and deeply ingrained gender ideologies within the predominantly male judiciary has created obstacles for women, leading to prolonged and contentious divorce proceedings.

Notwithstanding the obstacles encountered by women in seeking divorce, empirical studies indicate a higher proportion of divorce petitions are initiated by

2. Husband's addiction to drugs or alcohol that is detrimental to marriage and his refusal or the impossibility of forcing him to quit during a period assessed by a doctor as necessary for him to quit.

3. Husband's final sentencing to imprisonment for five years or more.

4. Husband's beating or any kind of repeated maltreatment that is intolerable to the wife, given custom and her situation.

5. His affliction with an incurable or contagious disease or any other affliction disrupting marital life.

The instances cited in this Article do not prevent the court from issuing a divorce on the basis of other instances where a wife's 'hardship' is established in the court."

women (Deutsche Welle, 2015; ISNA, 2020).⁸ This suggests a decrease in the social stigma associated with divorce or a reduction in its effectiveness. Government statistics reveal that in 2018, there was an average of one divorce for every 3.1 marriages (Tasnim News Agency, 2019). In 2017, the head of Iran Association of Social Workers identified divorce as one of the five most pressing social issues in Iran, alongside issues of drug addiction, unemployment, moral corruption, and inadequate housing (Tasnim News Agency, 2019). The rise in divorce rates can be attributed to a combination of cultural and structural factors. Attitudinal shifts in traditional gender-role norms, as well as women's increased participation in employment and education, have been identified as significant factors influencing divorce rates (Barzoki, Tavakoll, & Burrage, 2015; Sadeghi & Agadjanian, 2019).

Authorities have voiced concerns regarding the increasing rates of divorce. In 2014, the Vice President of the judiciary in Crime Prevention attributed this trend to the dissemination of feminist ideologies, implying that the diminishing submissiveness and obedience among women have contributed to the surge in divorce rates (Dehghanpisheh, 2014). In addition, the Vice President criticized the legislature for facilitating mutual-consent divorce, contending that it has mitigated the societal stigma associated with divorce (Dehghanpisheh, 2014).

⁸ Overall access to official data on divorce rates is difficult. In 2015, the Director General of Information and Demographic Statistics of National Organization for Civil Registration stated that the official divorce rate will not be reported to the public anymore since publishing the data does not resolve the matter and it rather might be detrimental (ISNA, 2016).

To address these concerns and protect the institution of the family, the judiciary has implemented a series of regressive changes. In 2015, it introduced the Official Instruction for Implementing the Family Protection Law, which underwent revisions in 2019. This Instruction mandates that couples seeking a mutual-consent divorce attend state-run counseling centers. The compulsory counseling not only prolongs the process of obtaining a mutual-consent divorce but also increases the likelihood of one party altering their decision. Given the challenges women encounter in pursuing unilateral divorce petitions, they often try to convince their husbands to pursue a mutual-consent divorce.⁹ Consequently, this new instruction can potentially have adverse implications for women. In 2019, the judiciary announced that divorces initiated by husbands were under control and that the number of mutual-consent divorces had decreased (Eghtesadonline, 2019). Thus, it appears as though these restrictions have not yet met the state's objectives for regulating divorce at the request of women.

The state's gendered policies and its conceptualization of gender within the realm of family law have encountered opposition from women's rights advocates over time. While the movement has achieved certain goals, the construction of women's rights at the intersection of gender, politics, and religion in Iran has presented significant challenges in enacting comprehensive reforms within the context of family law.

⁹ According to Article 1147 of the Civil Code, a "Mubarat" divorce occurs when the dislike is mutual.

Women's Rights Movement: Strategies and Challenges

The judiciary in Iran has served as “the linchpin of regime control over the popular will” (Mustafa & Ginsburg, 2008, p. 5). This has discouraged women's rights activists from pursuing legal reform through the judiciary. Consequently, in their pursuit of gender equality, women's rights advocates in Iran have employed diverse strategies aimed at challenging male dominance and privileges. They have utilized methods such as lobbying, grassroots mobilization, education, and protest organization, among others, in their efforts to challenge and transform the existing gender norms. Despite operating within the confines of a theocratic and non-democratic state characterized by significant structural limitations, these activists, both religious and secular, have actively contested deeply entrenched gender norms in different battlegrounds. Their efforts have encompassed a wide range of issues, including opposing compulsory dress codes, advocating for reforms in family law, pushing for the criminalization of gender-based violence, and contesting gender-based divisions of labor.

In their lobbying efforts, women's rights activists contest the male-centric interpretations of Islamic jurisprudence propagated by state-endorsed religious authorities. To navigate the state's skepticism towards secular and Western ideologies, they have sought to offer innovative interpretations of shari'a that promote gender equality (Mir-Hosseini, 2006; Moghadam, 2002; Tohidi, 2016). As Esposito (1999) points out:

The early years of Islamic women's activism [in Iran] generated the drive to rethink gender in Islam in new and sometimes radical ways.

Iran offers a good case study of reinterpretation (ijtihad) not simply of traditional theological and legal sources, but rather an effort that went directly to interpreting sacred text (p. xix).

Women's rights activists have actively engaged in lobbying efforts aimed at persuading politicians and religious authorities to reform laws related to inheritance, divorce, child custody, and gender-based violence, among others. Although "the ruling elite has [often] pursued its ambition of building an Islamic society based on its own gender vision" (Razavi & Jenichen, 2010, p. 840), these advocacy endeavors have resulted in certain achievements. These include the introduction of the "hardship" provision as a basis for divorce when the husband does not give consent, the implementation of national marriage contracts, and granting custody rights to widows of martyrs (Hoodfar & Sadr, 2010). Additionally, there have been reforms in inheritance laws to guarantee equal inheritance rights for both wives and husbands (Hoodfar & Sadr, 2010). However, in authoritarian contexts, the extent to which such lobbying efforts can effectively shape state policy and result in substantial changes is limited (Razavi & Jenichen, 2010).

Women's rights activists in Iran have also implemented a "bottom-up" approach, focusing on grassroots awareness-raising as a significant strategy (Barlow & Akbarzadeh, 2018). An important initiative within this framework was the "One Million Signatures Campaign," which aimed to challenge discriminatory laws by actively engaging both men and women and raising public awareness regarding gender-based legal discrimination (Hoodfar & Sadeghi, 2009; Sameh, 2010). Furthermore, women's rights advocates have made significant investments in

education and outreach. In the context of family law, through educational workshops focused on the specific terms of the marriage contract (Human Rights Watch [HRW], 2019, 2020), they provide women with knowledge on navigating legal limitations and safeguarding their rights during and after marriage. For instance, they encourage women to enter into separate contracts that secure their basic rights, such as the right to divorce without requiring their husbands' consent.

To navigate political repression, the women's rights movement has increasingly embraced informal and decentralized forms of activism, integrating activism into everyday life. Both activists and ordinary women have utilized social media as a means of resistance and as a platform to express their discontent and advocate for gender equality. While individualized activism may be less visible and susceptible to suppression, its influence has permeated society at large. As Susan Tahmasebi, a women's rights activist puts it:

The interesting thing is that the demand for equality and legal reform is now commonly expressed by all.... everybody is talking about whether they're committed to it or not, but this shows that everyone, including within the government, recognizes that women's equality and inclusion is a priority and demand, which requires responsiveness... (Jones, 2013).

In line with their efforts to navigate political repression, the women's rights movement has strategically sought to shift the focus from the political nature of their demands to the legitimacy of these demands as reflective of broader societal concerns (Moghadam & Gheyttanchi, 2010, p. 282). By emphasizing the social dimensions of their struggles, activists have tried to garner support from a wider range of individuals and

communities. This approach has enabled them to transcend the confines of formal political channels and engage with the public on issues related to gender equality.

Activists for women's rights face significant challenges because they are operating within an authoritarian regime characterized by the politicization of religion and the instrumentalization of the judiciary as a tool for suppressing dissent (Milani, 2015) and exerting social control (Mustafa & Ginsburg, 2008). As Lisa Hajjar (2004) observes, where religious law becomes the governing law and state power is wielded in the name of religion, "critiques or challenges can be regarded and treated as heresy and apostasy" (p. 27). In this context, women's rights activists face significant hurdles regardless of the strategies they employ. Their efforts are viewed by the state as a "harmful feminist deviation instigated under Western influence" (Tohidi, 2016, p. 3), posing threats to national security, public values, and morality. As a result, these activists and rights lawyers advocating for family law reform, mobilizing civil society, raising awareness, and handling politically sensitive cases often encounter arrest, detention, and prosecution.¹⁰ Moreover, women's rights defenders may experience disbarment or temporary suspension of their legal license based on fabricated charges,

¹⁰ For instance, most recently, Hoda Amid, a woman's rights activist and lawyer, who holds educational workshops on the terms of the marriage contract and raised women's awareness about their marital rights, was charged with "collaborating with the hostile American government against the Islamic Republic on women and family issues" (Niekoop, 2021). According to the verdict, these educational workshops aimed at weakening the foundation of the family and were informed by feminist ideologies (Abbasi Tavalalli, 2021). Amid was sentenced to eight years in prison and banned from practicing law and engaging in political and certain social activities for two years (Niekoop, 2021). After several appeals, she was exonerated of all the charges.

that falsely frame their peaceful and professional activities as threats to national security (Center for Human Rights in Iran, 2020).

The authoritarian nature of the regime,¹¹ rather than the religious origin of the law, has been recognized as one of the main obstacles to gender equality in Iran (Hoodfar & Sadr, 2010). The lack of judicial autonomy and impartiality further underscores the authoritarian structure of the regime, presenting a significant obstacle to effective legal mobilization (see Chua, 2019; Halliday et al., 2007; Rajah, 2012). In Iran, the head of the judiciary is appointed by the Supreme Leader, ensuring alignment of their ideological and political beliefs. While the Constitution of the Islamic Republic of Iran introduces the judiciary as an independent branch, “the Iranian judiciary is designed as a political institution that is responsible not only for the administration of justice but also for the implementation of the ideological/political line advocated by the Supreme Leader” (Shambayati, 2018, p. 301). Thus, although the judiciary cannot make laws, it conveys its preferences through memos, administrative rules, and other means. The head of the judiciary assumes a pivotal role

¹¹ It should be noted that while Iran has been characterized by some scholars as a hybrid regime, falling between authoritarian and democratic systems (Zahirinejad, 2016), it has consistently been classified as one of the twelve autocratic states in the world since 2004 by the Polity Project, administered by the Center for Systemic Peace (Marshall & Elzinga-Marshall, 2017). According to this report, authoritarian states are defined as those scoring between -10 and -6 on the Polity Index (Marshall & Elzinga-Marshall, 2017, p. 30). Iran also falls under the category of authoritarian regimes, ranking 154 out of 176 countries, according to the Economist’s democracy index of 2021. In order to ensure legitimacy, authoritarian regimes rely on signaling mechanisms, such as holding elections while engineering the results (Bogaards, 2009; Brancati, 2014). The distinction between authoritarian and democratic states can be blurred, as each may adopt certain characteristics of the other. In the case of Iran, for instance, presidential and parliamentary elections are regularly held. However, these elections and their outcomes are precisely engineered, and all the elected bodies are overseen by the Supreme Leader. Consequently, while political participation is sanctioned in these autocratic regimes, it is subject to stringent state control.

in not only appointing judges but also actively shaping the judiciary's policies regarding the enforcement of laws and the interpretation of ambiguous legal provisions. This is achieved through providing instructions for courts, judges, staff, and those subject to the law. For instance, in a recent development, the Deputy of the Judiciary issued a directive to the courts, stipulating that women seeking mahr from their husbands cannot initiate legal proceedings against them unless they present documentation from the Deeds and Properties Registration Office confirming the availability of sufficient funds for potential confiscation. If, after a period of six months from the initial request, no assets are identified and seized, a certificate will be issued by the Deeds and Properties Registration Office stating that the legal process can be initiated. This directive effectively restricts and denies women the opportunity to take legal action against husbands who fail to meet their financial obligations. Such directives, over time, can turn into rules that shape the application of laws.

Overall, the study of women's rights activism in Iran has predominantly focused on analyzing the movement's strategies and accomplishments during various time periods (Ahmadi, 2006; Barlow, 2012; Bayat, 2007; Hoodfar & Sadeghi, 2009; Hoodfar & Sadr, 2010; Sameh, 2010; Samuels et al., 2018; Tohidi, 2016). While this research is crucial and deserves attention, there has been a lack of discussion regarding the role of lawyers in destabilizing institutionalized gender inequality through employing legal frames.

Women's Rights and Cause Lawyers

Women's rights lawyers in Iran have demonstrated their commitment to promoting gender equality by representing women who actively challenge discriminatory laws in their daily lives. These lawyers have provided legal support to women engaged in acts of civil disobedience, such as publicly defying the compulsory hijab law by standing without headscarves (Center for Human Rights in Iran, 2020; see *Jailed for Defending Women*, 2021). Additionally, these lawyers have defended women who have been victimized by unjust laws, including cases involving capital punishment (Osanloo, 2020). Notably, these cases often have a public dimension, involving crimes that impact public order, safety, or societal values, with broader implications for society as a whole. In such cases, if there is no individual plaintiff or if the plaintiff does not actively pursue the case, the state assumes the responsibility of initiating and pursuing legal action on behalf of society. Nonetheless, it is unclear whether lawyers undertake a comparable role in cases that lack an overt public aspect, such as divorce cases, yet are significantly influenced by the gender politics of the state. Given the very low likelihood of state retaliation against lawyers who file divorce cases and make innovative arguments,¹² it is worth exploring how, if at all, Iranian lawyers—conventional or activist—who are critical of the gender discrimination codified in family law, deploy strategies with limited repercussions to challenge gender inequality in their everyday practices. Although I do not view legal

¹² This point will be discussed in Chapter 5.

reform as a comprehensive solution to gender inequality, I do believe that utilizing legal avenues can help prevent the perpetuation of the status quo and enable engagement in acts of everyday resistance.

Chapter 3

METHODOLOGY

Gender plays a pivotal role in shaping the Islamic Republic's national and international identity (Hoodfar & Sadeghi, 2009). Thus, any critical discourse that challenges the state's perspective on gender is seen as a direct challenge to the state's authority. The "gender repressive state" demonstrates a proclivity for politicizing issues concerning women's rights and gender equality,¹³ while also adopting a securitization approach towards any scholarly investigations that diverge from the prevailing ideological framework of the state concerning gender and women's rights. Thus, researchers who conduct critical research on women's rights and have affiliations with foreign institutions, particularly Western academia, are often accused of espionage for foreign states (Rezai-Rashti, 2013; Rivetti & Saeidi, 2018).¹⁴ This

¹³ In Iran, women are often seen as the primary target of socio-cultural transformations. This view is highlighted in a recent publication of *Kayhan*, a daily periodical funded by the Supreme Leader's office, asserting that "women are one of the first targets of the enemy's plans for infiltration because ... targeting them would result in the fragmentation of the family structure and this, consequently, would precipitate the disintegration of the societal religious and political order." The article suggests that the incursion of radical feminist viewpoints could jeopardize the familial role of women and dismantle the perceived quintessential "womanhood." Under this purview, matters like violence against women or the curtailment of women's rights in matrimonial and divorce proceedings are seen as "peripheral issues," which are employed to generate "misguided impressions" about Iran (AI, 2017, pp. 28-9).

¹⁴ Over recent years, the repression of women's rights advocates, journalists, legal practitioners, and researchers has escalated in Iran. A significant number have been implicated in crimes against national security due to their efforts in garnering assistance and awareness for their cause. For example, Homa Hoodfar, an anthropological scholar of Iranian-Canadian descent, whose scholarly pursuits and initiatives concentrated on the challenges confronted by women in Muslim nations, was apprehended in Iran in 2016 on the grounds of "disseminating propaganda against the system" (AI, 2016, p. 29).

becomes crucial to consider when embarking on research within such environments.

In light of this context, I designed and conducted a qualitative study to answer the following questions:

1. How, if at all, do family lawyers in Iran utilize legal strategies, including rights assertion, individual litigation, and legal counseling, to contest the institutionalized patriarchy codified into family law and to expose the state's vested interests in perpetuating the oppression of women?
 - a. How do dominant gender beliefs and ideologies inform lawyers' approaches to wife-initiated divorce cases?
2. How, if at all, do lawyers' perspectives on the legal system and their gender ideologies (re)shape women's (clients') interpretations of their grievances, demands, opportunities, and ultimately the assertion of their rights?
3. How, if at all, do lawyers' approaches to divorce cases initiated at the request of women reinforce or undermine gender ideologies, specifically the overwhelming gendered expectations of married women?

Population and Sample

I designed a qualitative research study to explore how Iranian lawyers' strategies in divorce cases initiated by women may reinforce or undermine not only

gender ideologies but also specific gendered laws and practices.¹⁵ To recruit lawyers, I began with a convenience sample of Iranian lawyers within my personal network and expanded it through snowball sampling techniques. I asked participating lawyers to share the study flyer with their colleagues (see Appendix E). The choice of snowball sampling was justified by the high level of skepticism towards external researchers and the remote nature of the research site. Given this limitation, “the personal bias and distortion inherent in snowball sampling [is] a price which must be paid in order to gain an understanding of [...] hidden [and hard-to-reach] populations and their particular circumstances...” (Faugier & Sargeant 1997, p. 796).

I approached lawyers with no specific criteria other than their having practiced family law for a minimum of two years. I recruited 30 lawyers who specialized in family law while concurrently engaged in the practice of other areas of the law. In light of the significant impact that individuals’ social positions, such as gender, can have on their experiences, beliefs, actions, and choices (Harding, 1997), I assumed that women lawyers¹⁶ would be more conscious of gender inequality (Davis & Robinson, 1991; Martin, Reynolds, & Keith, 2002) and have a greater understanding of the patriarchal structures that shape both laws on the books and in action. As I

¹⁵ IRB approval was granted by the University of Delaware in March 2018.

¹⁶ I made a deliberate choice to use the terms “men” and “women” instead of “male” and “female” when referring to lawyers. This choice aligns with the terminology used by both clients and lawyers in the study. However, it is important to note that I did not specifically inquire about the gender identities of the lawyers due to the potential repercussions and penalties associated with identifying as non-binary in Iran. Thus, while I strongly oppose gender essentialism, for the purposes of this study, it is assumed that all participants, including the lawyers mentioned by women, were cisgender.

aimed to balance the sample by gender, I faced challenges in recruiting men lawyers and could only recruit nine men lawyers, with the remaining participants being women lawyers. The underrepresentation of men in the study can be attributed to the perception that family law practice is considered less prestigious (Heinz & Laumann, 1994) and is often characterized as “women’s work” (Epstein, 1993). On average, the lawyers in the study had 11 years of professional experience, and the majority practiced law in Tehran, with a few practicing in other large cities.

To recruit divorced women, I utilized a variety of methods to ensure the heterogeneity of the sample across education and socio-economic status. Initially, I shared the study flyer (see Appendix E) with family lawyers, who acted as third parties and helped me reach women who had either hired a lawyer for divorce or sought legal advice on the matter. Through this approach, I successfully recruited five women. To recruit more eligible women, I employed snowball sampling strategies and requested participating women to share the flyers with other eligible women. Furthermore, I posted the study flyer on social media platforms such as Instagram and a chat group on Telegram, which allowed members to ask legal questions of lawyers, resulting in the recruitment of most of the interviewees. The recruitment process spanned two periods, with recruitment of two-thirds of the participants during the summer of 2019 and the remainder during the summer of 2022.

Out of the initial 32 women who agreed to participate, two of them changed their mind and withdrew their verbal consent after reviewing the consent form. Their withdrawal could be attributed to the sensitivity of the topic or their concerns about

potential harassment from the government for cooperating with a researcher residing in the US. In total, I successfully recruited 30 women, of whom 27 were divorced, with the remaining three being separated and in the process of obtaining a divorce. Out of the 27 divorced women, all but three had sought legal advice or had legal representation during their divorce process. Although I initially intended to recruit women who had never consulted or been represented by a lawyer, I soon realized that the majority of women seeking divorce had sought legal advice prior to or during the divorce process. As a result, the three women who had never consulted with a lawyer became an exception, which made meaningful comparisons between them and the women who had sought legal assistance difficult.

Out of the 30 women participants, the majority of them (21) lived in Tehran, while five lived in other major cities; only three lived in small towns. Additionally, one participant was based in the United States. Most of the participants (excluding seven) had achieved higher education. Moreover, all but one participant were either currently employed or had prior work experience. The age range of participants was between 22 and 50 years old, with an average age of 35.

While my familiarity with family law in practice facilitated building rapport with participants, recruiting participants was challenging due to their high level of skepticism towards outsiders, especially researchers conducting research from the U.S (Malekzadeh, 2016). Nevertheless, being geographically distant from the research site enabled me to report the concerns and criticisms raised by participants and to explicitly address the failures of the state and its apparatus in ensuring gender equality.

Data Collection

Prior to this project, I conducted a pilot study consisting of interviews with eight family lawyers in Iran. The purpose of the pilot study was to field test the interview questions and refine the research design and research questions. Based on the insights gained from the pilot study, I developed separate semi-structured interview guides for lawyers (see Appendix A) and divorced women (see Appendix B).

I conducted a total of 60 semi-structured in-depth interviews with family lawyers, divorced women, and divorce-seeking women. Semi-structured interviews are a valuable tool in the field of socio-legal studies for exploring the complexities of participants' perceptions of law and their behavior in disputes (Nielsen, 2000; Silbey, 2005). By adopting this method, I was able to engage in meaningful dialogue with participants and obtain "rich" and detailed data (Allen, 2011; Charmaz, 2006). The semi-structured format also provided flexibility for participants to discuss topics of personal importance, even if they were not directly related to the research questions (Parr, 2015, p. 198). For instance, some divorced women shared their experiences of sexual harassment by their lawyers, which was not the primary focus of the research project. Thus, although I directed the interviews towards the focus of the study, I did not interrupt participants if they wanted to share their experiences and thoughts, even if they went beyond the immediate research scope.

The lawyers' interview protocol posed seventeen open-ended questions that allowed for probing. For example, if a lawyer mentioned discrimination faced by

women during the divorce process, I asked for specific clarification on whether they were referring to discriminatory laws, the legal system, legal actors, or all of the above. I also probed further by asking lawyers to explain who or what they held responsible for the discrimination. Additionally, I sought to provoke more responses by offering participants “pertinent ways of conceptualizing issues and making connections” (Gubrium & Holstein, 2003, p. 77).

The interview questions inquired into lawyers’ approaches to and strategies in divorce cases initiated by women, their views of family law in theory and practice, and their recommendations for challenging discriminatory family laws. Through in-depth interviews, I gained insights into lawyers’ experiences, perspectives on the legal system, the underlying reasons for their decisions and practices, and how the contexts in which they work influence their styles of practice. Although the interview guide did not initially include questions about the impact of the lawyers’ gender on their practice styles, I followed up with participants and posed this question separately.

Unfortunately, I received only 13 responses, as WhatsApp has been blocked in Iran since September 2022, limiting further follow-up with participants.

During the initial interviews, lawyers criticized cause lawyering and its advocacy style. Although this topic was not originally included in the interview guide, I adapted the interview guide to capture lawyers’ opinion more specifically about cause lawyering. Additionally, some lawyers highlighted the variation in family court practices based on the locations of the courts, prompting me to revise the guide and to probe lawyers about these differences.

The semi-structured interview guide for divorced women consisted of twenty-three open-ended questions that were followed by probes on specific points raised by the interviewees. The purpose of the interviews was to explore the women's interactions with lawyers and the legal system, and to investigate whether their comprehension of the law and their perceptions of the legal system had altered following their engagement with lawyers and judges. Conducting client-focused interviews was necessary to explore the potential influence of lawyers on women's approach to legal mobilization. These interviews provided an opportunity to explore clients' perspectives regarding the settlements they received, providing a more thorough understanding of what divorce-seeking women want and allowing for a more nuanced analysis of the lawyer-client relation. Capturing the experiences of divorced women was essential within the framework of feminist standpoint theory, which emphasizes the significance of comprehending the perspectives of marginalized groups to gain more reliable insights into the operation of power (Harding, 1997). The inclusion of divorced women's perspectives allowed for a better understanding of how legal institutions and actors actually operate, which may differ from the accounts of elites or those in positions of power.

Interviews were conducted in Farsi through WhatsApp audio calls. While phone interviews have limitations, such as the lack of nonverbal communication that can negatively affect rapport building, they also offer advantages and can be an effective method of data collection (Cachia & Millward, 2011; Morgan & Symon, 2004). Phone interviews can provide a sense of anonymity and distance, which can

make participants feel more at ease when discussing sensitive topics (Trier-Bieniek, 2012; Vogl, 2013). The absence of physical presence can also mitigate the power dynamics between the interviewer and participant, creating a more equal and open conversation (Trier-Bieniek, 2012). It should be emphasized that the decision to conduct phone interviews was not driven by a desire to elicit sensitive information, but rather by the geographical distance between the participants and the researcher. In this case, the use of phone interviews was a practical and necessary approach to data collection. Considering the low quality of internet connections in Iran and the potential additional costs for participants, conducting interviews through video calls, which would have been closer to in-person interviews, was not a feasible option.

I often had preliminary text exchanges with participants before the interviews. Once they agreed to participate, I sent them the consent forms (see Appendices C & D) through secure messaging platforms like WhatsApp's end-to-end encrypted messages or Telegram's secret chats before the interview date. At the beginning of the interview, I briefly explained the purpose of the study and addressed any questions or concerns they had. During the interviews with divorced women, I emphasized that they could stop the interview or decline to discuss certain topics if they felt uncomfortable. This approach ensured that participants felt in control of the conversation and that their autonomy and privacy were respected throughout the process. Despite some emotional moments during the interviews with divorced women, all participants were willing to continue. Some even found the interview therapeutic, as it provided an opportunity for them to reflect on and discuss the

challenges they faced during the divorce process, which they had not previously had the chance to do. I expressed gratitude to both divorced women and lawyers for sharing their experiences and emphasized that their participation was essential to the success of the project. Several women expressed the hope that their contributions could help other women and bring about positive changes, serving as a crucial incentive for their involvement in the research.

All the interviews were audio recorded, and I also took handwritten notes during each interview. The average length of interviews with lawyers was 1 hour and 37 minutes; the shortest interview was 55 minutes and the longest was 3 hours. The average length of interviews with divorced women was 1 hour and 12 minutes, ranging from 48 minutes to 1 hour and 52 minutes.

During the summer of 2022, while conducting interviews with divorced women, I shared some of the emerging data interpretations with them to verify if their experiences and perspectives were aligned with the interpretations. Unfortunately, due to the blocking of WhatsApp in Iran following the recent political uprising in Iran and the subsequent loss of contact with some participants, a formal member checking process was not possible. Instead, I conducted an informal member checking by sharing the discussion section with three participants, two of whom were divorced women, and one was a lawyer. Upon reading the section, the lawyer shared her emotional reaction as well as her takeaways. Initially, she felt personally attacked and offended upon reading the first few pages of the section. She said: “I thought come on! We’re doing everything we can. We *must* do it this way given all the constraints and

we have no other options.” However, after reading the whole section and reflecting on it, she viewed this study as “a wake-up call” that suggested ways to improve lawyer-client interactions and increase the active involvement of divorce-seeking women in decision-making processes. She also contemplated the potential for more frequent litigation of cases with low success probability. She also mentioned her lack of attention to how divorce negotiations could perpetuate the gender power imbalance inherent in couples’ relationships.

Ethical Considerations

To ensure participants’ anonymity and to protect their confidentiality, I took several measures. Transcription files and interview notes were de-identified and all the identifying information, such as a reference to the name of judges or lawyers, were removed. Each participant was assigned a pseudonym. All the retained consent forms were securely stored in a password-protected folder. The importance of voluntary participation and the right to withdraw from the study at any point were emphasized in the recruitment flyer and the consent form. Although participants had the option to withdraw, none of them chose to do so after starting the interview. Unfortunately, because of the sanctions and the complications concerning the transfer of money from the U.S. to Iran, I was unable to compensate participants for their involvement in the study.

Data Analysis

In line with feminist methodology, I utilized constructivist grounded theory to analyze the data, recognizing the relativism, situatedness, and subjectivity of knowledge and assumptions (Allen, 2011; Charmaz, 2005, 2006; Denzin & Lincoln, 2017). Constructivist grounded theory recognizes that knowledge is collaboratively constructed through dialogue between the researcher and research participants (Charmaz, 2006), positioning participants as active “co-constructors” of reality (Cresswell & Poth, 2017; Darlaston-Jones, 2007). This analytical approach allowed for the emergence of concepts from the collected data giving prominence to participants’ voices in the analysis. This approach enables readers to trace the relationship between the data and the analysis, facilitating a deeper understanding of the participants’ experiences and perspectives (Fossey et al., 2002).

As a researcher influenced by poststructuralism, I acknowledge that all my conclusions are suggestive and open to interpretation, as reality is not independent of human experience and is constantly interpreted and debated (Charmaz, 2006). I approached the findings of my research with the understanding that participants’ accounts cannot be read as absolute truth or desires. As Kidder (2002) notes, it is important not to make assumptions about the true state of people’s meanings or voices, but rather to consider that their words and actions contain information about what they want the observer to think about them (p. 91).

All the recordings were transcribed verbatim. After all the interviews were transcribed, I listened to all the interviews to make notations when participants paused,

laughed, or changed their tones. To analyze family lawyers' interviews, I developed a coding scheme through open coding of transcripts to identify meanings and assumptions within the data (Charmaz, 2005, 2006; Qureshi & Ünlü, 2020). Using open-coding technique, I coded lawyers' interviews on a line-by-line basis and inductively. I coded half of the interviews by hand on hard copies of the transcripts as it was more convenient. I coded the rest on word files and transferred the final concepts and categories into a data table. Categorizing the initial line-by-line themes yielded 40 categories. A short memo was written for most categories.

For focused coding, I went back to the interviews and read through them and re-coded with codes focused on the categories developed through open coding. By continuously comparing and contrasting codes, and clustering similar categories together, I identified and refined key concepts and sub-categories. This iterative process allowed me to develop a more analytical approach to coding, which involved examining the relationships between different codes and categories to uncover deeper insights and patterns in the data (Charmaz, 2006; Qureshi & Ünlü, 2020). At this stage, I wrote integrative memos which enabled me to make connections across two or more of the code categories. This approach allowed me to make relations between themes, to engage deeply with data, to inductively develop codes, and to trace the evolution of a conceptual framework (Charmaz, 2006; Creswell, 2013). For instance, one of the categories I developed was "lawyering and social/legal change" with two subcategories: "lawyering and activism" and "lawyering and professionalism." As I went through the focused coding, I realized that one of the sub-categories of "judges,

the judiciary, and gender” could be moved to the “lawyering and social/legal change” category since it referred to a barrier to effecting social change through legal practice. Thus, I added the “gendered and dependent judiciary” to the category of “lawyering and social/legal change.”

I integrated concepts and categories and synthesized developing themes for a new conceptual framework (Charmaz, 2006). I reached saturation at 15 interviews. While coding the remaining interviews did not add new themes related to the research questions, they added nuance to the themes that had already emerged (Guest et al., 2006). My final codebook included code names, a brief definition of each code, and one example for each.

In coding divorced women’s interviews, I looked for themes and concepts that emerged from the interviews with lawyers. This, for example, involved comparing and contrasting the expectations and demands of the divorced women with the lawyers’ explanations of those demands, in order to gain a deeper understanding of how divorced women’s best interests are (re)shaped by their lawyers. Additionally, I reviewed the accounts of divorced women to identify the specific conditions under which they found the advice and strategies offered by their lawyers to be helpful, and to explore the meaning of those advice/strategies for the women.

Once I completed the coding, I translated the relevant codes and quotes into English.

Reflexivity

Engaging in personal reflexivity is an important aspect of the research process, as it allows the researcher to critically examine how his/her own social identity and background may influence the research process and findings (Berger, 2013; Mauthner & Doucet, 2003). This impact extends beyond the personal level, shaping knowledge production and reproduction more broadly. Thus, the questions asked, social realities investigated, and approaches taken to analyze findings can all be affected. By engaging in reflexivity, my intention is to increase the visibility and transparency of the data analysis process (MacNaughton, 2001). In other words, by discussing my thoughts, feelings, concerns, and desires in this section, I aim to make them transparent and open to inspection by the reader (Ortlipp, 2008). In what follows, I provide a detailed elaboration on how these factors influenced my research.

The practice of reflexivity allowed me to critically examine how various aspects of my identity and background, such as my professional experience, social connections, theoretical framework, political beliefs, and gender, may have influenced every stage of my research process. My experience practicing law as a woman lawyer in Iran and my frustration with and critical attitudes toward family law in practice shaped the way I framed my research questions and the issues I chose to investigate. Moreover, my experience as a lawyer, coupled with my theoretical understanding of the significance of rights-talk and the potential of legal mobilization in effecting change, albeit minimal, had a significant impact on how I designed my interview guides, and interpreted and analyzed my findings. For instance, I placed great

importance on the accounts of lawyers who attempted to navigate the legal system and overcome judges' discriminatory decisions and interpretations of the law because their efforts resonated with my experience and the literature on the limitations and potentials of legal mobilization. Moreover, my doctoral studies in sociology, which included coursework in areas like sociology of gender and feminist theories, have been instrumental in shaping my particular interest in investigating the ways in which gender is reconstructed, reinforced, and/or disrupted in lawyer-client interactions.

I also recognized that my personal biases and assumptions could potentially affect my interpretation of participants' responses and the narratives I constructed. To reduce the impact of my personal biases on the study, I adopted a self-reflective approach and maintained a journal throughout the research process. The purpose of the journal was to track and analyze my thoughts, assumptions, and emotions and to bring any unconscious biases to the conscious level (Ortlipp, 2008). For instance, I wrote down my initial impressions and reactions to the participants' narratives as I was reading them and engaged in informal member checking to verify and validate my interpretations. Through these practices, I was able to detect and reflect on any potential biases that could have influenced my analysis (Dwyer & Buckle, 2009).

Haraway (1991) argues that "scientific stories are not innocent" and cannot be separated from the events and institutional circumstances that surround them (p. 106). In light of this, my analysis was influenced by my discontent with academic approaches that seek to refute Orientalist perspectives portraying women in Muslim countries as passive and oppressed victims, while inadvertently distorting the reality at

times. Upon starting my research, I realized that some scholarly works about women's rights in Iran, specifically those related to family law, did not resonate with me as someone who had lived in Iran for 33 years and practiced law for 10 years. I noticed that such academic works, which shape the dominant discourse in academia, often fail to provide a comprehensive understanding of the everyday struggles of women and frequently neglect various forms of discrimination experienced by Iranian women. Although the specific forms of discrimination experienced by women in Iran may not be identical to those encountered by women in other countries, they share similarities as they are all rooted in patriarchal structures.

During the Woman, Life, Freedom movement that started in September 2022, my discontent was further heightened as I could compare the academic discourse on the uprising and the messages that women in Iran sought to convey to the world. These messages not only focused on the fight for gender equality but also highlighted the violations of women's rights. Nonetheless, the academic discourse on the movement did not necessarily encompass the latter aspect. For instance, during the early days of the uprising, I attended a webinar titled "In Her Name: Women Rising, State Violence, and the Future of Iran," where one of the panelists discussed women's responses to the changes following the 1979 revolution. The panelist, who was based in the U.S., discussed her research in Iran and how Iranian women had to learn about their legal rights since the 1979 revolution. She argued that the Islamic Republic's policies forced women to become their own legal advocates as some rights were granted to them on the books but not implemented. According to her, women have

learned that they should demand their rights under family law by taking legal action and “[are] winning decisive decisions.” Based on my experience as a lawyer in Iran, I found this statement to be an exaggeration and it was surprising to me! Moreover, the panelist was not entirely accurate in her presentation of facts, as she claimed that men are required to provide reasons for divorce, which is not true. She also provided an example of women’s rights under the Constitution, stating that “men and women are equal,” but failed to acknowledge that this equality is subject to one important condition (“conformity with Islamic criteria”) that has been used to justify discriminatory laws, policies, and practices. As outlined in Article 20 of the Constitution:

All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.

This was just one example of how some scholars tend to overemphasize women’s resistance while minimizing the impact of the state’s oppressive policies and laws on their everyday lives. The fight for gender equality in Iran predates the 1979 revolution and has continued for the past 44 years. Nonetheless, this persistence does not signify that women have entirely eradicated all forms of inequality or that what women have achieved within the Islamic Republic framework has been adequate and satisfying to them. I strongly believe that it is essential to acknowledge and examine the discriminatory practices, laws, and policies imposed by the theocratic state when discussing women’s struggle against discrimination in Iran. The state has exploited

religion to justify abuse and discrimination against women, and failing to consider the impact of these laws and policies would undermine women's fight for gender equality.

Overall, while I recognize the significance of challenging the Western portrayal of Muslim women as oppressed and passive victims, I believe that some scholars have not presented a complete picture of the everyday struggles and barriers faced by women in Iran in achieving gender equality. Scholars who seek to challenge the Western portrayal of Muslim women may inadvertently downplay the existing barriers to gender equality by resorting to cultural relativism. This approach can weaken women's struggle for equality by glossing over the real issues. In my analysis, I endeavored to present a balanced depiction of the experiences of Iranian women in the context of divorce, by highlighting aspects of inequality, oppression, resistance, failures, and victories. I consciously avoided overemphasizing any particular aspect that could overshadow others. By incorporating these considerations into my analysis, I aimed to provide a more nuanced and comprehensive understanding of women's experiences and the dynamics of family law in Iran. This approach seeks to avoid the pitfalls of overemphasizing either victimhood or resistance, and instead offers a more balanced account of the complex realities faced by women in this context.

In relation to the participants, my dual background as a former legal practitioner in Iran and a Ph.D. student in American academia influenced my position as both an insider and an outsider, a status that was fluid and continually reconstructed throughout the research process (Edmonds-Cady, 2012; Naples, 2003). To facilitate rapport building, I shared my personal opinions and experiences as appropriate and

responded to their questions. While my previous legal experience in Iran facilitated rapport-building with participants, it was essential that they did not presume I had a complete understanding of their experiences. Therefore, throughout the interviews, I tried to adopt a “back seat” approach during the interviews to create an environment where participants felt in control of the conversation. This approach was relatively easy to implement with divorced women.

During the interviews with lawyers, I found myself engaging in discussions rather than adhering to a strictly non-reactive approach, particularly when they attempted to explain the intricacies of the divorce process in practice. Thus, I sometimes struggled to maintain a learner’s status. At times, lawyers seemed to perceive some of my questions as addressing topics that were too self-evident to warrant inquiry. For example, when I asked lawyers about their concerns regarding the long-term impact of their strategies, they appeared to believe that the answer was so evident and took a position of power to educate me on how the law works in practice and what a responsible lawyer should do. Navigating these complexities required striking a delicate balance between drawing on my background knowledge and maintaining an open and inquisitive stance throughout the interviews.

During the interview process, the interviewer may be taken aback when a respondent shares experiences that challenge the categories or the conceptual framework upon which the interview questions are based (Mauthner & Doucet, 2003). While I did not adhere to any specific conceptual framework, I did enter the interviews with certain assumptions. The most unexpected responses I received occurred during

the first few interviews, and while similar answers emerged in subsequent interviews, they were not as surprising. I was particularly surprised when lawyers criticized women for not knowing what they wanted and for becoming excessively assertive. The criticism directed towards cause lawyers, specifically Nasrin Sotoudeh, who had recently been sentenced to eight years in prison at the time of the interviews, was also startling. Reflecting on my emotional reactions, I became aware that my disappointment was a result of my underlying assumption that any reasonable person should share my outrage towards the state's interference in the independence of lawyers to defend their clients. Upon further reflection, I recognized that the criticism directed towards the cause lawyers stemmed from lawyers' perception of their professional responsibilities.

In this section, my intention was to create more transparency about my research by highlighting the impact of my "conscious and unconscious baggage," as described by Scheurich (1995), which encompasses the researcher's "training within a particular discipline,..., epistemological inclinations,..., social positionality,...[and] macrocultural or civilizational frames" among others (p. 250). By recognizing and addressing some of these factors, I sought to provide a clearer understanding of how they may have shaped my research process and findings.

Chapter 4

UNWITTING AGENTS OF THE STATUS QUO: FAMILY LAWYERS' PRACTICE IN WOMEN-INITIATED DIVORCE CASES

Women often want to get a divorce over unimportant matters. We should assess their specific circumstances to understand their conditions. It is not sufficient to provide mere solutions; we should also consider the possibility that these women might be misguided. Their decisions could stem from attending women's meetings and hearing the experiences of others who have gone through divorce. But my goal is to assist them by saving their marriage and discourage them from pursuing that path. That is why I always stress that divorce should be the last resort.

—Samaneh, a woman lawyer in Tehran

In this chapter, I illustrate that Iranian family lawyers, as “repeat players” (Galanter, 1974), who have greater familiarity with the court system and the law, are reluctant to bring women-initiated divorce cases to the court. In an effort to prevent a divorce, lawyers often probe the causes of the breakup first; yet, in doing so, some lawyers question the authenticity and legitimacy of their women clients' grounds for divorce. If it is impossible to save a marriage, lawyers will advise their women clients to seek a divorce through mutual consent. This is often recommended due to concerns about the potential impact of judges' gender ideologies on their decisions in divorce cases. Family lawyers will file a divorce case at the request of a woman client under specific and limited circumstances. My findings did not reveal any significant differences in practice styles that could be attributed to the gender of the lawyer.

In the context of no-fault divorce, the divorce negotiations primarily revolve around topics such as asset division, custody, and visitation arrangements (Jacob, 1988; Weitzman, 1985). Research conducted on divorce lawyers in the United States, the United Kingdom, and Australia indicates that their role in the process of dispute transformation is not significantly different from that of other lawyers. Like their counterparts, divorce lawyers must understand their clients' desires, expectations, and objectives (McEwen et al., 1994, p. 169), while meeting clients' demands can be a complex task (Kressel et al., 1978). This literature illustrates that in the no-fault legal system of the U.S., divorce lawyers are involved in clients' decision-making from the early stages of dispute resolution, acting in a variety of roles (Mather, 2003; Mather et al., 2001; McEwen et al., 1994; Sarat & Felstiner, 1986, 1989). Like other lawyers, divorce lawyers face the dilemma of having to choose between pursuing their clients' demands and acting on their behalf or acting based on their professional judgment. To avoid this dilemma, divorce lawyers, as persuasive agents of transformation, give meaning to and (re)shape clients' understandings of their grievances to facilitate defining mutual goals throughout the divorce process (Sarat & Felstiner, 1986).

Divorce lawyers often communicate to their clients that the legal system cannot accommodate their emotional and social experiences of divorce (Sarat & Felstiner, 1986). This perspective reflects the "ideology of separate spheres," which emphasizes the separation of the legal and social aspects of divorce (Sarat & Felstiner, 1995, p. 27). Despite clients expecting their lawyers to fight for their desires, lawyers evaluate their clients' demands from a realistic and reasonable perspective. Lawyers

often strive to convince their clients of the benefits of reaching a settlement, while also attempting to avoid contentious hearings (Eekelaar et al., 2000; Mather et al., 2001; Sarat & Felstiner, 1995). In fact, a “reasonable” family lawyer avoids taking on his client’s cause as his own personal battle and works toward reaching a settlement (Mather et al., 2001, p. 50). Sarat and Felstiner (1995) suggest that reasonable family lawyers inform their clients about the potential risks of going to court and the probable outcome of pursuing unfeasible demands. By doing so, lawyers can manage their clients’ expectations, overcome resistance from disgruntled clients to settle, and assist them in setting more reasonable goals (Sarat & Felstiner, 1995). The reasonable and conciliatory approach taken by family lawyers in resolving disputes reflects an ethic of care that prioritizes the well-being of all parties involved and seeks a mutually beneficial settlement (Menkel-Meadow, 1989).

Mather and colleagues’ (2001) study disrupted the homogeneous image of divorce lawyers’ approaches to their everyday work, providing a more nuanced understanding of their practices. The study identified two primary approaches, along with a hybrid approach that combines elements of both. The “advocate” or “legal-craft oriented” lawyers tend to distance themselves from clients’ emotional and interpersonal issues, focusing primarily on the legal aspects of the situation to achieve a favorable legal resolution. In contrast, the “counselors” or “client-adjustment oriented” divorce lawyers pay greater attention to clients’ psychological and emotional concerns, working to improve their well-being during the divorce process. This group

values the legal process and outcome as a means of supporting clients through the emotional challenges associated with divorce.

Divorce lawyers' practice style and approach to everyday work are informed by their identities, among other factors, such as areas of specialization, clients' identities, material interests, and professional norms and expectations (Mather et al., 2001). Empirical studies shed light on the impact of gender on lawyers' role orientation, practice style, specialization, and clients' perception of lawyers' behavior (Bogoch, 1997; Felstiner et al., 2003; Hinds & Ruth Bradshaw, 2005; Hotel & Brockman, 1994; Menkel-Meadow, 1989; Sommerlad, 2003). Studies demonstrate that certain patterns exist in the way female lawyers approach divorce cases compared to their male colleagues. For instance, studies show that female lawyers are more inclined to specialize in divorce cases, typically represent wives as clients, and adopt a client-centered approach to their legal practice in the context of divorce. (Bogoch, 1997; Maiman et al., 1992; Schultz et al., 2003). That said, female lawyers' approaches and practice styles are not homogenous, as their practice is shaped at the intersection of gender and other factors.

Gender goes beyond being a mere facet of one's identity. As a social institution, gender not only informs lawyers' everyday practices but also is reinforced or contested within their work. Given the presence of law as a gendered institution in everyday life (Conaghan; 2013; Lacey, 1998; Mackinnon, 1989; Naffine, 1990), gendered structures and hierarchies are continuously reconstructed and reinforced through legal discourses and interactions with legal professionals. Although existing

laws in a society might appear to be gender neutral, legal actors can be complicit in the enactment of gender ideologies (Bogoch & Halperin-Kaddari, 2006; Frohmann, 1997; Martin, Reynolds, & Keith, 2002). Similar to other professionals, such as couples therapists, lawyers cannot “check [their gender ideals] at the door” (Chen Feng & Galick, 2015, p. 44; Harris et al., 2008), and thus the dynamics of legal consultation and practices are influenced by the gender ideologies of lawyers. Therefore, the practices, decisions, and advice provided by the legal profession become significant sites in which gender ideologies are reinforced and/or problematized.

The literature on lawyer-client interactions often focuses on gender as an aspect of identity, exploring how gender norms shape these interactions at micro, meso, and macro levels (Bogoch, 1997; Felstiner et al., 2003; Hinds & Ruth Bradshaw, 2005; Hotel & Brockman, 1994; Menkel-Meadow, 1989; Sommerlad, 2003). However, limited attention has been given to how the reconstruction or disruption of gender, as a social institution, in these interactions contributes to gender inequality on a broader scale. While a more recent study by Li (2015) has demonstrated the influence of gender bias and stereotypes on Chinese lawyers’ interpretation of clients’ grievances and its contribution to gender inequality, the significance of this topic warrants further exploration.

The primary objective of this chapter is to investigate the approaches of Iranian family lawyers in women-initiated divorce cases and to explore the factors that influence their decision-making. Given the significant role of gender within the domain of family law, this chapter also aims to uncover how family lawyers

inadvertently perpetuate gender norms and expectations of women, ultimately contributing to the reinforcement of the gendered discourses surrounding marriage, divorce, and gender inequality in the context of family law. I argue that family lawyers, while challenging the regime's patriarchal policies by facilitating the divorce process for women, inadvertently act as "agents of the status quo." This unintentionally maintains and perpetuates gender inequality within the context of divorce.

Saving a Marriage and Reinforcing Gender Norms

This section demonstrates that before resorting to legal action, Iranian family lawyers endeavored to save their clients' marriages by referring clients to couples counseling or even assuming the role of couples therapists themselves. Put differently, lawyers did not readily accept their clients' claims that a marriage could not be saved. This approach was driven by lawyers' aversion to divorce, specifically when children were part of the equation, as well as their lack of confidence in their clients' understanding of the ramifications of dissolving a marriage. Lawyers typically believed their clients had failed to make their best effort to salvage their marriage. Lawyers appeared to be particularly skeptical of their women clients' assessments of the magnitude and severity of the issues affecting their marital relationships, sometimes blaming them for not investing enough effort in resolving seemingly insignificant problems.

Resolving Relational Problems

While lawyers are typically expected to provide legal advice to their clients and handle the legal aspects of the divorce process, half of the sample reported taking a different approach, prioritizing resolving their clients' relational problems. Amir, who has been practicing law for 13 years, specialized in criminal law but has taken on roughly 50 divorce cases during his career. Of these cases, only five went to court. Explaining his strategies in divorce cases, Amir stated that before taking any legal action, he ensured that a marriage was irretrievably broken:

I always refer them to a therapist first. I know a very good couples therapist. I want them to hear from an expert if their decisions to end their marriages are reversible. Only if they get that second opinion, will I discuss available legal options with them.

Like Amir, Nima also appeared to dwell on non-legal issues and attempted to grasp a better understanding of his clients' marital lives and experiences. Nima has been practicing law for 14 years in Tehran and a nearby city, and he has handled numerous cases involving family disputes. Nima described family-related disputes as mentally taxing for lawyers. Nima expressed genuine concern for the well-being of the women who sought his assistance, recognizing that they often experience psychological trauma and may require mental health support as they go through divorce. As a result, he regularly recommends that his clients see a therapist. Despite knowing that the majority of his clients, who are predominantly women, ultimately proceed with divorce, Nima prioritizes their emotional well-being and strives to provide them with the necessary support:

Couples who come to me often end up getting a divorce, although I'd really like them to reconcile and get back together. I have a friend who is a retired professor of psychology. He has done some research about divorce. I always refer my clients to him to see if anything can be done to save their relationships.

Both Nima and Amir shared a sense of responsibility in ensuring that their clients' marriages were genuinely irreparable before resorting to legal action. In addition to feeling responsible, lawyers' accounts indicated that their initial reluctance to strategize and negotiate legal solutions stemmed partly from their assumptions about divorce. For instance, when I asked about her approach to counseling women seeking a unilateral divorce, Saba mentioned that she always recommended that her clients meet with a couples therapist because she personally disliked divorce. Saba's frustration with the discrimination faced by women in their daily lives motivated her to study law and advocate for women's and children's rights. As a result, she became known within her network as a women's rights advocate, leading women seeking a divorce to be referred to her for legal advice. Over her thirteen and a half years of practice, Saba has predominantly represented women in family disputes, specifically divorce cases. Saba said:

Maybe a couples therapist could resolve their problems, and if so, they would not get a divorce, as divorce, in my opinion is not a very good thing, it's not desirable...you know, perhaps through talking to a therapist they learn a few strategies about how to communicate their problems. Because one of the main problems in Iranian families is a lack of communication or an inability to communicate effectively. You know, they either do not talk or they talk sarcastically.

Saba openly expressed her personal aversion to divorce, and thus her approach to family disputes involved addressing the underlying causes of marital dissatisfaction in an attempt to reconcile estranged couples.

Lawyers, especially when their clients had children, were even more inclined to try to save the marriage. Despite a decrease in the social stigma surrounding divorce in Iran, couples are still encouraged to endure unhappy marriages to avoid the difficulties of maintaining custody of minor children in case of divorce. For instance, Farhad, who has been practicing law in a large city in West Azerbaijan province, always made sure to inform his clients about the negative consequences of divorce, particularly if children were involved. Due to the emotional strain and relatively lower prestige associated with practicing family law, he had become less interested in taking on cases involving family disputes, unless he had to. Reflecting on his most recent counseling session with a couple seeking a divorce as well as his overall experience, Farhad said:

This is very important to me and I'm pretty sure that other lawyers might not do it. But I always ask my clients whether they have children. If so, then I ask with whom the children are going to stay. Then I ask for how long they are going to stay. I'd like to test them. They would say one day here and two days there. Then I'd say this is why you're wrong. You can't divide your kids. How would you know if your kids need their dad or their mom on that day? How would you know when you need your kids?... They should know what's going to happen in reality. After this, if I feel that they cannot get along together (*Abeshoon ba ham tooy-e yek job nemire*), I'll talk about legal options.

Farhad's strategy was informed by the belief that maintaining an intact family for the well-being of the children was preferable to the repercussions of a broken family. He

recognized that couples, specifically women, in Iran face significant legal and societal barriers when it comes to retaining custody of their minor children in the event of a divorce.

The desire to save a marriage led some lawyers like Shadi, who has been practicing law for 12 years, to take the role of a therapist in their approach to divorce cases. Shadi mentioned that 80% of her family law cases involved divorce requests made by women. Guided by her strong belief in “maintaining a marital relationship,” she always “tried to give a marriage one last chance to survive.” Prior to initiating a divorce process, Shadi often evaluated clients’ decisions to divorce to make sure that couples had exhausted all feasible options. She emphasized that she would not provide legal advice until she determined “that divorce was the right choice and was beneficial to them.” This approach to divorce cases was not unique to Shadi and was shared by other lawyers, including Nasim, who had 14 years of legal experience. Despite her general reluctance to handle emotionally burdensome family law cases, 30% of her workload consisted of such cases. While explaining her strategies in family cases, she indicated that she would provide legal advice when, “as a lawyer,” she determined that her clients had exhausted all reconciliation options and “there was no way to get back together.” Nasim said:

I try my best to avoid the breakdown of a relationship and to fix everything. I hold meetings with the husband, hold meetings with the wife and spend so much time and energy. Thank God, many of them [meetings] yield a [positive] result.... My routine strategy is that if I professionally come to the conclusion that they are not a good fit and cannot be together, and they are like two parallel lines, and it is better

for them to end the relationship as soon as possible, [then] I try my best to get the work [divorce] done....

Evidently, Shadi and Nasim believed that their clients had not taken all necessary steps to save their marriages, and that it was their responsibility as lawyers to ensure that clients have “legitimate” reasons for seeking a divorce, even though the law does not require lawyers to find such justification.

Lawyers’ narratives suggested that Iranian family lawyers cannot be easily categorized as “legal-craft oriented” practitioners who often distant themselves from their clients’ emotional and interpersonal issues. Instead, they demonstrated a significant level of engagement with their clients’ personal and relational concerns. Moreover, contrary to the assumption that female lawyers are more likely to be concerned with the emotional and psychological aspects of a case (Bogoch, 1997; Maiman et al., 1992; Schultz et al., 2003), my findings illustrated that both men and women lawyers were actively involved in addressing psychological aspects of divorce. This finding aligns with previous research that emphasizes the influence of various factors, not just gender, on the everyday work of lawyers (Mather et al., 2001).

Criticizing Divorce-Seeking Women

Lawyers were particularly critical of women’s assessments and understanding of their marital issues. Divorce lawyers’ narratives suggested that, before turning to a lawyer, women who were dissatisfied with their marriages often “named” a specific aspect or experience as harmful, which served as the initial stage of dispute transformation process. Naming an experience as injurious is a prerequisite for

seeking legal assistance. In other words, had women not articulated negative feelings about their marriages, they would not have sought legal assistance. When I asked lawyers whether women who turned to them to discuss a family issue, such as divorce, had a clear understanding of their problems, they explained that most of the women recognized that living with an addicted, abusive, unfaithful, or violent husband was “problematic”¹⁷ and such understanding made them turn to a lawyer. Amir mentioned that his clients generally “came to [his] office and claimed that their husbands were addicted and [because of that] their lives became hard. Most of them had experienced severe beatings.” Maryam, who practiced law in Tehran for 15 years and took only a few family-related cases, had a similar observation:

I have seen several women who regarded their experiences [in marital relationship] as difficult, which could be either because of being cheated or abused. But because of their lack of resources and knowledge, they tolerated that relationship.... They knew what the problem was because they had lived with it.... A few months ago, a woman came to my office for a consultation. For example, this woman had gone home and seen a lipstick mark on a cup. She realized that her husband had cheated on her and had invited another woman to the house when she was out.... She asked me what she could do, and she was not familiar with her rights.

Maryam and Amir noted in their responses that their women clients had frequently encountered significant difficulties in their marriages and were conscious that they should not remain in those relationships. Some lawyers, however, questioned women’s perception of their marital matters or what they had “named” as “injurious.” More

¹⁷ “Problem” or “problematic” appear frequently in this section’s quotes. It is worth mentioning that I used the word “problem” (*Moshkel*) in my question and lawyers mirrored it.

specifically, these lawyers refused to identify and label women's experiences as "problematic," "serious," or "intolerable"¹⁸ if those injurious experiences were tolerable or less acute from the lawyers' perspective. At least one-third of the sample believed that oftentimes women did not have "legitimate" reasons for seeking a divorce. For instance, Elaheh, who had eight years of legal expertise and exclusively represented women if she took on family cases, was extremely critical of the women's assessments of their relational matters. Elaheh said:

I would say that in 70% to 80% of divorce cases, you don't find suffering and hardship. In my opinion, it's all about a lack of tolerance, financial issues, and the strange expectations that women have.... Only 10% of women who turned to me experienced physical violence, were left behind by their husbands, lived with a husband who was suspicious of them, were financially under pressure, or lived with a husband who had severe addiction.... I think women's expectations have increased and they have become very selfish.... They see other divorced women and the temptation of living free and doing whatever they want to do freely leads them to seek a divorce....

Elaheh only considered extreme instances of hardship and suffering as valid reasons for divorce. Thus, she dismissed other forms of dissatisfaction with a marital relationship as illegitimate, attributing them to women's whims or "unreasonable" expectations. Lawyers like Elaheh did not perceive all types of frustration with a marital relationship as "legitimate" grounds for divorce and blamed women for clinging to minor issues and ruining their marriages. Similarly, Ali expressed criticism

¹⁸ It is worth mentioning that the main target of lawyers' criticisms were women because the question explicitly asked about women's perceptions of their experiences. Terms *Moshkel saz*, *Jeddi*, and *Gheyr-e-ghabel-e-tahamol* were translated to problematic, serious, and intolerable, respectively.

of discriminatory laws and judges' biased rulings, but he also expressed skepticism towards the extent of the challenges faced by some women. He specifically placed blame on the new generation for its supposed lack of tolerance:

[B]ut I want to tell you something. When I paid more attention, what they referred to as a problem seemed funny to me as a lawyer. I might not understand why they called it a problem. It might be a problem but not a problem for which someone could dismantle her life [marriage].... I don't know whether they're right or wrong.... but new marriages do not last long. People like my parents have been living together for 50-60 years. They might have some problems, but [marital] life continues. But the new generation has a different perspective, and unfortunately, their tolerance threshold has gone down. I had a case in which they [the couple] got a divorce because the wife wanted to do cosmetic nose surgery and her husband did not want it.

Ali seemed to acknowledge his position as an outsider and reserved judgment ("I don't know whether they're right or wrong"). Nevertheless, he expressed his disapproval of women's failure to deal with minor dissatisfactions. In the same vein, Sara was critical of women who approached her with what she perceived as trivial and "absurd" complaints:

I have some issues with this new generation of women.... When I asked younger women why they wanted a divorce, they used new terms like 'we did not have a mutual understanding anymore' or I didn't know 'he was very irritable.' This [new] generation doesn't know what they want, and they aren't forgiving.... They told me ridiculous things and at that point I felt – you know I have been working for 16 years – they were making an excuse to justify themselves and to convince me as well in order to get a divorce. I felt they got bored with their husbands.... Women have become bold since they have become more familiar with their rights through social media.... Iranian women have become open-minded.

Sara emphasized that as an experienced lawyer with 16 years of experience, she could determine whether women had "valid" reasons for divorce, calling into question the

younger generation's evaluation of the intensity of the marital distress they experienced. Despite acknowledging the increasing awareness of women's rights, Sara believed that women misdirected this awareness.

The judgmental attitude of lawyers towards younger women and their perceptions of marital struggles suggest that lawyers may exhibit biases similar to lay people when their clients deviate from expected feminine behavior or fail to "do gender appropriately" (West & Zimmerman, 1987). Expecting women to be more "forgiving" or "tolerant" contributes to lawyers' tendency to recommend couples therapy to women as a way to address what they perceive as "trivial" marital problems before considering divorce. A recent study that examined reasons for divorce in Iran indicated that common relational issues, such as not receiving enough attention, were among the most often cited reasons for divorce by men and women (Doherty, Kalantar, & Tarsafi, 2021). However, lawyers did not raise concerns regarding men's intolerance or presumptuousness as potential factors that could contribute to their dissatisfaction with their marital relationships. This disparity may be attributed to the influence of discriminatory family law, which has a "constitutive effect" on lawyers, leading to the normalization and acceptance of gender norms in divorce (Bogoch & Halperin-kaddari, 2006).

This approach also indicates how, in lawyers' interactions with their clients, gender operates as a "primary frame" through which lawyers make sense of their clients' behaviors and decisions with regard to their marital life, thereby reinforcing hegemonic gender ideologies. As Ridgeway (2009) argues, gender functions as a

background identity in people's lives and coordinates behavior and interactions based on stereotypical assumptions about how men and women are or should behave.

Participants' narratives indicate that lawyers, as social actors, draw on stereotypical beliefs about women's role in taking care of marriages and making sacrifices for the sake of the family (Nikparvar, Stith, Dehghani, & Liang, 2018), reifying traditional gender norms. Thus, lawyers sometimes view "doing divorce" by women as a failure in "doing gender" properly.

Lawyers' accounts suggest that women not only face the challenge of convincing judges and lawmakers of their maturity and ability to make sound life choices, but they also encounter lawyers who doubt their capacity to make rational decisions regarding their intimate relationships. Dismissing women's evaluation of the seriousness of their marital issues reinforces gender stereotypes that portray women as irrational beings who are primarily influenced by their emotions and surroundings, and incapable of making logical decisions. Although lawyers in this study decried the discrimination inherent in family law and were critical of judges' discretionary decisions informed by their gender ideologies, they inadvertently contributed to reinforcing certain gender stereotypes about marriage and divorce through their evaluations of women's grounds for divorce.

Mediating and Maintaining Gender Ideologies

The majority of lawyers in the study reported that they were cautious when it came to initiating a unilateral divorce and instead preferred to encourage their women

clients to pursue a mutual-consent divorce if possible. This preference stemmed from the recognition that obtaining a divorce at the request of a woman is a complex and lengthy process in family courts, partly due to the wide discretion granted to judges in making decisions in these cases. To minimize the negative impact of a convoluted and arduous divorce process on their clients' mental health and well-being, and to ultimately act in their clients' "best interests," family lawyers often tried to persuade women who sought a divorce to reach an agreement with their husbands.

Prioritizing Swift and Less Burdensome Resolutions

It was expected that lawyers would assess their clients' claims and evidence before developing effective strategies for divorce cases. Typically, lawyers advised their clients to choose the most efficient and least contentious path to end a marriage, taking into account the evidence at hand. According to my participants, this path often requires minimal judicial intervention. For instance, to simplify the divorce process for women, Farhad often steered his clients towards pursuing a mutual-consent divorce instead of a unilateral divorce case:

I always suggest to them that they pursue the shortest way.... In family cases, women think they win but they often lose... and 70% of the time it's their own fault. There are times that they might think they would win but they are eventually losers. They could get a divorce right away rather than wandering in a family court for six or seven years. I always, without exception, led my clients to seek a mutual-consent divorce. Except for two or three cases, I was able to convince them that the path they were pursuing would be detrimental to them.

Farhad was proud of his approach to handling divorce cases and believed that women's blind faith in the law was detrimental to their interests. He thought that the

quickest way to obtain a divorce was the most optimal approach. Other lawyers shared this perspective as they discussed their strategies and their understanding of family court procedures. When I asked Elaheh what she suggested to women who sought a divorce, she replied:

Unless I have strong evidence that my client can win in a short period of time, I will not file a unilateral divorce case and encourage my client to reach a mutual agreement with her husband. I know how the system works and that judges will not be convinced by my arguments.

Similar to Elaheh, Ali relied on his knowledge as an “insider” and tried to convince women to seek a solution outside the court:

I have had a lot of female clients who wanted to get a divorce. Almost always I tell women to reach an agreement with their husbands. I am familiar with the court environment, I know the precedent, I know judges’ behavior, and I know their approaches to divorce cases. So, it’s better for my clients to negotiate with her husband and avoid going through this process.

The family lawyers in my sample had, on average, 13 years of experience in family law and can be viewed as “repeat players” (Galanter, 1974) who had greater familiarity with the court system and the law. Drawing on their practical understanding of how the law operated, these family lawyers argued that they could often predict the outcome of a case. Given the challenges women encounter during the divorce process, lawyers believed that filing for a unilateral divorce must always be a last resort to be pursued only if a woman had a “strong” and “defendable case.” In the final section of this chapter, I will discuss the criteria used by lawyers to evaluate the likelihood of a divorce being granted in a particular case and their confidence in initiating legal action. Lawyers justified their approach to women’s divorce requests

by emphasizing the impact of gender ideologies on judges' decisions, which could complicate unilateral divorce cases. Additionally, they acknowledged their responsibility to prioritize the well-being of their women clients throughout the divorce process.

While I inquired about the potential influence of lawyers' time, energy, and professional reputation on their recommendation of a mutual consent divorce to clients, the majority of lawyers denied any significant impact. Nonetheless, only a small number of lawyers (four) acknowledged considering their reputation in relation to judges and future clients, while smaller number (three) recognized that, from a cost-benefit perspective, a mutual consent divorce could offer advantages in terms of time and energy savings.¹⁹ Lawyers underscored that these factors were assessed while keeping their clients' best interests in mind. Finally, another significant consideration that could inform lawyers' hesitation to pursue unilateral divorce cases is their desire to avoid potential conflicts with dissatisfied clients if the outcome is unfavorable. While lawyers often include provisions in their contracts clarifying that their fees are not contingent upon the outcome, dissatisfied clients may refuse to make the

¹⁹ It is important to note that the fees for a mutual consent divorce, which involves a more streamlined administrative process, can be one-third of the fees for a unilateral divorce case initiated by women. However, a mutual consent divorce can be finalized in less than a month, while a unilateral divorce case may take at least one year to reach a resolution. Finally, it is worth mentioning that lawyers in Iran follow a non-hourly billing system, opting for a customary fee structure that aligns with the specific nature of each case. This fee can be paid either upfront in a lump sum or in installments, with a portion potentially paid at the conclusion of the case. Lawyers often do not tie their payment to guaranteed outcome unless they are highly confident in winning a case.

remaining payment. Thus, lawyers actively seek to avoid such additional burdens by refraining from taking on these cases. This consideration was mentioned by only one lawyer.

Judges and Gender Ideologies

While lawyers acknowledged the “broad,” “vague,” and “discriminatory” nature of divorce law, they did not always view it as the primary obstacle preventing women from obtaining a divorce. Instead, they highlighted the significant role of judges’ discretion in evaluating women’s claims in divorce cases initiated by women. The discretionary power of judges created a divergence between the law on the books and the law in action, which lawyers commonly referred to as “precedent” or “unwritten law.” This inconsistency was often a factor that deterred lawyers from pursuing divorce cases.

Like the majority of the participants, Raha mentioned that the law in action did not mirror the law on the books. Among the six lawyers in the study who identified as women’s rights activists or advocates, Raha had 14 years of experience in family law, primarily representing women in family law cases. Unlike many other lawyers in the sample, Raha often actively utilized the full extent of the law to protect and advance women’s rights. In her response, she emphasized that the main hurdle in obtaining a divorce verdict lay in the implementation of the law:

I think there is no doubt regarding the possibility of getting a divorce under the current law. The current law can help women get a divorce, and there is nothing wrong with that. But the issue is the precedent. I

can even give you an example. According to Islamic *fiqhi* norms, a judge must grant a divorce if a woman initiates a divorce because she dislikes her husband. This type of divorce is called “Khul” and a woman must also forgo her *mahr* (dower). However, in practice, judges rarely do so.

From Raha’s perspective, the law’s potential to ensure women’s right to divorce was often compromised by judges who had substantial discretion in deciding divorce cases and who were apathetic or reluctant to grant women a divorce. She argued that the divorce process was driven more by the judges’ personal agendas than by the law itself. Sara, whose 14-year professional career has mostly involved family law cases, pointed to this inconsistency too. While Sara mainly represented women in family law cases, she mentioned instances where she represented men in order to discourage them from exploiting their legal privileges. Throughout the interview, Sara provided multiple examples to illustrate how the implementation of the law deviated from what was outlined in the law on the books and how the rule of men overshadowed the rule of law:

You know, for example, according to the law a wife can get a divorce if she experiences domestic violence, if her husband abandons her for more than six months, or if her husband is addicted to opioids. However, what we see in practice is totally different. I had a client whose husband suffered from heroin addiction. We filed for a divorce and the judge told her that she should seek treatment for her husband instead of a divorce. So, you need to look at the precedent and not the law.

Even though a husband’s substance use disorder is legally recognized as a valid reason for divorce under Article 1130, Sara shared an example where the judge did not approve the divorce on that ground. Similar accounts from other lawyers also

emphasized the impact of judicial behavior and selective application of the law on the outcome of divorce cases. These lawyers further elaborated on how arbitrary and biased interpretations of the law by family court judges created challenges and sometimes made it nearly impossible for women to obtain a divorce. Nima highlighted that judges' preferences heavily influenced the outcome of divorce cases:

You should consider that there is an unwritten law that perceives family as a banned area. That is why if you call the police and report domestic violence, they will tell you that they cannot interfere because it's a family issue. This is similar to a judge who argues that a one-time beating is not a big deal. Such interpretations are informed by judges' personal opinions, and we shouldn't forget that they might treat their wives in a same way...How do you expect a judge who is aggressive in his marital life and might use violence against his wife to consider one or several minor beatings as instances of hardship?

Nima believed that judges often interpreted the facts of a case based on a gender ideology that favored men and disadvantaged women. This meant that in their evaluations of women's claims, judges would adhere to traditional gender norms, presuming that women should sacrifice themselves for the sake of the family as they were expected to manage marital dynamics.

Despite having broad discretion to subjectively examine women's claims, judges rarely deviated from these traditional gender norms that regulated familial relationships when making decisions in divorce cases. Nastaran, who was motivated to practice law by her work with non-profit organizations assisting vulnerable women, further expanded on this point. Nastaran exclusively represented women in family law cases and expressed her dissatisfaction with a patriarchal legal system that impedes women from obtaining their rights. Despite her observation of judges' patriarchal

handling of unilateral divorce cases, similar to Raha, Nastaran was committed to advocating for her clients' rights in court, even if the likelihood of success was minimal. With 13 years of experience working as a lawyer, Nastaran firmly believed that:

We would have been in a better position if the current family law had been fully implemented. Judges do not even implement this law. You know, patriarchy is ingrained in their private lives, and they are sexist. And of course, women play a role in the creation and perpetuation of this patriarchal order, as many judges have wives, mothers, or other woman in their lives who do not challenge them. Patriarchy is so entrenched in their lives that they even don't bother to fully implement the current family law which itself has many flaws in terms of women's rights.

Nastaran attributed the absence of gender justice in family courts to the patriarchal values upheld by male judges. In support of her view, she cited a study conducted by The Women's Commission of The Judiciary, which examined the effect of gender differences on procedural justice in family courts. The study aimed to determine whether judges treated men and women equally:

The judiciary had a commission called The Women's Commission. The commission designed a study many years ago to examine if judges treated men and women equally, for example, if they offered men and women equal opportunity to talk. Someone from the research team observed court proceedings at the two branches of the family court: Mahallati and Velenjak. The findings were never published. But we found that judges did not treat men and women equally.²⁰ Based on my personal experience, the same appears to be true for substantive justice.

²⁰ Nastaran was a member of the research team, so she had access to the findings.

Lawyers' accounts suggest that family court judges draw on traditional gender roles and their deeply gendered understanding of marriage when making decisions. Smith (1993) criticized the fantasy of "a detached and dispassionate judge arriving at objective conclusions through the application of neutral rules" (p. 223), highlighting that a judge, like anyone else, cannot make completely objective judgments that are devoid of their personal values and preferences as well as cultural references. Judges are social beings, after all. Studies on judges and decision-making indicate that, regardless of the level of their expertise in the subject matter, judges' decisions are not immune to the impact of their gender ideologies and biases (Basu, 2012; Harris & Sen, 2019; Miller, 2019). For example, even with gender-neutral family laws, judges' decisions in child custody cases are often influenced by gender stereotypes, leading to the continued prevalence of maternal-primary custody (Costa et al., 2019). Thus, legal decisions are strongly influenced by personal values and ideologies, and legal actors, in particular, mediate the law through the lens of their traditional gender ideologies (Mehra, 1998). This becomes specifically problematic when such values align with the interests of those who hold power and are drawn upon to discriminate against marginalized groups, as is the case in woman-initiated divorce cases in Iran. In this context, judges' personal beliefs and gender ideologies frequently lead them to withhold the use of their discretionary power to support women and instead prioritize upholding a husband's authority over his wife, even if it results in significant hardship for the women involved. Biased judicial decisions in family law cases in Iran not only contribute to the reconstruction of gender norms through legal reasoning, but also

discourage lawyers from engaging with the law, since it does not secure the most favorable outcome for their women clients. Consequently, lawyers refrain from engaging in court proceedings where judges' gender ideologies influence their decision-making.

Clients' Well-being and Best Interests

To further justify their reluctance to actively engage with the law, lawyers emphasized the well-being of their clients. They took into account the legal challenges that women face when seeking a unilateral divorce and aimed to shield them from additional harm that can arise from a lengthy legal process in which women's suffering and hardship are often overlooked or perceived as normal. For instance, Paniz, a lawyer with seven years of experience at the time of the interview, often advised her clients that if they truly wanted a divorce, they should avoid wasting their time, money, and energy on a court battle:

Because of the lengthy and frustrating process of divorce, I always encourage them to seek a mutual-consent divorce. I explain to them that they shouldn't view divorce as a simple and quick process and that they can't expect to be divorced in, for example, six months. I mean this is a long process. I talk to women in particular about demanding their *mahr* in practice and explain to them that they shouldn't expect that their husband will give it to them easily.... I tell them any money they might get is worthless compared to what they have to sacrifice, which is their youth and life.... I tell them that the exhausting process of divorce that requires ongoing follow up is not worth their mental health. So, if you can, go ahead and make a deal with your husband. I've had some success with this strategy.

Paniz recognized the importance of advocating for women's rights, but she did not see the divorce process as the most effective means to achieve this. While she was

frustrated by the prevailing gender inequality in family law, which largely benefits men at every stage of marriage and divorce, Paniz believed that subjecting a client to a protracted legal process would be futile when she could instead try to negotiate a settlement with her client's husband. To persuade women to seek a solution out of court, Paniz had to educate them about legal "reality" and inform them of the detrimental impacts of the legal process on their lives. Sheyda echoed this sentiment. Sheyda had eight years of experience practicing law, during which she not only worked as a family lawyer but also served as a legal consultant in family court. This extensive experience provided her with valuable insights into the complexities and challenges of family law cases. Sheyda's primary goal was to protect her clients from the daunting legal process in family court. To achieve this, she often reshaped women's responses to grievances and convinced them to seek a solution out of court. She believed that clients might not fully comprehend the financial and emotional difficulties that come with a prolonged divorce proceeding, as well as the potential for increased tensions. Instead of fueling her clients' anger and resorting to court battles, Sheyda prioritized their well-being and endeavored to minimize their suffering by reshaping their understanding of how the law operates in practice:

I always evaluate their reasons for divorce first to see how strong and valid they are. Women are emotionally exhausted when they turn to a lawyer. Imagine that they struggled for one or two years, and they were dissatisfied with their marriage. But because of the pressure of cultural norms, they couldn't easily say that they wanted a divorce. At the point that they came to us, they really wanted to get a divorce. But imagine that a divorce case would take between one and a half and three years. So, time is precious here and even if they have strong evidence, [mediation] is beneficial to them mentally and financially and for many

other reasons.... What is important to me is that my clients get what they want as soon as possible rather than experiencing mental exhaustion because of having to spend a few years in court. If I want to be rational as a lawyer, I believe that settlement is the best option. But they are the ones who decide in the end. I just explain to them how their evidence is evaluated by judges and how long the process would take.

Sheyda recognized that women seeking divorce had likely endured previous hardships in their marriages. Therefore, she tailored her strategies to protect them from further harm and suffering that often arise during the divorce litigation process. Other lawyers took a similar approach, viewing it as their responsibility to secure the best possible outcome for their clients while ensuring their emotional well-being. Some lawyers even associated this approach with their “professional responsibility” and took pride in successfully helping their clients obtain a divorce without having to go through a lengthy and discriminatory divorce proceeding. While this approach facilitates and accelerates the divorce process, there can be significant financial consequences for women who opt for a mutual-consent divorce. Women are often asked to “lump it” and accept unfavorable terms, such as forgoing their monetary rights (i.e., *mahr* and *nafaqah*). The prioritization of mutual consent divorce by lawyers implies that their skepticism towards achieving favorable outcomes in divorce cases, coupled with the recognition of the challenges experienced by women during the process, lead them to overlook the gender inequality and power disparities inherent in divorce negotiations. This unintentionally reinforces women’s disadvantaged position both during and after the divorce process. This concern was highlighted by divorced women and will be discussed in Chapter 6. Finally, while lawyers emphasized their focus on clients’

emotional well-being during consultations, clients' narratives suggest that this attention did not necessarily align with the emotional needs of women seeking divorce.

Furthermore, lawyers' "realistic" and "reasonable" choices appear to be maternalistic or paternalistic as they work toward deterring women from filing a unilateral divorce case by underlining the lengthy and torturous nature of the legal process. According to Dworkin (1988), an act is paternalistic if there is "a usurpation of decision-making, either by preventing people from doing what they have decided or by interfering with the way in which they arrive at their decisions" (123). While the majority of lawyers stated that they only advised clients and left it to them to decide, some lawyers opposed a client-centered approach, stating that if their clients did not agree with their recommended strategies, they would not take on their cases. Divorced women's accounts supported this finding, indicating that their lawyers did not always support their preferred approach to obtaining a divorce and instead encouraged them to negotiate with their husbands and reach a settlement. However, it is worth noting that some women expressed satisfaction with their lawyers' approach, especially if it facilitated a faster and smoother divorce process for them.

To summarize, the findings illustrate that lawyers have had to adopt a more informal and non-adversarial approach to divorce cases due to discriminatory legal decisions and practices. Facilitating divorce for women can be viewed as a strategy to overcome the legal barriers that women face in exercising one of their basic rights. Although lawyers often recommend divorce by mutual consent to their women clients,

which still requires filing in family courts, it minimizes the impact of judges' discretionary decisions and is therefore less distressing. My findings suggest that lawyers' approaches to a divorce request by women clients are mainly informed by their familiarity with family law in practice, which is heavily shaped by the gender ideologies of judges. This highlights the integral role of judges in shaping the law in action, even in a civil law system. While avoiding an adversarial strategy is desirable and valued in a no-fault divorce setting, doing so when the law is gendered and the judiciary reinforces gender ideologies, has its own set of ramifications, one of which is that the gendered legal reasonings remain largely unchallenged. Nonetheless, the majority of lawyers in this study did not believe that they could or should play any role in challenging these arguments. The rationale behind lawyers' perspectives will be further discussed in Chapter 5.

Litigating and Challenging Gender Inequality

As discussed in the previous section, the inconsistency between the law on the books and the law in action is the major obstacle deterring lawyers from filing for divorce. Lawyers attributed this inconsistency to judges and blamed them for conservative interpretations of the law. They expressed frustration with the situation, stating that "sometimes a judge's opinion was stricter than the law itself," even when a woman's situation clearly fulfilled one of the legal criteria for divorce. As a result, lawyers would only initiate divorce proceedings if a woman was unable to reach an agreement with her husband and could provide *enough* evidence to substantiate her

claim that the continuation of marriage would cause her suffering and hardship according to the legally stipulated grounds of hardship. Even under these circumstances, most lawyers may opt against filing if the likelihood of success is slim.

The majority of lawyers indicated that they would only file a divorce case if a client met specific criteria, such as experiencing severe physical abuse, being abandoned by her husband for a prolonged period, or dealing with a spouse with severe substance abuse issues, as outlined in Article 1130. However, even in these circumstances, lawyers were still concerned about judges' subjective evaluation of a woman's situation. For instance, Ali mentioned that judges sometimes viewed physical assault as a "normal" part of a marital relationship, rendering any legal arguments ineffective. Thus, lawyers were more confident about the prospect of winning a case if a woman had experienced multiple instances of hardship. This perspective was reflected in Samaneh's approach to divorce requests by women. Driven by a commitment to social justice and seeking justice for those whose rights were violated, she dedicated 70% of her legal practice to family matters. However, she had not filed a unilateral divorce case in the past two to three years, a pattern consistent with what other lawyers had shared. When I inquired if she was certain about not having any additional cases during that time, she said:

Yes, yes. You know why? Because this is not my strategy. For example, if a woman turns to me and has strong evidence showing that her husband physically assaulted her and she secured a criminal conviction against him, I know that we'll go to court and win. But if she doesn't have proof, I know that we'll lose and so I choose a divorce by mutual consent. But sometimes a divorce by mutual consent is not an option.

Samaneh then briefly talked about a recent divorce case:

It was a pro-bono case. My client found out after her marriage that her husband had a severe drug addiction and used crystal meth. She had given him several opportunities to quit. She had handwritten notes from her husband showing that he acknowledged his addiction and admitted that he tried to quit but was unable. He also did not have a job and could not cover their living expenses. The whole divorce process took six to seven months.

In this particular example, the husband's financial impotence and his severe substance use disorder were among the legally acceptable grounds for a wife to seek a divorce, as outlined in Article 1130. Samaneh did not hesitate to mobilize the law and file a divorce case, as the client's experience fell under the legally established criteria of hardship and suffering. Sara, echoing Samaneh's approach, stated that she only pursued cases that had a strong legal basis and were "defensible" in court:

I know what constitutes an admissible case for a judge.... If a husband's residence is unknown, if he uses crystal meth and his wife has proof, or if he is in prison and has a criminal record, I will file a divorce case. Otherwise, I encourage my client to seek a mutual consent divorce.

While it is reasonable for lawyers to seek sufficient evidence and pursue cases with strong legal merits (Kritzer, 1998; Michelson, 2006), the hesitancy of family lawyers to invoke the latter part of Article 1130 can be problematic. This section explicitly states that "the instances cited in this Article do not prevent the court from issuing a divorce on the basis of other instances where a wife's 'hardship' is established in the court." In other words, despite the provision allowing for broader interpretations of hardship, the majority of lawyers were reluctant to take on divorce cases where

establishing hardship and suffering was particularly challenging, even if their clients were determined to proceed with a divorce. This hesitation was exemplified by Lida. During her 16 years of legal practice, roughly 70% of her cases involved family law. When discussing her approach to divorce requests from women and the difficulties of establishing hardship and suffering, Lida stated:

Two or three weeks ago, I had a client who wanted to get a divorce because of her husband's impotence. He could have a sexual relationship if he took 5-6 pills every day. I told her not to be hopeful about getting a divorce. First of all, a divorce proceeding goes through three stages. A divorce verdict must be affirmed by the Supreme Court, after going through the trial and appellate courts. And who knows what these different judges might think about a man's impotence. One might consider it an instance of suffering, and the other might say there is no problem with it. I discouraged her from seeking a divorce in court because her case was not based on any of those instances of hardship and suffering. It was not an admissible case.

Despite the discretion granted to judges in evaluating instances of hardship and suffering under Article 1130, Lida appeared hesitant to utilize this opportunity. However, Lida's approach was not uncommon among lawyers. Maral, who had 16 years of legal experience, described herself as a very conservative lawyer who preferred to avoid any potential complications with her clients. Consequently, she refrained from filing a divorce case if the chances of winning were deemed low:

If she has enough evidence, that is, if her case has at least a 90% likelihood of winning, I would bring her case to court. Otherwise, if she doesn't have enough evidence, I won't accept her case, even if she insists. I won't accept a case if the client doesn't have strong evidence.

I inquired as to what Maral meant by "strong evidence." She referred to instances of hardship and suffering specified by Article 1130:

I ask my client about her reasons for wanting a divorce.... If, for example, she was beaten only once, I can't build a case based on that. But, for example, I had a client, whose husband had a sexual dysfunction. She was a virgin two years after her marriage. She had medical documentation. I represented her and we won.

Maral clarified that, in her opinion, the explicit instances of hardship and suffering outlined in Article 1130 were the factors that constituted strong evidence.

In summary, the majority of lawyers stated that if they could not convince their women clients to reach an agreement with their husbands, they would often choose not to file a divorce case based on instances such as a husband's affair, marital rape, marital boredom, and other unspecified instances of hardship, which were deemed "inadmissible." Undoubtedly, establishing hardship and suffering based on these instances requires substantial effort, time, and energy. Therefore, lawyers' hesitation can be attributed to concerns about their reputation and the considerable time and energy they must invest in such cases. However, as I mentioned earlier, only a few participants acknowledged these concerns.

The approach of family lawyers in Iran aligns with existing literature on the motivations of the legal profession to screen out cases. For instance, studies on screening decisions in sexual assault cases reveal that decisions are often made based on how well victims conform to jurors' perception of what makes an "articulate" or "credible" victim (Frohmann, 1991, 1997; Spohn et al., 2001). Such decisions reinforce gender inequality and inadvertently reproduce ideologies around who qualifies as a "real" victim (Frohmann, 1997). In a same vein, family lawyers screen

cases based on how closely their clients' marital experiences align with judges' understanding of hardship and suffering, perpetuating the notion that only women who have suffered severe harm are entitled to divorce. This approach contributes to the reinforcement of the strict and conservative reading of the divorce provision by judges or "family law in action" and suggests that family lawyers' everyday practice is shaped by constraints as opposed to opportunities. It is worth mentioning that unlike prosecutors, who are regarded as essential members of the courtroom work group and are actively involved in upholding the functioning of the legal system, establishing lasting relationships with fellow work group members and having their compensation linked to conviction rates, family lawyers in Iran do not view themselves as integral to the courtroom work group. As a result, their reasons for not filing for a divorce may not necessarily align with those of the judiciary.

Diverging from the prevailing approach, six lawyers expressed a willingness to initiate divorce proceedings if their clients insisted on obtaining a divorce, particularly if a mutual consent divorce was unattainable. These lawyers took into consideration their clients' personalities and financial situations, informing them in advance about the low likelihood of winning the case and allowing them to make the final decision. This approach was particularly embraced by lawyers who identified as women's rights activists or had a strong passion for advocating women's rights. Raha, for instance, explained that she always prioritized her clients' interests in her strategies, and in some cases, initiating a unilateral divorce was the only feasible option:

I always consider my client's interests. But you know, sometimes, for example, in a case I am currently working on, I have no other options. We had filed for her dowry and got a verdict last year. But the husband did not consent to divorce.... Now, the only option is to file for divorce on the ground of suffering and hardship. The alternative is to not file a case. I have repeatedly told my client that our chances of winning this case are slim. But I have two reasons for filing a case: first, we have a 20% to 30% chance of success. So winning is plausible. Second, perhaps when her husband attends the hearing, he somehow agrees to the divorce. More importantly, if our case is rejected this time, we will file a case a year later and argue that the client has been in this situation [and has not lived with her husband] for more than a year.

While the majority of lawyers in identical circumstances had little hope, Raha never missed an opportunity to confront the injustices women face in the divorce process. She always aimed to ensure her clients' interests and sought to bring about small but tangible changes within the system. Two years after the interview, I followed up with her about this particular case and learned that divorce was granted to her client at the trial level and her client's husband never appealed the decision.

Like Raha, Samin, an experienced lawyer with over 18 years of practice, adopted a progressive approach to divorce cases. Although she did not consider herself a women's rights activist at the time of the interview due to personal circumstances, she still had concerns about women's rights. Samin was one of those lawyers who needed to be convinced that their clients had valid reasons for seeking a divorce. She acknowledged that, even though it might be seen as "selfish," she could not solely rely on her clients' evaluations of their marital satisfaction. She clarified that this did not only pertain to women. However, if she concluded that divorce was the only solution,

she did not restrict herself to the specific instances of hardship and suffering outlined in Article 1130:

Under the circumstances that my client did not experience any of the instances of suffering and hardship that were specified by Article 1130 but did not want to live with her husband anymore, I tried to make a case. For example, I had a client whose husband was a professor at a prestigious university. His social and financial status was great. Despite having two children, my client could not continue her marriage because her husband spent a lot of time on sex chat. I filed a case and we won. In cases like this, I explain all the possible options to my client in advance.

In this case, Samin used the last section of Article 1130 to argue that the continuation of marriage caused her client suffering and hardship. Even though most lawyers believed that the chances of winning such cases were low, a few lawyers considered using the potential of the law to develop more progressive interpretations of suffering and hardship.

The conventional and cautious approach taken by most family lawyers reflects a lack of recognition of the importance of actively engaging with the legal system to ensure the full implementation of existing laws. This in turn contributes to the gender inequality in divorce cases, which mostly results from the arbitrary application of the law rather than the law itself. Studies on Islamic laws indicate that the rules of Islamic divorce are not fixed or rigid and can adapt to evolving social and cultural contexts (Clarke, 2018; Mehdi et al., 2012; Osanloo, 2009; Peletz, 2018; Zubaidah, 2005). This flexibility is reflected in judges' decisions in divorce cases in other Muslim countries, as they draw on various resources to support their legal reasoning (Giunchi, 2022;

Landry, 2022; Yakin, 2022), which highlights the possibility for a more nuanced and contextually sensitive interpretation of divorce laws within Islamic legal frameworks.

Conclusion

My findings are consistent with other studies that characterize lawyers as “agents of dispute transformation” who shape their clients’ perceptions of their legal grievances and possible courses of action (Felstiner et al., 1980; Mather, 2003; Menkel-Meadow, 1985). While some studies suggest that lawyers may act as gatekeepers to justice, determining which grievances are recognized and pursued in formal court proceedings (Frohmann, 1997; Li, 2015; Spohn et al., 2001), my findings suggest that family lawyers function as gatekeepers by blocking or delaying women’s access to formal court proceedings. This point will be further discussed in Chapter 6.

Moreover, this chapter has shed light on how gender ideologies not only shape lawyers’ and judges’ decisions and interactions but are also sustained or left unchallenged through the practice of legal professionals. Given the lawyers’ practice style in divorce cases, one can argue that family lawyers inadvertently play a functional role in reproducing the hegemonic gendered discourse surrounding what is considered legitimate grounds for divorce, thus furthering gender inequality in this context. While scholars argue that the codified law, or more generally, the legal system in Iran, does not reflect the reality of women’s expectations and their status in society (Fatemi, 2006; Osanloo, 2006), all three sections of this chapter have illustrated that the majority of lawyers have not taken a more radical approach to

bridge the gap between women's lived experience and the law. Put another way, despite the fact that family lawyers appeared to be aware of systematic gender inequality in Iran, this understanding did not lead them to adopt a more progressive approach to undermine the arbitrary implementation of the law and challenge the gendered legal arguments developed by judges. By not actively challenging the gender ideology that informs judges' attitudes towards women who seek a divorce, family lawyers may inadvertently contribute to the reinforcement and perpetuation of existing gender inequalities and prevailing ideologies surrounding divorce. Thus, they function as "inadvertent enablers." While they may not intentionally work towards reinforcing gender inequalities in the context of divorce, their failure to actively challenge the status quo may serve to maintain it. This makes them "unwitting agents of the status quo."

Chapter 5

EVERYDAY LEGAL MOBILIZATION: SEMI-BYSTANDER AND INCREMENTALIST LAWYERS' PERSPECTIVES

I have talked about this to myself a lot and concluded that I'm a lawyer and have sworn to work towards my client's interests. I am neither a sociologist nor a politician nor a legislator.... First and foremost, as a lawyer, it is my duty to protect my clients' interests...specifically women because they're really weak.... I don't care whether my strategies would give rise to a greater change or not.... How should I prioritize society's interests when my client is exhausted and can't fight anymore?... I have other ways to work towards my other desires and objectives.

—Sheyda, a woman lawyer in Tehran

This chapter sheds light on the factors that influence family lawyers' decision-making regarding the use of legal strategies such as rights assertion and individual litigation to challenge the gender inequality embedded in family law and perpetuated by judicial practices. As we saw in the previous chapter, family lawyers refused to engage with the legal system and used alternative strategies to mitigate the impact of gendered judicial decisions on women seeking divorce. Lawyers' strategic approach to women's divorce requests was driven by their concern about clients' well-being when navigating the patriarchal judicial system as well as their evaluation of the strength of the evidence regarding their clients' experiences of suffering and hardship. Given the emotional toll of a trial in an inhospitable court system that often results in unjust outcomes for women, lawyers advised clients to avoid going to court and instead

pursue divorce through mutual consent. While lawyers criticized judges for making discriminatory decisions, the majority admitted that they often did not rely on their legal expertise to ensure the full implementation of the law or develop a more progressive interpretation of family law. When political avenues are inadequate, ineffective, or unavailable, advocates and social movements may resort to legal mobilization as a means to achieve social and legal reforms, ensure the proper interpretation and full implementation of laws, identify gaps in existing laws, and raise public awareness (Chua, 2018; Kazun & Yakovlev, 2019; Lehoucq, 2021; Sarat & Scheingold, 1998; Tam, 2010, 2012; van der Vet, 2018). Legal mobilization refers to the use of rights-based claims through various formal, informal, and quasi-formal mechanisms, including litigation, legal education, and legal framing, among others (Chua, 2019). Legal mobilization scholars show that advocates' tendency to use the law as a means of resistance is informed by various factors, including organizational resources of social movements (Epp, 1998), legal opportunity structures (Andersen, 2006; De Fazio, 2012; Fuchs, 2013; Hilson, 2002), and political context (Chua, 2012, 2015; Rajah, 2012; Tam, 2012; van der Vet, 2018).

Studies on legal mobilization have overwhelmingly focused on the US and other Western countries with common law systems, where rights advocacy has been most effective (McCann, 1994; Nielsen et al., 2010; Sarat & Scheingold, 2006; Scheingold, 1974). Growing research on legal mobilization in non-democratic regimes sheds light on the varying levels of legal mobilization in authoritarian regimes, where the law and court are in the service of the state and are deployed to subvert rights and

sustain authoritarianism (Chua, 2019; Halliday et al., 2007; Rajah, 2012). Despite the risks and the limited pay offs of rights claiming, the literature illustrates that even under authoritarianism rights advocates can turn the courts into a site of resistance (Chua, 2012; McEvoy & Bryson, 2022; Tam, 2012; Van der Vet, 2018).

As for cause lawyering in authoritarian regimes, studies indicate that due to unfavorable structural constraints, fear of retaliation, and limited resources, advocates might de-emphasize courtroom litigation and replace it with other strategies, such as public outreach and consciousness raising (Chua, 2018; Van der Vet, 2018). Lawyers might also develop less visible strategies in their everyday legal practice to oppose and resist arbitrary state power, unfair laws, and policies under authoritarianism (Batesmith & Stevens, 2019; Liu & Halliday, 2011; Nesossi, 2015; Stern, 2017). In addition to the political environment, cause lawyers' approach to their everyday practice is shaped by a range of interconnected factors, including their perception of professional responsibility, their view of the legal system, their view of and relationship with clients, their motivations and goals (Abel, 1995; Li, 2016; McEvoy, 2011; Michelson, 2006), and their legal education (Hickle, 2022). That said, it cannot be assumed that all lawyers in authoritarian regimes will necessarily oppose systematic injustice and inequality in their everyday practice (Kisilowski, 2015). In fact, as McEvoy (2011) notes, in all societies, the majority of lawyers are "paid technicians," who do not think that "the professional is indeed *political*" (p. 354).

While the reviewed literature has shed light on some of the reasons that discourage cause lawyers from contesting injustice and inequality in their everyday

practice, it is necessary to explore the reluctance of non-cause lawyers, including Iranian family lawyers, to engage with the legal system when they deal with cases which have political implications. The significance of family law as a political issue is evident in the immediate repeal of the family law by the revolutionary state after the 1979 revolution. This underscores how family law is influenced by a complex interplay of Islamic law, political ideology, and gender norms. Given this context, it becomes relevant to explore why lawyers who are critical of systemic gender-based discrimination do not oppose discrimination in their everyday practice, especially when discrimination is constructed, maintained, and reinforced by the law, and more radical oppositions are violently repressed. Gill (2011) argues that *all* lawyers “have a duty and obligation to devote themselves in substantial measure, to correcting the many social injustices that exist in our society,” because they *all* “are duty bound to promote and protect justice in all areas and at every level of human conduct, no matter who they are or what they do” (p. 230).²¹ Given this perspective, why do Iranian family lawyers not “seek a more just world” through “lawyering for the good,”²² with

²¹ This principle aligns with the guidance provided by The Code of Professional Ethics of Lawyering in Iran, which emphasizes that “for the establishment of social justice, the indispensable role of lawyers as key pillars of justice in society cannot be overlooked.” The code underscores the role of lawyers as “defenders of justice” and “compassionate and well-informed advisors” who “steadfastly defend the truth and safeguard the rights of the nation.”

²² Since the notion of “lawyering for the good” is subjective, it can be argued that family lawyers in Iran may perceive their role as promoting the good by preserving marital unions and adopting non-adversarial approaches to divorce. However, within the scope of this study, I conceptualize lawyering for the good as the legal practice that aims to ensure gender equality within the context of divorce.

a specific focus on dismantling gender inequities within the realm of family law (Menkel-Meadow, 1998, p. 37)?

To better understand non-cause lawyers' approaches to controversial cases, I developed two ideal types: the "semi-bystander" and the "incrementalist." These types are distinguished by their perspectives on professional responsibility and their beliefs regarding the potential for "meaningful or influential" reform, where the judiciary is unreceptive to women's rights. My findings indicate that most lawyers opted not to deploy legal means in their everyday practice to expose and/or challenge discrimination or gendered legal reasoning. This group of lawyers, who I refer to as "semi-bystanders," did not commit themselves to act strategically to address gender-based discrimination in the context of family law in their everyday practice, despite recognizing the role of the legal system in constructing and reinforcing women's subordination. The term "bystander" generally refers to a third-party who observes or is informed about an act of violence, harassment, or other behaviors which are highly discriminatory and are underpinned by a broader notion of inequality. For instance, in the context of sexual harassment in the workplace, bystanders have the potential to intervene in incidents of sexual harassment or situations that could lead to harassment by taking action to challenge perpetrators or potential perpetrators, by offering support to potential or actual victims, and by working towards changing social norms and inequalities that enable sexual harassment (McDonald & Flood, 2012). However, bystanders may fail to intervene in a situation for various reasons. For instance, in the context of sexual violence, bystanders may fail to notice the situation, fail to recognize

the significance of the situation, lack confidence in their ability to help, or believe that they are not personally responsible for taking action (Burn, 2009).

Although the bystander intervention research is mainly focused on the violence prevention literature, this concept can be used to describe participants' unwillingness to actively intervene when judges do not fully implement the law on the books, which contributes to the reinforcement of gender inequality in divorce. My findings illustrate that most family lawyers did not think that they had the ability and/or responsibility to do anything beyond facilitating divorce for their clients, despite being aware of discriminatory policies and practices of the legal system and their impacts on the everyday lives of women. To justify their reluctance, lawyers argued that they were bound by their professional and ethical obligations to prioritize their clients' best and immediate interests; however, they appeared to fall short in empowering clients to make autonomous and informed decisions regarding their immediate best interests. Moreover, they identified the unreceptive judiciary as an insurmountable barrier to effective legal mobilization. Lawyers believed that even though they were hesitant to use formal legal strategies, they could affect social and legal transformation by equipping women with legal knowledge. They believed that providing women with legal knowledge could proactively prevent them from going through an unjust divorce process.

A few lawyers chose not to be semi-bystanders and integrated the cause of women's rights into their everyday practice. This group of lawyers who I refer to as "incrementalist" lawyers, consisted of six lawyers who either identified as women's

rights activists or expressed a genuine passion for advancing women's rights and adopted a different approach to their everyday practice. Incrementalist lawyers, who did not appear to be representative of the profession as a whole, combined service and impact lawyering by strengthening clients' autonomy and agency in divorce process while pushing the boundaries of the law in their everyday practice. The work of incrementalist lawyers fits within Sarat and Scheingold's (1998) description of the work of cause lawyers, which is focused on "altering some aspects of the social, economic, and political status quo" (p. 4). This conceptualization is not rigid and even lawyers who engage in "traditional" legal practices to facilitate clients' access to justice and are not "self-consciously committed to a cause" can be considered cause lawyers (Ellmann, 1998; Sarat & Scheingold, 1998; Shdaimah, 2011). However, the majority of incrementalist lawyers did not consider themselves cause lawyers, as their understanding of cause lawyering aligned more with Statz's (2018) conceptualization, which characterizes cause lawyers "as individuals who self-consciously commit themselves and their skills to a political cause, and for whom lawyering is not value-neutral" (p. 6). Except for one, other incrementalist lawyers did not think that they had entirely dedicated themselves to advancing women's rights.

Given that barriers to legal change in the context of family law are constructed at the nexus of gender, religion, and politics, incrementalist lawyers opted to pursue gradual changes through small yet effective measures. Their understanding of their professional responsibility shaped their distinct practice style, motivation, as well as their incrementalist approach to reform. In the next three sections, I elaborate on and

demonstrate the main factors that shape each category's stance on utilizing legal means to oppose gender inequality in everyday practice.

Semi-bystanders: Barriers to Mobilizing Against Gender Inequality in Everyday Practice

This section illustrates how Iranian family lawyers' perceptions of their professional responsibility and the judiciary shape their everyday practice in a setting in which gender discrimination permeates all areas of law and practice. All the lawyers in this group were critical of the discriminatory judicial practice in family courts and its impacts on women's access to justice. Despite viewing the legal system as part of the problem, semi-bystanders did not believe they had a commitment to act strategically to address this issue in their everyday practice.

Professional Considerations in Fighting against Gender Inequality

Semi-bystanders framed justice in terms of their clients' pressing needs. When asked if they were concerned about the long-term impacts of their strategies, they emphasized how their ethical and professional responsibility required them to act in their clients' best interests, even if it meant that the pursuit of gender equality in family law and the broader interests of women seeking divorce were sidelined. They were less concerned about the potential long-term consequences of not challenging conservative readings of the law by family court judges. Semi-bystanders considered clients as individuals whose immediate needs informed lawyers' strategies. Thus, in the context of divorce, addressing the immediate need of women, i.e., getting a

divorce, became the primary goal of lawyers, requiring minimal involvement of the legal system. Although semi-bystanders were not neutral, they acted as if they were mainstream lawyers; hence, their true commitment was to their individual clients.

In their professional framework, semi-bystanders placed clients' interests ahead of any other moral or political causes the pursuit of which could potentially be detrimental to the best interests of their current clients. For example, when I asked Mani if challenging existing family law, specifically divorce law, played any role in choosing legal strategies in divorce cases, he stated that he developed strategies based solely on his clients' immediate needs instead of his other objectives. Mani, who had fourteen years of legal experience, shared that he used to take more family law cases during the first ten years of his work. He enjoyed practicing law despite feeling that the judicial system did not live up to his expectations. From Mani's perspective, judges approach their work as a bureaucratic task and often follow a conventional process when making decisions, without fully considering the legal arguments and reasoning of the parties involved. Given the lack of effort by judges to contextualize the law within a broader social and cultural framework before applying it to the facts of a case, Mani chose to take a conventional approach in his legal actions and focus on clients' immediate interests:

I put a client's interests first. It appears that creating a new precedent is motivated by personal or moral desires. But I must first consider what is best for my client. If I anticipate losing a lawsuit, I will not file it for any other reason.... Sometimes losing a case and the associated mental pressure can be just as distressing as the suffering and hardship that a client experiences in her marriage. So even if a case has the potential to challenge the law but the client has a chance to get a divorce through

mutual consent, I'll choose the latter. Challenging the law or developing a new understanding of the law are not my priorities.... I let my clients decide.... I explain all the difficult aspects of the legal process before discussing our prospective opportunities.

Despite being critical of the judiciary, Mani did not believe it was his responsibility as a lawyer to dispute judges' gendered arguments and decisions, but rather to protect his clients from harm. Thus, Mani was not concerned about the potential long-term consequences of not actively engaging with the law. Similarly, Samaneh also prioritized her clients' interests:

I understand that we should change judicial precedents and judges' attitudes, but to be honest with you, if I want to change a precedent and use my legal knowledge to educate society that this [right to divorce] is a women's right, I shouldn't expect my client to pay the cost, to pay the mental cost, and [face other] consequences. I personally would not do it unless my client agreed.... I may fulfill my social responsibility in other ways.... For example, I can collaborate with different NGOs and raise women's awareness and educate them about their rights.... Family law includes private rights and I do not let myself sacrifice my clients' interests for a greater social cause. Women rarely agree to participate since they are often desperate and seek the most definitive solution imaginable. They are not interested in altering or setting a precedent.

Samaneh fulfilled her primary professional responsibility by protecting the short-term interests of individual clients. Her criticism of gendered judicial decisions did not motivate Samaneh to connect the short-term interests of her client to a greater cause. Moreover, Samaneh believed that women were less likely to engage in a fight for greater gender equality by mobilizing the law because the hardship and suffering that they experienced had put them in a vulnerable position.

Throughout their interviews, semi-bystander lawyers emphasized their commitment to deferring to clients' decisions, yet they did not demonstrate proactive efforts to assist clients in identifying their best interests or determining the most suitable course of action. Clients' narratives, which will be discussed in the next chapter, indicated that lawyers rarely asked clients' opinion about furthering the cause of women's rights in the courtroom. Moreover, family lawyers typically described the legal procedure as agonizing and frustrating, encouraging their clients to pursue the shortest and the least uncertain path to divorce. But they appeared to underestimate how as legal experts they could inform clients' decisions. More specifically, by emphasizing the obstacles to achieving equality, particularly the gap between the law on the books and the law in action, lawyers may unintentionally discourage their clients from engaging in legal processes and foster a sense of disillusionment with the legal system (Sarat & Felstiner, 1986). Finally, as was discussed in the previous chapter, most lawyers stated that even if their clients insisted, they would not bring cases to the court if they could not guarantee a favorable outcome.

Some of the semi-bystanders even labeled efforts to create a new precedent or stretch the legal boundary through everyday legal practice as "unethical," "selfish," "adventurous," "idealistic," or "individualistic." The Code of Professional Ethics of Lawyering in Iran emphasizes that lawyers have a duty to protect their clients' rights, address injustices, combat illegal actions, and work towards the implementation of justice, as they are "one of the pillars of the implementation of justice in society." However, semi-bystanders drew a distinction between professional lawyering and

advocacy aimed at pursuing justice. This criticism was raised by Hadi, a lawyer with fifteen years of experience. Hadi could not recall the reasons behind his choice of law and legal practice. When I asked about his current motivation for practicing law, he considered it merely a vocation without any further significance. He even asked me if I ever asked plumbers about their motivation! Hadi described himself as being a “realist” and not an “idealist,” and stated that he had no intention of utilizing his profession to promote “ideals of social justice.” When I asked Hadi whether he identified as a social or women’s rights activist, he responded, “According to your definition, I’m neither of them. No lawyer can be both an activist and a lawyer.” This response was surprising since I had not provided any definitions for those terms. When I mentioned this point, he explained that he meant the definition used by the media and went on to elaborate:

A lawyer has some tools that can be used to provide some legal services to people that satisfy their needs. But I am not someone who wants to change the law and holds placards and stands in front of the parliament.... What the media describes as a “women’s rights activist” is someone who pursues unconditional gender equality and demands equal written rights.... To me, a lawyer who reaches out to BBC Persian to discuss a legal case is different from lawyers who try to satisfy the legal interests of their clients.

Hadi believed that activism and professional lawyering were incompatible, and lawyers who engaged in activism could no longer be considered lawyers. Hadi associated activism with pursuing radical changes requiring the sacrifice of clients’ interests. Some semi-bystanders further blamed cause lawyers such as Nasrin

Sotoudeh²³ for seeking fame and recognition rather than defending the true interests of their clients. Sara took a very strong position and distinguished herself as a lawyer rather than a women's rights activist:

I do not consider myself an activist according to the society-wide definition of the term. I have my own set of values. It is crucial to contextualize tactics and strategies and keep in mind that we are dealing with Iranian judges. This has no effect other than to generate controversy. Some activists for women's rights fail to do so and instead want radical changes. My opinion is that Mrs. Sotoudeh is not a lawyer but rather an advocate for women's rights. A lawyer is someone who prioritizes and defends the client's interests.

Evident in semi-bystanders' remarks were the belief that activism and lawyering cannot coexist. They criticized cause lawyers for prioritizing their social or political agenda over traditional legal practices and argued that they were not "real" lawyers. The semi-bystanders maintained that activism and the legal profession were incompatible, arguing that lawyers should prioritize their duty to their clients above all else. While cause lawyering has been a controversial approach and has been criticized for reasons such as being harmful to the immediate needs of clients, putting lawyers' agenda ahead of clients' interests, and fitting clients' demands into legal claims, there is limited research on cause lawyering and its effectiveness in Iran (see Osanloo, 2020). Thus, it is unclear whether clients in, for example, politically sensitive cases would be better off if their lawyers took a more traditional approach to lawyering.

²³ Nasrin Sotoudeh is an Iranian human rights lawyer and activist known for her dedicated efforts in advocating for women's rights and defending political prisoners. She is one of the lawyers who uses legal means, such as litigation, to address instances of inequality and injustice.

All this taken together explains semi-bystanders' disinclination to "apply their professional skills in the service of a cause other than-or greater than-the interests of the client in order to transform some aspect of the status quo" (Hajjar, 2001, p. 68). Semi-bystanders appeared to be passive actors who were extremely critical of the legal system but did not have a desire to address anything beyond their clients' immediate interests in their everyday practice. Although their work seemed to benefit their clients within what Hajjar (2001) calls "the prevailing arrangements of power" (p. 68), one could argue that their silence and their lack of interest in confronting judges' gender ideologies and gendered legal arguments contribute to the legitimization of prevailing judicial ideologies in the context of divorce. As will be discussed in the last section, most semi-bystanders believed that to contribute to the promotion of women's rights, they could use their expertise outside the court.

Avoiding a Futile Battle: The Judiciary as Pillar of Gender Inequality
The political structure of states impacts how their legal institutions and the legal profession function. The literature on cause lawyering stresses that in settings where elements of authoritarianism and democracy are integrated, the absence of an independent legal system can hinder effective engagement with the legal system (Ginsburg & Moustafa, 2008; Hilbink, 2007; Tam, 2010). In these regimes, the legal profession may be subordinated to the ruling government, and legal institutions may lack independence, resulting in a lack of access to justice for citizens. In societies

where the judiciary is part of the state apparatus, lawyers develop different types of strategies to uphold the rule of law.

According to semi-bystanders, the lack of judicial independence and the judiciary's role in enforcing the state's gender policies in Iran present a significant obstacle to making even minor progress in women's rights through formal legal channels. The judiciary's structure and its internal policies and practices are influenced by politics, gender, and religion. For instance, the law prohibits women from serving as judges, and the judiciary is predominantly male. According to information provided by the deputy judicial head of Tehran in 2018, there were approximately 1900 women judges (Radio Farda, 2018). Women judges mainly serve as advisors to judges in civil courts and assistants to district attorneys in criminal courts. However, they are not assigned to lead a branch and do not have the authority to issue and sign a final verdict (Radio Farda, 2018). In male-dominated family courts, women judges hold hearing sessions but are viewed as consultants to male judges. This is due to the perception of judging as a profession that is associated with objectivity, rationality, and neutrality, qualities that are often associated with masculinity.²⁴ As with all other institutions, judges and staff bring their ideas about gender to the courts, which contributes to the reinforcement and reconstruction of gender ideologies in the context of marriage and divorce. This deeply embedded

²⁴ While according to many classical Islamic jurisprudence texts women cannot be appointed as judges, there is no explicit prohibition in Quran and Sunnah regarding the appointment of women as judges (Muneeza, 2014).

system of gender ideologies and practices presents significant challenges to achieving gender equality.

Semi-bystanders stated that maximizing women's rights would not be achieved through lawyers' engagement in everyday resistance. In this context, everyday resistance refers to lawyers' actively engaging with the law and presenting arguments based on the current family law's potential for ensuring women's rights to divorce. The majority believed that the gender apartheid state was responsible for legalizing discrimination against women, and that the male-dominated judiciary played a significant role in maintaining this system. From this perspective, since the judiciary implements policies that are designed to maintain women's subordination, individuals' legal mobilization—"the process by which individuals make claims about their legal rights and pursue lawsuits to defend or develop those rights" (Epp, 1998, p. 18)—would not be an effective means of everyday resistance.

In the context of divorce, participants contended that the judiciary plays a significant role in enforcing discrimination against women by instructing judges to control the increasing rate of marital breakdown through its written and unwritten policies. Given this situation, Sara stated that the opposition to progressive understandings of the law was not solely based on the personal gender beliefs of individual judges but rather stemmed from gendered policies:

Judges are prohibited from doing so [to be more progressive in divorce cases at the request of women] by the judiciary or a higher authority. The divorce rate in Iran has skyrocketed, and they must take action.... Let me be clear here. They fear the huge number of divorced women in society. They believe that if the number of divorced women goes up,

moral degradation will rise, posing a challenge to the structure of the family.... It's not that they are concerned about the rate of anything rising. The rate of execution is high too. I think we are either #1 or #2 in the world in terms of execution. But are they concerned about it? No. But divorce is associated with their inability to control women.

Sara's account sheds light on the role of the judiciary in maintaining systematic control over women's sexuality. As Sara's remark implied, the state constructs a divorced woman as immoral and sexually available in contrast to an ideal married woman whose sexuality is under control. To protect society from the sexual and moral impropriety of divorced women, who are viewed as "sex objects" and "a threat to other marital relationships" (Pirak et al., 2019), the patriarchal state uses the judiciary as one of its main apparatuses to constrain women's right to divorce. This aligns with Galanter's (1974) argument concerning the use of legal intuitions in protecting the privileges of the powerful. Sara's remark also indicates how gender, as a social institution, is intertwined with judicial policies and practices, making the judiciary a less promising terrain for advancing women's rights. Moreover, characterizing the elevated divorce rate as a matter of concern mirrors Martin's (2004) argument that the state enforces specific gender practices through the use of informal mechanisms such as "rhetoric and framing of national concerns and ideology" (p. 1259).

Taraneh echoed the unreceptivity of the judiciary to the cause of women's rights and attributed that to the interdependence of the legal system and gender. Taraneh's devotion to social justice drove her to study law and become a lawyer. However, five years of legal practice have made her more pragmatic, enabling her to realize that her aspiration of social justice cannot be entirely achieved. Taraneh

explained how the judiciary has been an impediment to successful legal mobilization and how it has been able to enact its discriminatory policies:

Judges are part of the system. The system, judges, and law are all interconnected and follow one goal: to make divorce more difficult for women. In this irritating system, each of the players plays their roles.... Who do you think are the Supreme Court's judges? A bunch of men and no woman. All of them have gone through *gozinesh*²⁵ and are therefore approved by the system. None of them can have an independent thought process.

Taraneh drew my attention to the gendered structure of the judiciary and how the system was designed to maintain and reinforce gender hierarchy. Her comment was in line with Catherine Mackinnon's theory that the state and law are almost synonymous in the sense that the law codifies the male state's desire to exercise power over women (MacKinnon, 1987) and that the judiciary is a means to ensure the implementation of male power. According to Taraneh and seven other lawyers, the hiring mechanism has enabled the judiciary to maintain this status and power since it allows officials to investigate the political, religious, and ideological beliefs of prospective judges. The selection process for judges as well as the head of the judiciary speaks volumes about the state's determination to rein in courts and prevent them from turning into arenas for challenging the state. Indeed, the manipulation of judges' appointments and promotions is one of the methods utilized by authoritarian

²⁵ Judges' appointments become finalized after they go through the "gozinesh" process, which involves officials examining judges' political, personal, and religious beliefs.

states to restrict judicial activism and autonomy (Moustafa, 2014). To indicate how the state has contained judicial autonomy, Taraneh provided an example:

Let me give you an example. The case of *the Dokhtaran-e khyaban-e Enghelab* (The Girls of Revolution Street) was not a strange case. Everyone anticipated that the defendants would be exonerated or receive a punishment that was not too harsh. The judge who was assigned to the first case ordered the suspension of prosecution and argued that civil disobedience was a citizen's right. He was immediately suspended. In this system, independence of thought is not tolerated.

The lack of independence in the legal system was exemplified by Taraneh through the case of the Girls of Revolution Street. Taraneh argued that the judge's suspension after terminating the case instead of prosecuting the defendants indicated that the system does not allow for independent and progressive thinking. "The Girls of Revolution Street" case is different from divorce cases for two reasons. First, while women's rights are extremely politicized in Iran, the hijab law is associated with the state's identity at the national and international levels. It can be argued that the case of "The Girls of Revolution Street" was overtly and extremely political and impinged on one of the core interests of the regime. Second, in contrast to family law-related cases that are rarely associated with a social movement and do not receive public attention, this challenging case was associated with a women's rights movement. Thus, it is unlikely for a judge to be suspended for granting a divorce.

Overall, participants agreed that family law had the potential to protect women's right to divorce; however, the advancement of this cause required sympathetic and supportive courts. The inhospitable judiciary underscores the absence

of one of the primary prerequisites for successful legal mobilization, according to the legal opportunity structure model (Andersen, 2006; De Fazio, 2012; Hilson, 2002; Maiman, 2005). The preamble of the Constitution confirms lawyers' arguments by putting emphasis on the role of the judiciary in enforcing the state's ideological position. According to the Constitution of the Islamic Republic of Iran (1979):

[t]he judiciary is of vital importance in the context of safeguarding the rights of the people in accordance with the line followed by the Islamic movement, and the prevention of deviations within the Islamic nation. Provision has therefore been made for the creation of a judicial system based on Islamic justice and operated by just judges with meticulous knowledge of the Islamic laws. This system, because of its essentially sensitive nature and the need for full ideological conformity, must be free from every kind of unhealthy relation and connection.

While the Constitution defines the ideological line in terms of Islamic values, participants described the judiciary as the enforcer of gender ideologies. Undoubtedly, gender ideologies are constructed at the intersection of other ideologies such as religious and political beliefs, among others.

The argument put forth by the participants is in line with studies on legal opportunity structures, which highlight the judiciary's receptivity as one of the core dimensions of legal opportunity structures (De Fazio, 2012; Fuchs, 2013). These studies suggest that the judiciary's receptivity is contingent on judges' political ideologies (De Fazio, 2012; Hilson, 2002). However, as Martin (2004) argues, given the interdependence of social institutions, attempts to understand institutions and their practices without taking gender into account will produce erroneous conclusions.

Gender is embedded within and reconstructed by organizations and institutions, including the legal system and the state (Martin, 2004; Risman, 2004). Feminist legal theorists such as Catherine MacKinnon (1989), Carol Smart (2002), and Zillah Eisenstein (1988) all consider the relationship between law and gender and argue that law is gendered. While Eisenstein, a liberal feminist, emphasizes the potential of the law to provide meaningful gender equality, MacKinnon is more skeptical, arguing that the legal system is inherently patriarchal, and that legal mobilization can be co-opted or subverted by the dominant legal order.

In the context of family law in Iran, family lawyers' accounts suggested that the judiciary's "antagonism" to the advancement of women's rights is not simply a matter of the bias of individual judges. Rather, this unreceptiveness is part of the state's broader efforts to maintain men's authority over women. Thus, judges and the judiciary are not the guardians of fundamental rights of all individuals; rather, they function as part of the state's governing toolkit to maintain women's subordination in public and private realms. In contrast to Sarat and Scheingold's (1998) argument that the difficulty or rarity of cause lawyering in civil law systems can be attributed to the separation of law and politics, my findings indicate that law and politics are intertwined in Iran. In fact, in the context of family law, the inseparability of law and gendered politics and the judiciary's lack of independence are seen as impediments to effective legal mobilization.

Although research on women's rights in non-democratic regimes suggests that such regimes may promote women's rights to maintain power (Donno & Kreft, 2019;

Lorch & Bunk, 2016), neopatriarchal regimes such as Jordan, Libya, Syria, Iraq, and Iran have retained patriarchal family laws (Moghadam, 2020). As Moghadam (2003, 2020) argues, while “neopatriarchal gender regimes” in the Middle East and North Africa have developed policies that ensure “women’s social and spatial presence,” they have maintained “Muslim family law, which legitimates the prerogatives of male family members over female family members” (p. 111). In this context, legal initiatives to push the boundaries of law through the judiciary are most likely to be futile or unable to dismantle structural inequality.²⁶ This is consistent with previous studies that questioned the effectiveness of legal mobilization, specifically litigation, in dismantling structural inequality (Muir, 1973; Rosenberg, 2008; Scheingold, 1974; Tushnet, 2005). The lack of favorable legal structure opportunities, which is evident in lawyers’ accounts, may also explain the current uprising in Iran. As Hislon (2002) argues, in the absence of strong political and legal opportunities, attempts to defy systematic discrimination through legal tactics might become supplanted by other mechanisms such as protest. Nevertheless, despite these constraints, there is still the possibility of making claims within the existing structure, even in the most repressive systems (Scott, 1990). Incrementalist lawyers tried to make the most of this possibility.

²⁶ It is worth mentioning that since courts are unlikely to dismiss all lawsuits or rule favorably, it is difficult to measure judicial receptivity empirically and one can only estimate the degree to which the gates of the legal system are open or closed (De Fazio, 2012).

Incrementalist Lawyers and the Pursuit of Change Through the Legal System

Incrementalist lawyers took a different approach to their everyday practice.

Despite recognizing that legal and political opportunity structures were typically unfavorable to women's rights, these lawyers sought to challenge these constraints through their style of argumentation. Furthermore, they work toward women's empowerment by providing legal advice and facilitating informed decision-making processes. Their perception of their professional responsibility, which shaped their distinctive practice style and their "sense of commitment to particular ideals" (Sarat & Scheingold, 1998, p. 7), differentiated them from semi-bystanders.

Navigating the Intersection of Professionalism, Service, and Advocacy
Incrementalist lawyers did not agree with the rationale of semi-bystanders,

who refrained from challenging gender inequality in their everyday legal practice in order to act in their clients' best interests. Incrementalist lawyers believed that pursuing women's rights and advocating for their clients' best interests were not mutually exclusive. In other words, they viewed client-centered lawyering and zealous advocacy as indivisible components of their work. For example, Nastaran expressed her interest in representing women in unilateral divorce cases, as they provided an opportunity to present innovative legal arguments. Nastaran believed that informing clients and enabling them to make an informed decision was a prerequisite for taking on such cases:

I personally like to represent women in unilateral divorce proceedings. In contrast to the mutual consent divorce process, which is primarily administrative in nature, these are hard. I prefer to challenge judges and

the current precedents in the area of family law. I've represented clients who were true fighters, and while we did not easily win those case, we did finally win.... I have seen women who got a divorce through a mutual consent, but in retrospect, they had a difficult time and blamed themselves for forgoing their rights and not fighting. They couldn't shake those feelings. To avoid these feelings, I always tell my clients that I feel them and that they have a right to divorce and to seek all other rights.... I explain to them all three types of divorce. That is my responsibility. Sometimes I have to tell them that their cases are weak, and we might even lose the initial round, but I'll help them. I never tell them that they can't get a divorce if they don't reconcile. It's up to them to decide.... I think many times lawyers decide on behalf of their clients. But I don't want to do what their fathers, brothers, and husbands may do: make a decision for them. If they make an informed decision, they will accept its consequences. It's wrong to view clients as victims. How would we differ from their fathers, brothers, husbands, and the regime if we did so?

Nastaran did not view women as “vulnerable” and “fragile” victims, nor did she believe that getting a divorce in the shortest possible way was necessarily in their best interest. Instead, she helped her clients determine what was best for them based on their circumstances at the time of seeking a divorce and considered how they might feel about “the process” of getting a divorce in the future. In other words, she tried to overcome the desire to impose her thoughts on the optimal course of action. As part of her fight for sweeping gender equality, Nastran worked toward educating and empowering her clients by helping them to make informed decisions, a powerful strategy which is employed by cause lawyers who recognize the significant influence of legal advice (Ellmann, 1998; White, 2001).

Contrary to semi-bystanders, lawyers who value legal advising see themselves as having a responsibility that extends beyond merely representing their clients (Ellmann, 1998). This group of lawyers is also aware that providing effective legal

advice does not mean “overriding” or “influencing” clients’ interests and immediate needs (Ellmann, 1998, p. 377). Nastaran stood apart from semi-bystanders by not viewing a low probability of success in court as a hindrance to utilizing the law. She assisted her clients in recognizing that they had rights, irrespective of the outcome of a case. Ultimately, her desire to advance gender equality and empower women motivated her to engage in a different type of lawyering.

Similarly, Raha did not view her clients as means to an end. As an expert in family law, Raha made every effort to empower women and raise their consciousness about their rights. She educated women on “terms of marriage”²⁷ and provided pro bono services to women who could not afford a lawyer. The pursuit of gender equality was ingrained in every aspect of her legal practice, including her argumentation style:

I always think about changing precedents in the realm of family law. I take on cases that are not typically easy.... When I prepare a brief, I usually try to highlight the points that might not seem important to a judge. However, I believe that over time, those arguments might lead to a shift in precedent or help with developing a new one. The possibility might be 1%. If relevant, I even cite international conventions and attach the Supreme Court’s decisions to my briefs.... The other day I saw a judge taking notes from my brief. He even asked me to help the assigned arbitrators write a well-reasoned opinion!

When asked whether she thought her approach to lawyering conflicted with her clients’ interests, she maintained:

²⁷ In a series of workshops, Raha educated women about their rights within and after that marriage and encouraged them to consider adding specific stipulations, including the right to divorce, to the contract to enhance their relative bargaining power in the marriage and in case of a divorce.

I always keep my clients' best interests in mind. I don't put my interests ahead of my clients in order to set a new precedent. Sometimes, bringing a case to the court is in the best interest of my clients. For example, if my client can't reach a strong agreement with her husband or her husband drags out negotiations, I'll file a unilateral divorce case even if winning seems unlikely.... The least I can do is not to discourage clients from pursuing their rights.

In her everyday practice, Raha channeled her own ideological, political, moral, and other motivations into clients' service. While Raha tried to undertake cases which could contribute to the promotion of women's rights, she did not take a counter-centric approach, exploiting individual cases to achieve a larger objective. Thus, if women were prepared to compromise, she worked to negotiate a mutual consent divorce to satisfy clients' demands. Put differently, in her everyday practice, the cause of women's rights did not seem to take on a life of its own and was intertwined with clients' demands and interests.

Most incrementalist lawyers did not engage in as much activism as lawyering and did not intend to mobilize the support of civil society and media to advance the cause of women's rights. Incrementalist lawyers pointed out that their visions set them apart from semi-bystanders. As Nastaran put it:

Being a lawyer by itself does not necessarily give you a different perspective. You need to have that different perspective or a passion for gender equality, as Raha²⁸ and I do. Then you can identify the problems and you'll be able to analyze them and strategize. Otherwise, ordinary lawyers view a divorce case similar to, for example, a bounced check case.

²⁸ Here Nastaran mentioned Raha, who also participated in this study.

According to Nastaran, the act of counseling and representing women in cases where their rights were restricted did not necessarily alter a lawyer's practice style. Nastaran attributed the passive approach of semi-bystanders to a lack of motivation to promote gender equality and their failure to adapt their legal strategies to meet the specific needs of women in family law cases. From their perspective, semi-bystanders did not have "a sense of commitment to particular ideals" (Sarat & Scheingold, 1998, p. 7).

Saba, another women's rights advocate, recognized the risks associated with women's rights activism and cause lawyering. However, she did not believe that semi-bystanders' unwillingness to utilize the law was driven by a fear of those risks:

You know, under authoritarianism and the stifling situation, I can't really advise what lawyers should do. But all I can say is that the majority of lawyers lack a passion for women's rights. That's not their priority. We have a few lawyers who are also women's rights activists.

Saba highlighted how incrementalist lawyers' visions and values informed and motivated their everyday practice. This observation echoes past scholarship on the distinction between cause lawyers and mainstream lawyers and the role of motivation such as advancing social justice, identifying with clients and personalizing their issues, and empowering the disadvantaged in shaping cause lawyers' practice (Carrie Menkel-Meadow; Hilbink, 2004; Sarat & Scheingold, 1998).

Taken together, incrementalist lawyers did not appear to have illusions about the "myth of rights" (Scheingold, 1974). Their emphasis on using their legal skills despite the marginal chance of developing a precedent signifies their engagement in acts of "everyday resistance." In "everyday" or "hidden resistance," individuals

develop “quiet, dispersed, disguised, or seemingly invisible” tactics to “both survive and undermine repressive domination” (Lilja et al., 2017, p. 42). The concept of “everyday resistance,” which was developed by Scott (1985, 1990), has been used to describe everyday lawyering in authoritarian contexts, where the state’s exercise of power is more pervasive (Batesmith & Stevens, 2019; McEvoy & Bryson, 2022). In their everyday resistance, despite knowing that “they are unlikely to do more than marginally affect the various forms of exploitation” (Scott, 1986, p. 29-30), incrementalist lawyers looked to develop a “counter-hegemonic” framework of what constituted “suffering and hardship” based on the lived experiences of women. In other words, although they did not adopt the approach of turning a courtroom into a political site (Sarat & Scheingold, 1998, 2006), they tried to expose the limitations and potentials of the current family law through their arguments and reasonings. Similar to cause lawyers’ indivisible practice in other authoritarian regimes (see Liu & Halliday, 2011; Pils, 2014; Stern, 2017; van der Vet, 2018), incrementalist lawyers view their practice as “an incremental everyday process rather than a revolutionary one” (van der Vet, 2018, p. 305). Their confidence in the prospect of gradual advancement through the strategic deployment of legal means informs how incrementalist lawyers engage with the judiciary, as will be discussed in the next section.

Confronting Institutionalized Gender Discrimination
Incrementalists expressed optimism, albeit minimal, that everyday acts of
resistance can lead to changes in the long-term. While they did not deny the

patriarchal structure of the legal system and its role in sustaining women's oppression, they argued that lawyers should not remain passive and accept the status-quo. They believed that lawyers should challenge the system and work towards changing it from within. Incrementalist lawyers took a realistic approach, acknowledging that legal challenges can be time-consuming and uncertain but can have a ripple effect. Despite progress not always being linear, incrementalist lawyers saw value in small changes, such as the full application of the law in individual cases, and believed that these gains could have a broader impact over time. Nastaran maintained that lawyers' persistence in manipulating the legal system and using their symbolic resources in their everyday practice will eventually result in meaningful improvements:

Regardless of how gendered and patriarchal the system is, if judges routinely hear women's grievances, they subconsciously begin to consider them, and the first judge to issue an unprecedented verdict will pave the way. The first one is the most challenging. The verdict will then be discussed among the judges. They meet on a weekly basis to discuss their cases and decisions. They gradually shape one another's viewpoints... And we have all seen progressive decisions. As a lawyer, you shouldn't be concerned about losing a divorce case, even if it happens numerous times. Filing divorce cases at the request of women contributes to the development of a fresh and innovative discourse within the judicial system. However, there may not be many clients willing to accompany you on this journey.

Nastaran recognized the presence of gendered policies and practices in the judiciary but did not view them as an insurmountable obstacle to the progress of women's rights through everyday lawyering. Nastaran underscored the significance of rights talk in the development of more progressive interpretations of family law, therefore denaturalizing women's suffering and hardship, which are sometimes framed by judges as inevitable parts of marriage.

Minoo echoed Nastaran's optimism about the long-term impact of rights talk. Throughout her fifteen years of legal practice, assisting women and minors with their legal matters has been the most satisfying part of her career. She did not identify as a women's rights activist because she believed that being an activist had particular requirements, such as devoting all your time to a passion. She has, nevertheless, attempted to advance women's rights by, for instance, exposing the inadequacy of legal protections for survivors of gender-based violence and attempting to influence judges' interpretations of family law. She stated that these activities were part of her everyday lawyering and emphasized that her entire legal practice was not geared toward advancing women's rights. Minoo did not have any doubt about the long-term impacts of rights-based claims on the advancement of women's rights:

There are definitely some red lines that you cannot cross and sometimes you can't even tell what the red lines are. Some of them are defined based on Sharia or even politics.... But it's very effective. I mean it definitely has a very significant impact. In some cases, some judges have taken certain precedents into account. Of course, some of these precedents are problematic, but some are innovative, and you can benefit from them. I have provided other verdicts to judges and that strategy helped me win cases. The short argument of the other judge helped me convince a judge in another case to grant a divorce. Although he did not cite that verdict, it had an impact on his decision.

Lawyers like Minoo, who did not overlook the impact of adopting a more strategic approach to their everyday practice, had realistic expectations from their practice. Given that the judiciary in a patriarchal and authoritarian state cannot be at the forefront of maximizing women's rights, they considered even a marginal shift in judges' interpretation of women's suffering and hardship to be a significant victory.

Similar to “Grassroots Cause lawyers” as described by Hilbink (2004), incrementalist lawyers recognized the inherently gendered and biased nature of the legal system. However, they did not dismiss the potential of rights-talk to bring about change. In other words, they believed that the legal system is gendered, but by being “creative” and “imaginative,” one might win “the game” (Coutin, 2001, p. 136). This suggests that even if radical and systematic changes are impossible, legal arenas should not be abandoned. Abel (1995) similarly argues that incremental and modest changes occasionally could “slow the project of grand apartheid until politics could reverse it” (p. 522).

The implications of this strategy for broader changes may be nuanced but impactful. By using legal arguments that align more closely with social and cultural changes surrounding women’s lives, there is an opportunity to gradually narrow the gap between women’s demands and the understanding and response of family court judges to those demands. Thus, the difference between incrementalist lawyers and those who view the judiciary as an insurmountable barrier to effective legal mobilization can be explained by the goals that lawyers pursue through their everyday work.

Lawyers from both groups offered examples that implied that incrementalist lawyers’ approach to divorce cases can have an impact on judges’ understanding and interpretation of experiences of suffering and hardship. As I discussed in the previous chapter, lawyers provided examples that indicated not all judges relied on conservative interpretations of hardship and suffering. Success in obtaining divorce based on a

husband's sexual dysfunction, one-time physical assault and verbal assault through text messages, and lack of mutual understanding, which are not among the legitimate grounds for divorce under Article 1130, suggest that not all judges serve as the judiciary's pawns. Some lawyers, from both groups, attributed progressive decisions in divorce cases to the location of family courts. They argued that social, cultural, and economic considerations impact how individuals perceive acceptable grounds for divorce and whether they opt to pursue one. Since the north of Tehran is an affluent and upper-class neighborhood, judges in the family court in that district hear different types of arguments and have gradually adapted their decisions to the cultural norms and expectations of that district of the city. For instance, Arina said:

Each family court deals with individuals from diverse socio-economic backgrounds. I mean that the cases heard by family court judges in the north of Tehran differ from those in the south. They hear different types of arguments in the north. In the south, judges hear cases involving severe domestic violence and addictions. From their perspective, a single incident of physical violence does not constitute suffering and hardship. If I go to the Mahallati court²⁹ and tell a judge that my client feels like she has nothing in common with her husband, the judge will ask me whether or not he is employed? [I would say] he is. Does he have an income? [I would say] yes. Does he have an addiction? [I would say] no. Then he would say that she has to get back to her husband.

Arina pointed out that what may be considered as a cause of dissatisfaction in a marriage and a manifestation of suffering and hardship by a judge in the family court

²⁹ This courthouse is in the south of Tehran.

in the north of Tehran might be interpreted differently by a judge in the south of Tehran. It is unlikely that judges who may be more sympathetic to women's rights are deliberately appointed to the family court in the north of Tehran, since the appointment of judges in Iran is based on their qualification and their "practical commitment to Islamic principles and loyalty to the system of the Islamic Republic" (Banakar & Ziaee 2018). Therefore, one can argue that the use of the rhetoric of rights is more effective than most lawyers believe. This implies that judges' exposure to women's grievances and arguments might alter their interpretation of what constitutes suffering and hardship, as well as their normative understanding of family dynamics. Otherwise, the difference in judges' decisions at least indicates the presence of progressive judges who use their discretion to interpret the law in light of the specific circumstances of a case and fundamental principles of human rights rather than gender ideologies. This point was echoed by Raha:

Have you seen this judge's decisions in Mazandaran? For example, to support a decision about a woman's right to work, he cites a CEDAW provision. Why do you think he does this? He is an innovative judge who attempts to set a precedent. While he could simply state that this woman has the right to have an independent profession in a single sentence, he writes an entire page and bases his conclusion on the provisions of CEDAW. I believe that the only reason he does this is to set a precedent. Well, we can't make a precedent as American or Canadian lawyers do, but divorce cases at the request of women rely heavily on precedent, and judges make the final decision.... Sometimes I get the impression that a judge is about to suffer a heart attack when he makes a more progressive decision in a divorce case!³⁰ Yet if there are more judges who make such decisions, they won't be as terrified....

³⁰ This refers to an extreme concern that someone might have when they do something that can be risky.

While acknowledging the constraints that judges face, Raha recognized the potential for judges and lawyers to work creatively to challenge existing discriminatory laws and establish new precedents that protect women's rights. Raha emphasized the importance of not giving up on opening the gates to justice since not all judges function as gatekeepers to justice.

Overall, incrementalist lawyers' accounts suggested that changing the regime's policies with regard to women's rights might not be feasible through everyday practice. However, these lawyers strive to ensure the full implementation of the law in individual cases, thereby shaping a more flexible and just interpretation of the law.

A Common Ground: Lawyering, Rights Awareness, and Driving Social Change

In a context where lawyers believe that formal legal channels are not effective in bringing about social and legal changes, they may turn to quasi-formal or nonformal mechanisms as an alternative approach. This may involve working outside of the traditional legal system and using other means, such as community mobilization, advocacy, or public education campaigns, to achieve their goals (Chua, 2018; Ellmann, 1989; Kostiner, 2003; McCann, 1994; Merry, 2003). Consistent with this literature, all incrementalist lawyers and the majority of semi-bystanders acknowledged the potential of their profession to bring about social change by increasing women's awareness of their rights. Semi-bystanders, however, did not actively engage in holding workshops, developing training programs, or using other mechanisms to raise women's awareness beyond individual counseling sessions. On

the contrary, incrementalist lawyers employed different strategies to raise awareness about women's rights.

From lawyers' perspectives, in a system where women face significant legal barriers that limit their ability to access justice and protect their rights, empowering women through legal education can be an effective measure in the long term. As Saman puts it:

I think the law won't be changed if we do not educate men and women about their rights. If men understand that, like them, women have a right to divorce and agree to include it in the marriage contract, women will not have to rely on financial leverage to initiate a divorce, and men will not withhold divorce until women waive their financial rights. However, at least I have not received as many questions from my relatives and friends about the terms of marriage before officializing their marriage. And this needs education.... This way we can prevent further problems down the road.

Saman viewed legal mobilization as a strategy to educate women about their rights, aiming to prevent them from facing additional challenges when dealing with the legal system. Saman and other semi-bystanders who did not have faith in the courts and judges, underscored the role of raising rights awareness among women and men. This belief suggests that despite lawyers' frustration with the legal system, they did not give up on the law on its entirety. Saman's statement also highlighted the importance of educating people not just about women's rights but also about gender equality and equal rights.

Mani acknowledged the importance of education, but also stressed that this alone might not be enough to bring about significant changes. He believed that the focus should be on challenging deeply ingrained gender norms that form the basis of

both social and legal practices, hoping for substantial long-lasting changes for everyone. He said,

I think any change through the judiciary and law would be artificial and ineffective if we do not work to change gender norms in society. It's true that family law is problematic. Nonetheless, many people don't believe that women have the right to divorce. I think the problem is that beliefs about women as subordinate and inferior are prevalent in society. And these norms are reconstructed and transferred to the next generation. Our educational system reinforces and promotes the same values, beginning in kindergarten. Our TV shows and programs present a good woman as a mother and housewife; a woman who follows certain rules and norms, someone who is a second-class citizen.... As lawyers, it is our responsibility to disrupt this cycle. Educate women about their rights and let them realize that even if they deviate from these norms, they still have rights and should demand them.

Mani's account suggested that lawyers should disrupt discriminatory practices not only by raising rights awareness but also by making small efforts to shift perceptions about gender norms among all individuals. This view, which was also echoed by incrementalist lawyers, is consistent with the notion that gender inequality is sustained and reinforced at every level by different forces, including legal institutions, the educational system, cultural norms, and behaviors, among others (Martin, 2004; Risman, 2004). To dismantle this vicious cycle, lawyers should not only educate women about their rights but also problematize traditional gender norms that impede women from asserting those rights. Mani's account also implied that while investing in legal education and literacy can be beneficial, lawyers should focus on what Ellmann (1986) calls "'critical legal literacy,' in which understanding of legal rules is set against an appreciation of the role the law plays in the larger society and fuels a commitment to changing the injustices of both society and law" (p. 373).

Activists often use education about rights and interpreting grievances in the language of rights as a strategy to empower marginalized groups (Ellmann, 1998; McCann and Silverstein, 1998). However, as Merry (2003) argues, the effectiveness of rights talk depends not just on educating individuals about their rights but also on establishing legal practices that reinforce their experience of those rights. While semi-bystanders appeared to agree with the first part of this argument, they did not consider legal advocacy as a feasible or effective strategy. Instead, they viewed raising awareness as a preventive measure to protect women from unjust laws and arbitrary enforcement. This perspective sets them apart from incrementalist lawyers.

Incrementalist lawyers shared a similar perspective with semi-bystanders regarding the importance of lawyers in driving social change, yet they did not restrict their understanding of the role of the legal profession to solely educating women about their rights. Incrementalist lawyers emphasized the role of lawyers in raising awareness about inadequate legal protections, engaging with stakeholders and lawmakers, presenting innovative arguments in their briefs, producing podcasts, writing opinion pieces, and conducting research, among other activities. In contrast to semi-bystanders, incrementalist lawyers actively employed these strategies and expressed their opinions based on their practical experiences. Minoo, for example, stated:

It's a team effort and lawyers are part of it. All the players need to do their part. As lawyers, we shouldn't be indifferent. Educating women and judges is part of our responsibility. We can write letters to the Judicial-Legal Commission of the Parliament and share our concerns. But that's not enough. For instance, a few years ago, we started a

project focusing on domestic violence. You know that we still don't have a specific law that addresses this issue. But that's not all the problem. Women don't know about their rights, and they don't report violence. Healthcare practitioners fail to report these cases. To resolve this issue, we need to address each of these facets, and focusing on only one aspect will not bring about the desired changes. Educating women is necessary but not enough.

Minoo took a more holistic approach to the role of lawyering in bringing about social and legal reform, advocating for the use of a variety of strategies. She also emphasized the symbolic power of the law and the importance of framing grievances in the language of rights. Saba had a similar opinion:

You know that after 2009, the regime has either eliminated or restricted the operations of women's rights NGOs. I don't think we have civil society in Iran anymore. What's my responsibility as a lawyer? For example, I give interviews to news outlets about women's rights. Or I write op-eds and highlight the legal issues related to *dower*. This helps me promote innovative ways of thinking in my field. Additionally, I work to educate women about their rights.

In 2005, as Mahmoud Ahmadinejad's extremist government came to power, the women's rights' movement in Iran encountered severe oppression and restrictions on civil society organizations. As Saba pointed out, in response to these limitations, she embraced new and alternative strategies to fulfill her duty in promoting women's rights.

Overall, while both incrementalists and semi-bystanders believed in the importance of promoting women's rights and fighting gender inequality through raising awareness about rights, incrementalist lawyers appeared to be more committed to proactively working towards this goal. The disparity in their approaches can be attributed to differences in underlying motivations and perspectives regarding the

appropriate actions for lawyers to take in addressing gender inequality within their professional roles.

Conclusion

The literature on legal mobilization under authoritarian regimes has primarily focused on cause lawyers and their efforts to uphold the rule of law and hold authorities accountable for human rights violations (Chua, 2012, 2019; Donno & Kreft, 2019; Kisilowski, 2015; McEvoy & Bryson, 2022; van der Vet, 2018). While cause lawyers are an important part of the legal profession, the majority of lawyers in any given country are non-cause lawyers. Therefore, it is essential to explore how they approach issues of inequality and injustice in their everyday practice, as their inaction can inadvertently perpetuate the status quo, as I have highlighted in the previous chapter. To address this gap in the literature, my findings brought attention to the everyday practices of non-cause lawyers and the factors that shape their approach to legal inequality under an authoritarian regime with a civil law system.

Moreover, previous studies have primarily examined the role of institutional factors such as “support structure” (Epp, 1998), legal structure (Andersen, 2006; De Fazio, 2012; Fuchs, 2013), and political structure (Chua, 2019; Tam, 2012) in facilitating or hindering effective legal mobilization. My findings contributed to the literature by highlighting the interaction between micro and macro levels: how lawyers’ perceptions of their professional responsibility and their beliefs about what constitutes meaningful reform in the face of an unreceptive judiciary can also impede

legal mobilization. In this chapter, I offered a typology of family lawyers in Iran that was based on their distinctive views regarding their professional responsibilities, as well as their perceptions of what constitutes meaningful reform in cases where the judiciary is unsupportive of gender equality. Specifically, my analysis revealed two distinct groups of lawyers: semi-bystanders and incrementalists, who adopt divergent approaches towards legal mobilization in such contexts.

Semi-bystander lawyers viewed themselves as guardians of their clients' short-term interests and limited their role to ensuring their clients' interests regardless of long-term impacts of their strategies. On the other hand, the incrementalist lawyers took a more proactive stance and considered themselves advocates for women's rights, working to challenge the gender inequality prevalent in family law and its application in their everyday practice. In contrast to semi-bystanders, incrementalist lawyers believed that clients' interests and the promotion of women's rights were not necessarily at odds with each other. They prioritized assisting clients in making informed decisions rather than manipulating their choices regarding their best interests.

While previous research on legal opportunity structure has focused on the role of judges' political beliefs in shaping the judiciary's receptivity to particular reforms (De Fazio, 2012; Hilson, 2002), both semi-bystanders and incrementalists attributed the judiciary's unreceptiveness to the gendered politics of the state and its influence on judicial policies and practices. Despite this shared understanding, their perspectives on overcoming this obstacle distinguished them from one another.

Chapter 6

SEEKING JUSTICE AND EMPOWERMENT IN DIVORCE: AN EXPLORATION OF WOMEN'S EXPERIENCES WITH FAMILY LAWYERS

I wanted my lawyer to be a women's rights activist who did not approach her/his cases as routine matters, such as a personal property or bounced check case, where presenting the facts would be enough for a desirable outcome. I wanted a lawyer who would take a strong stand against discriminatory laws, even if he/she were unlikely to win the case. But who would want to do that but someone who is a passionate advocate for women's rights.

—Tina, a 40-year-old divorced woman

In chapters 4 and 5, I demonstrated that most family lawyers do not take an adversarial approach to women's divorce requests, maintaining that such an approach is often detrimental to clients' best interests. These lawyers justify their chosen strategies by pointing out that by the time women seek their assistance, they are already emotionally drained and cannot bear to go through yet another grueling process. Moreover, semi-bystander lawyers often cited the assurance of women's immediate and best interests as a primary rationale for their disregard for the long-term implications of their strategies. This chapter builds upon the previous chapters by exploring the experiences of divorced women with lawyers and uncovering the ways in which lawyers may either perpetuate or disrupt gender inequality within the context of divorce. The narratives of divorced women suggest that divorce-seeking women

tend to seek out lawyers who can effectively link their rights and interests, and who are oriented towards empowering clients. These lawyers are expected to provide legal information and help clients make informed decisions, while also helping them to compensate for their relatively disadvantaged position in divorce negotiations.

Clients often turn to lawyers for support and counsel prior to or during the course of litigation, placing trust in their knowledge and experience to provide guidance and assist in decision-making (Berrey et al., 2017). However, lawyers and clients have distinct perspectives and worldviews, bringing their own agendas and interpretations of social situations to their conversations (Sarat & Felstiner, 1988a). Clients typically come to lawyers with the assumption that the legal system will provide an impartial and equitable resolution to their conflicts, free from errors and bias (Sarat & Felstiner, 1988b). They seek validation of their stance and trust that the legal process will adhere to its established rules (Merry & Silbey, 1984; Sarat & Felstiner, 1986, 1988b). This belief in formal justice is a common starting point for most litigants, and lawyers must often “educate” their clients about a legal process that may not always align with their expectations (Sarat & Felstiner, 1986). Clients’ expectations and understanding of legal procedures are shaped by various factors, including emotional and financial stress, the complexity of the dispute, the relationships between the parties involved, and the client’s perception of the law and her lawyer (Shestowsky, 2018). Due to the divergence in expectations, lawyers and clients may hold different opinions on what is best for the client and how they should proceed.

Although lawyers have a professional obligation to act in the best interests of their clients (Ellmann, 1986; Mather, 2003; Sarat & Felstiner, 1995; Shdaimah, 2011), there can be disagreements between lawyers and clients regarding what is considered to be in the clients' best interests. In order to address this potential conflict and manage clients' expectations, lawyers adopt different approaches. While some argue that lawyers need to pursue clients' requests (Dinerstein, 1990; Ellmann, 1986; Freedman, 2011; Kruse, 2005), others argue that it is the lawyers' responsibility to use their own judgment to determine what is in the client's best interest and make an effort to clarify their reasoning to the client (Kritzer, 1998; Simon, 1991).

From the client-centered lawyering perspective, lawyers recognize that the client is responsible for the issue and its resolution (Binder & Price, 1977). Lawyers must also comprehend the motivations of both clients and themselves, collaborate with clients to develop a strategy, and provide advice while acknowledging that clients have the ultimate say in the decision-making process (Binder & Price, 1977). To make an informed decision, lawyers should present their clients with all the available choices related to a particular issue and engage in a discussion about the alternatives, the associated risks and benefits, and the lawyer's relevant experience (Rosenthal, 1974). Only after the client is fully informed and consents to a course of action should the lawyer proceed (Sarat, 1991).

On the other hand, others question the notion of an equal and collaborative partnership between lawyers and clients, contending that clients may not possess the capacity to make sound judgments, and thus lawyers, as professionals, should rely on

their own ethical and political beliefs to determine their clients' best interests (Gordon, 1988; Simon, 1991; Zacharias, 1994). The lawyer-directed approach, often described as paternalistic, allows lawyers to use their values and beliefs to determine the best approach to advocating for their clients, resulting in what they deem to be the "right" outcome (Macfarlane, 2017). Although this may appear to be an approach that is chosen deliberately, lawyers may inadvertently limit clients' autonomy by influencing their understanding of their objectives as they try to frame those in legal language (Mather, 2003). It can be argued, however, that the line between the two approaches is not always clear-cut, and lawyers' work can be viewed as falling somewhere on a client-lawyer interaction continuum (Mather, 2003).

The choice of approach to lawyering can be informed by different factors, including the type of legal matter and the client's circumstances (Mather, 2003). For instance, in the case of divorce lawyers, it is often observed that they tend to adopt a lawyer-centered approach and justify this by pointing out the emotional state of their clients and their "vulnerability" (Eekelaar & Maclean, 2000; Griffiths, 1986; Mather et al., 2001). Divorce lawyers often see themselves as "taxi drivers," who steer the case in the direction they believe is best and avoid routes that clients, as passengers, insist on taking because they view the routes suggested by clients as unrealistic or undesirable (Mather et al., 1995). However, Sarat and Felstiner (1995) found that the distribution of power between lawyers and clients is more fluid and that both parties have some degree of control in the relationship.

While the literature mostly focuses on the complexities of lawyers' choice of approach (Blumberg, 1967; Sarat & Felstiner, 1986), fewer studies have explored clients' perceptions of their legal representation's performance and efficacy, as well as the factors that influence their perception of fair treatment (Berrey et al., 2017; Gleeson, 2021; Shdaimah, 2011). Capturing clients' perspectives is required for a better understanding of the role of lawyers as gatekeepers to the justice system, who can block, facilitate, or delay access to justice.

To better understand divorced women's experiences with family lawyers, I organize the analysis of interviews into two main sections. First, I provide a brief explanation of the complexities surrounding a woman's divorce decision. Following that, I will discuss women's reasons for seeking a lawyer and the criteria they use to choose one. The second section examines women's various experiences with lawyers and how they evaluate those experiences.

Exploring Women's Choices: Leaving Troubled Marriages and Seeking Legal Representation

For many women, divorce was a difficult decision that followed years of a troubled marriage. To navigate the difficult process of divorce, women sought out the assistance of a lawyer. Out of the 30 divorced women, three did not seek legal counsel, but the others consulted with a lawyer, with 22 ultimately hiring one. The primary reason given by those who sought legal advice but were unable to hire a lawyer was financial constraints. The most common reasons that women gave for seeking a lawyer were to learn about their rights and to have someone support them

throughout the process. Furthermore, the decision to hire a lawyer was influenced by the gender of the lawyer, with some women thinking that men lawyers would be better suited to represent them in court, given the perceived dominance of men in the legal profession and their reputation for being more aggressive and rational in legal proceedings. These women believed that men lawyers would be better able to protect their interests and negotiate favorable outcomes in their divorce cases. In this section, I briefly discuss women's reasons for divorce before delving into their motivations and criteria for selecting a lawyer.

The Complex Issues Driving Women to Divorce

Prior to turning to a lawyer and/or filing for divorce, most women remained in their troubled and unsatisfying marriages even though they faced challenges that appeared to be impossible to resolve. Except for one participant who mentioned a lack of common interests and significant cultural differences as her reasons for seeking a divorce, other participants left their husbands due to a combination of serious and irreversible issues, such as infidelity, paranoia, suspicion, substance use disorders, mental health disorders, physical and verbal abuse, violence, and criminal behavior. Most women had discussed their marital issues with a therapist. Finally, my findings indicate that younger women, particularly those in their 20s at the time of my interview, were more inclined to challenge traditional norms and opt for divorce when they saw no possibility of salvaging their marriages. This trend reflects the rising divorce rate among Iranian women and rapid cultural shifts in the country (Aghajanian

& Thompson, 2013; Alinejhad et al., 2019). Studies on divorce in Iran indicate that a significant proportion of women who are granted divorce are under the age of 30, reflecting rapid cultural changes among the younger generations in Iran (Aghajanian & Thompson, 2013; Nakhaee et al., 2020). The primary causes of divorce in Iran, as revealed by the latest study, are “the inability to resolve conflicts, dissatisfaction with the manner by which their spouses expressed their love and emotions, and discontent regarding a spouse’s personality traits” (Nakhaee et al., 2020, p. 2863).

Women often did not leave their spouses until they were advised by a therapist that there was no hope for saving their marriage. Their decision to leave was often motivated by concerns for their own safety and the well-being of their children, as well as frustration with serious problems that their husbands had. For instance, Mobina, a 28-year-old PhD student in neo-technology, decided to end her marriage just two months after tying the knot, a period shorter than that of the other participants. Although she had noticed issues during their year-and-a-half engagement, she did not fully comprehend the extent of her husband’s problems until they were married and living together:

I was about to be robbed in the street. People came to help me, and I called my ex-husband. When he arrived, he did nothing.... We didn’t even file a report. He blamed me and asked what I had done to attract the thief’s attention! I had done nothing, but he blamed me.... A few weeks after our wedding, he beat me and locked me in the house... I later found that he had sexual impotence and also had mental health issues. But he had stopped taking his medications.... His family knew about it but hadn’t told us.

Following multiple couples therapy sessions, the therapist informed Mobina and her ex-husband that their marriage could not be saved unless her husband agreed to use medication, which he ultimately refused to do. Mobina's experience was unique in that she lived with her ex-husband for only a few months, whereas other participants stayed in their marriages for extended periods despite having multiple reasons to end them. In contrast to Mobina, who had the support of her family and did not feel compelled to remain in an unhappy marriage, numerous women lacked such support while their husbands struggled with serious issues. For instance, Somayeh, a 25-year-old woman who lived in a small town, decided to leave her husband after she realized that he used methamphetamines, and that his behaviors were out of control:

He used drugs for a long time, but I realized that he was using something different. Before, he only slept a lot.... He was aggressive before and beat me a lot, but with methamphetamines, everything became worse. He also had an affair and did not try to hide it. The first time that I found out about his affair, my response was more beating. During the last year that we lived together, I was sleeping in a different room.... His aggressiveness was such that he threw stuff at me.... But he became worse over time, and once he kicked me and broke my ribs.

Despite experiencing severe physical and verbal abuse, Somayeh stayed in her marriage due to a lack of support from her family. Seeking help from a couples therapist was not considered typical in her family. However, after her divorce, Somayeh pursued higher education and was in her third year of studying psychology at the time of my interview.

Divorced women's accounts did not suggest that their decision to seek a divorce was due to their low tolerance threshold or a lack of understanding of their

expectations of a marital relationship, as some lawyers with whom I had interviews suggested. In fact, the drivers of marital dissolution were multifaceted, a finding that aligns with previous research on divorce trends in Iran, which points to interpersonal violence and abuse, the inability to resolve conflicts, sexual dissatisfaction, and addiction as key reasons for divorce (Doherty et al., 2021; Nakhaee et al., 2020; Rahmani et al., 2009).

Getting Legal Help and Finding Emotional Comfort

When women decided to leave “abusive,” “unsupportive,” “mentally unstable,” “unemployed,” and/or “unfaithful” husbands, they reached out to private lawyers or legal consultants, who are available in family courts and offer free consultations to individuals. They cited emotional exhaustion, a lack of support from family and friends, a lack of time to attend court hearings, unfamiliarity with the law and the legal process, and an aversion to interacting with judges and going to court as the main reasons for relying on a lawyer’s help.

Most women who consulted with or hired a lawyer to represent them in the divorce process knew that getting a divorce would not be easy and that the law was not fair. However, they expected that their lawyers would provide them with legal and emotional support. Emotional support, in this context, meant having a lawyer who could “empathize with the client’s emotional state” and truly “comprehend her experience” as it “resonated with” them. For instance, Elnaz, who worked as a marketing manager for a Swedish company, got married when she was 25 years old.

Although her parents did not pressure her into getting married, she felt that she had internalized her mother's view that marriage was a "social norm," and therefore made the decision to get married. Shortly after her engagement, she realized that her marriage was a mistake and that she and her husband had very few shared interests or characteristics. Following her therapist's advice, she gave the relationship some time, and eventually, her therapist gave her the confidence to pursue a divorce. While Elnaz did not know the specifics of the divorce process, she knew that the law was not just:

I had a pessimistic view of the law. I had never had any prior experience in court You just need to live in Iran for one year to understand how patriarchy is intertwined with every part of this society, from what you're being taught by your family to discriminatory laws like inheritance laws...it's part of our everyday life.... They all try to tell you that you're the second sex.

Although she had an overall view of the legal system and its patriarchal structure, Elnaz was not familiar with her specific rights and decided to talk to a lawyer:

I had no legal knowledge about divorce. It was not always the case that a knowledgeable person would tell you about this [your rights] before marriage.... I was young, and no one, not my dad, not my mom, told me at the time of my marriage that it is important to ask my husband to give me the right to divorce.³¹ They don't even tell you that you should read your marriage contract before signing it to see what your rights are. I was like many other girls. When I decided to get a divorce, I knew that my husband was very stubborn, and I was worried that if we

³¹ A "marriage contract" is signed by the couples to officiate a marriage. This document outlines the terms and conditions of the marriage and includes details such as the amount of the dowry, the responsibilities of each spouse, and the rights of the wife. One of the important provisions that can be included in this document is the wife's right to divorce, which is known as "khul." If the husband agrees to this provision, the wife can initiate a divorce without having to prove any fault on the part of the husband. In addition, the terms of marriage can also include provisions related to the wife's education, employment, and other rights. In order to invoke these provisions in court, couples must ask a notary office to include these rights in a prenuptial agreement.

got into a fight, I might screw up and make things more complicated because I didn't know my rights. I also thought that if he used the power that the law gives to men in Iran, I'd be screwed and wouldn't be able to get a divorce.

Elnaz highlighted the lack of legal information and awareness surrounding divorce, which can lead to fear and uncertainty when it comes to seeking a divorce, as women may be concerned about the potential consequences and the power imbalance that exists within the family, the legal system, and society in general (Moghadam et al., 2009). Elnaz sought the assistance of a lawyer to navigate the divorce process, particularly in light of discriminatory laws. She believed that the lawyer would enable her to make informed decisions and take the right action.

Given the complexity and obscurity of much of the legal process and the law, it was not unexpected for women to seek legal advice. However, turning to lawyers by women often served a dual purpose: to receive legal information and guidance and to have the lawyer's professional and emotional support in what they perceived as an unequal battle with their husbands to secure what they believed to be their rightful entitlements. This was the case for Yalda, a 31-year-old woman, who had been married for two years but had never lived with her husband. Because of experiencing physical violence and sensing her husband's regret over the marriage, which he never expressed, Yalda considered divorce. Yalda lived with her mother and stepfather but did not feel they were supportive. Although she had a management degree and was employed at the time of her divorce, she could not afford to rent a place to live. Consequently, under familial pressure, Yalda left her parents' residence and stayed in

a women's shelter. Yalda had a "very negative view" of the legal system and had heard that, "as a woman," she "won't be given [her] rights and that women's rights are always taken away." She decided to hire a lawyer who could help her legally pursue her monetary rights and initiate divorce proceedings:

I was not familiar with my rights. Moreover, my family blamed me for what had happened. Due to the emotional and psychological pressure from society and my family, I did not feel capable of handling the legal process alone and interacting with judges and my husband. I was ok with working from morning to night to pay for a lawyer to handle my divorce case. Having a lawyer could also be an emotional support for me. I just wanted to be away from everything and wanted a lawyer to handle my case.

Yalda hired a lawyer with the goal of ensuring her legal rights and believed that the presence of a lawyer would offer emotional comfort and assurance amid the perplexing and difficult situation she was in. Although Yalda did not have the resources to rent a place, her divorce case and receiving her mahr were so important to her that she used her income to pay the lawyer's fees.

In contrast to Sarat and Felstiner's (1986) argument that prior to consulting a lawyer, clients often think "the law works as a formally rational legal order, one that is rule governed, impersonal, impartial, predictable, and relatively error free" (p. 99), most women who sought a divorce in Iran did not think of the law as just and impartial. Despite their lack of knowledge about the extent of their legal rights, they believed that due to the prevalence of patriarchy in society, the divorce process and securing monetary rights would not be easy for women. Nevertheless, their narratives implied that they regarded lawyers as reliable experts who could assist them in

navigating the legal system that they thought was biased against them. This perspective also explains why three participants specifically looked for a lawyer who was an advocate for women's rights or a feminist, so that they could zealously advocate for their rights. Moreover, despite this cynical attitude toward the law, turning to a lawyer suggests that women were not willing to give up on asserting and demanding their rights. This seeming contradiction is not uncommon, as past research has indicated that attitudes towards the law may not always align with behaviors, and "apathy regarding law and high levels of litigation can co-exist" (Hendley, 2001, p. 2). It can also be argued that the women adopted a "with the law" legal consciousness by perceiving the law as a game in which they could pursue their self-interest and achieve strategic gains if they had the support of a lawyer.

Beyond Expertise: The Role of Gender in Women's Selection of Divorce Lawyers

In addition to seeking legal information and emotional support,³² the gender of the lawyer was a significant factor for women when choosing a lawyer to represent them during divorce proceedings. Most women believed that the gender of the lawyer could impact his/her professional competence and performance, given the context of the legal practice. Therefore, gender was at the forefront of women's search for legal assistance. Participants' accounts indicated how stereotypical assumptions regarding men's and women's special personality traits influenced their decision-making when selecting a lawyer. While some women tended to choose women lawyers, as they

³² The role of emotional support will be further elaborated upon in the next section.

believed they were sensitive to the context and empathetic, others looked for men lawyers who exhibited “masculine” traits such as aggressiveness, high self-confidence, and rationality in court.³³

The majority of women who hired a lawyer showed a preference for women lawyers. This preference was rooted in the belief that they would feel more comfortable discussing their experiences with someone of the same gender and that women lawyers would be more empathetic towards their situation. This group of women assumed that men lawyers would be less understanding, empathetic, compassionate, and trustworthy. For example, Parisa, a 40-year-old woman who had been married for eight years, decided to divorce her husband for several reasons, including an addiction that caused him to become irresponsible. She wanted to have a woman lawyer for a number of reasons:

Since I am a woman, there are certain things that I can discuss more easily with a woman lawyer. I mean things that are related to marital relationships. I thought a woman lawyer would be more understanding. I know that it is really harder for a woman lawyer to work in this patriarchal system. Yet I know that women are more diligent and hardworking than men if you trust them and if they genuinely want to do something. They may face more obstacles, but they can do it better than men. And it's not just judges [who make it difficult for them]; it's also men lawyers who make their work harder. It's like other jobs, but I think it's more common in the legal profession. They must constantly prove themselves. They have to spend more time and energy.

³³ Participants used the terms “zan” and “mard,” which in Farsi refer to gender and mean “woman” and “man.” However, it is possible that they were conflating sex and gender.

Parisa felt more comfortable discussing certain aspects of her marriage with a woman lawyer due to the shared experience of being a woman. In other words, Parisa looked for someone who could relate to her on a human level. Parisa's decision to choose a woman lawyer was influenced by stereotypical assumptions about women being more empathetic and understanding, but it also challenged the stereotype that women lawyers are less competent than their male counterparts. She acknowledged that women lawyers may face additional challenges in the male-dominated legal profession, but she also believed that women can be more conscientious and dedicated than men if given the opportunity.

Several women were concerned that their association with a man lawyer could be perceived as something beyond a professional relationship by their husbands and judges, and they wanted to avoid any unnecessary suspicion by working with women lawyers instead. For instance, Yalda felt lonely and needed a woman lawyer who could demonstrate compassion and comprehension, all while refraining from any actions that could lead to suspicions about a potential romantic relationship with a man lawyer:

At the time, I wanted to have a competent woman lawyer. A woman lawyer was introduced to me, and I was told that she was good at her job. I had heard many negative things about men lawyers. Well, because of this, and since I was alone, it was important for me to have a woman lawyer who could help me, understand me, and have a good rapport with me. So that I would be calm and comfortable. Since I lived in a shelter, I didn't want my husband or the judge to think that I was dating a man lawyer.

Yalda's decision to choose a woman lawyer was motivated by a variety of factors, some of which were linked to traditional gender roles that associate women with nurturing and caretaking qualities. She believed that a woman lawyer would understand her situation better and could offer more emotional support during a challenging time. Another factor that influenced her decision to hire a woman lawyer was the prevailing social stigma attached to women who have men lawyers during divorce proceedings. She was aware of the potential negative perceptions that others might have of her, such as assuming that she was romantically involved with her lawyer. The women who expressed a preference for a woman lawyer did not attribute their dissatisfaction with legal advice or outcomes to the gender of their lawyers. Yalda, however, as the only exception, thought she would have fared better if she had had a man lawyer, because from her perspective, men lawyers were more courageous. Yalda's dissatisfaction with the lawyer encouraged her to pursue a law degree.

A minority of women would rather have a man lawyer, influenced by their perceptions of men lawyers as less emotional, more aggressive, more rational, and more confident. This preference was further influenced by their perception of how judges evaluated men lawyers. For instance, after being married for eight years, Maryam, a 31-year-old woman, eventually decided to get a divorce, which took three years to finalize. She was educated with a bachelor's degree, employed, and had the financial means to hire a lawyer. Initially, Maryam underestimated the complexities of finding a competent lawyer. She thought that by providing lawyers with certain

information, they would “plug it into a formula” and, as a result, she would be granted a divorce. Her initial preference was to hire a man lawyer:

Given what we see in society, I didn’t want to have a woman lawyer because I felt that if she was in my situation she would be under the influence of her emotions and couldn’t defend me effectively and no one would listen to her.... I wondered how a woman lawyer could be functional in court and with judges who are mainly men. That’s why I wanted my lawyer to be a man.

Maryam believed that a woman lawyer might not be able to represent her “effectively” because of perceived emotional influence, which she feared could hinder the lawyer’s ability to argue Maryam’s case in court. Maryam also doubted that a woman lawyer could be taken seriously by judges, as the legal system is dominated by men.

Maryam’s statement suggested that women lawyers were not entrusted with certain work because they were women, not because of a lack of experience or legal aptitude. Therefore, Maryam preferred to have a man lawyer, whom she believed could better represent her in court and be more effective at persuading judges, based on the assumption that men are better suited for these roles. Throughout the process, she consulted with five lawyers and had to change the first lawyer that she had hired.

Maryam was not alone in her belief that judges tended to have a more favorable attitude towards men lawyers compared to women lawyers. At the time of the interview, Simin, a 36-year-old woman residing in a small town, had been living apart from her husband for two years. She was unsuccessful in getting a divorce despite her husband’s unemployment, infertility, and emotional and physical abuse.

Considering the complexity of her case, she believed that only a man lawyer could secure a favorable outcome:

In our city, most of the women lawyers are young and lack the confidence to talk in front of judges. The oldest was not older than 30 years old. Judges view them as kids. And you know about the status of women in our society. Because of this, I had to have a man lawyer.... Even my dad told me to find a woman lawyer. But I told him that they are not confident enough and are quite young, therefore, judges tend to view them as inexperienced. I thought male lawyers were more confident, articulate, and persuasive than female lawyers. I thought a male lawyer would be more effective in advocating for me before male judges. However, if we had had female judges, I would have selected a female lawyer instead.

Simin believed that in her town, women lawyers were not taken seriously by judges, not only because of their gender but also because of their young age. Simin assumed that in the legal system, where gender is salient in its structure and culture, women were not given the same level of respect and did not have the same credibility as men. She was, by her own description, naïve to think that men lawyers would be more effective in advocating for her before men judges. Once her lawyer failed to get a divorce verdict for her, she realized that the gender of the lawyer does not have a significant impact on the outcome of a case.³⁴

Clients often make assumptions about lawyers' performance that are influenced by cultural beliefs about gender. These assumptions may highlight stereotypical traits and skills, making it challenging for women lawyers to establish their efficacy. Women lawyers must navigate a double standard and a paradoxical

³⁴ The main gender-related dissatisfaction that some women expressed about men lawyers was related to their experience of sexual harassment.

situation, balancing the expectations of their clients and the broader legal culture with societal expectations about appropriate gender roles and behavior (Bogoch, 1999; Rhode, 1994). My findings revealed that divorced women expected empathy and compassion from their lawyers, regardless of their gender. However, women lawyers must walk a fine line and avoid appearing too emotional, as this can be perceived as a sign of weakness and a lack of ability to effectively advocate for their clients. In contrast, men lawyers may be praised for their caring and empathetic behavior. This paradox creates a difficult situation for women lawyers, who must balance the need to appear caring with the pressure to project a strong and competent image. Furthermore, consistent with previous research on the role of gender in evaluating the competency of women in traditionally male-dominated professions (Bogoch, 1999; Rhode, 2001; Thornton, 1996), clients' accounts suggested that women lawyers were sometimes not given the same initial presumption of competence as their men colleagues.

Ridgeway and Correll (2004) argue that hegemonic gender beliefs, which are most commonly enforced by socially advantaged actors, perpetuate gender inequality. However, in the context of selecting a lawyer, some women appeared to act upon these beliefs in order to subvert the gender discrimination they believed they would encounter in court. In other words, women preferred men lawyers based on the belief that this would increase their chance of success in a system where gender inequality was pervasive. This preference for men lawyers can be seen as a form of strategic adaptation to an unjust system rather than an endorsement of men as inherently more competent lawyers.

Women's Perspectives on Family Lawyers' Approaches to Divorce Requests

Women consulted with or hired a lawyer with certain expectations, mainly to receive support and obtain information about their rights in a divorce process and the available options. All women had perceptions, accurate or inaccurate, regarding the subject matter, the legal system, and the role of lawyers in handling the issue. As mentioned in the previous section, most women did not consider the law to be rational, impartial, and equitable. Nonetheless, women had the expectation that lawyers, as experts in the field, could assist them in maneuvering through discriminatory laws and in ensuring their limited rights. In other words, they viewed a lawyer as a powerful tool in their arsenal for defending their rights.

The perspectives of divorced women on lawyers' approaches can be categorized based on how lawyers handled their divorce requests. My findings indicate that women had two very distinct experiences with lawyers. The most common experiences were with what I call "outcome-oriented" lawyers who lacked empathy and failed to provide comprehensive information on the divorce process. They defined women's best interests based solely on the outcome and advised them to compromise with their spouses rather than stand up for their rights. The second, but fairly rare, experience was with lawyers who defined women's best interests in terms of both the process and the outcome. They presented all available options, discussed the difficulties associated with each, and promised to zealously advocate for their clients no matter which option they chose. In the following two sections, I will elaborate on how women described their experiences with each of these groups of

lawyers, their assessments of the approaches, and whether such approaches were effective in ensuring the perceived best interests of divorce-seeking women.³⁵

The Most Common Experience: Disappointing Encounters with Lawyers
My findings indicate that the demands of women who first sought the

assistance of lawyers to pursue divorce and secure their financial rights might have changed as lawyers emphasized the difficulties of the legal process and encouraged them to prioritize obtaining a divorce as quickly as possible. In some instances, women “chose” to pursue a mutual consent divorce and gave up some or all of their monetary rights after lawyers advised them that this was their only viable option, or that pursuing other alternatives would be challenging. After consulting with a lawyer, some women decided not to take any immediate action and chose to continue living with their husbands for the time being. While the advice provided by lawyers played a significant role in shaping women’s decisions on how to pursue a divorce, it is important to note that other factors such as socio-economic status, age, education level, and the duration of the marriage also had an influence on their decisions.

During their initial consultations with lawyers, most women reported feeling discouraged as lawyers painted a dark picture of the legal system. Rather than providing an account of the rules governing the legal process, women reported that

³⁵ The goal of this chapter is to examine the experiences of divorced women with lawyers and their role in perpetuating or subverting gender inequality within the legal system. Although some women expressed discontent with lawyers who did not diligently pursue their monetary rights or secure adequate compensation after filing a case, such issues are deemed practical and thus not relevant to the larger issue of gender inequality.

some lawyers began by discrediting the legal system, emphasizing its flaws and shortcomings in both its design and implementation. Instead of providing proactive solutions to overcome these challenges, lawyers often advised women to find a way to settle. For instance, Shadi, who married an extremely devout man at the age of 18, never met a lawyer who encouraged her to fight for her rights. Shadi's husband prevented her from continuing her education and having a job, but she persisted and managed to pursue her education at an Islamic seminary. Her husband's hypersexuality was also a significant concern. Shadi considered a divorce after two years because of her husband's uncontrollable sexual tendencies and the restrictions he imposed on her. Shadi decided to talk to a lawyer because she was in complete ignorance about her rights and "thought a lawyer could demand and get her legal entitlements." Shadi's expectation was that a lawyer would help her obtain a part of her mahr, which, in turn, could provide her with some financial resources to begin a new independent life. Shadi explained what lawyers told her when she laid out her problem with her husband:

They said they see cases like this every day. They said it will be emotionally difficult and if I really want a divorce, I should give up my monetary rights.... They told me that I could not get a divorce based on his hypersexuality because judges would not accept my claim. They said it's a long and draining process. And that a judge always takes the man's side. They told me that I should make my husband agree to divorce and forgo my mahr to release myself. No one gave me any specific suggestion other than that. Even when I asked them specific questions about getting my mahr or getting a divorce, they talked about judges and how they decide divorce cases.... After talking to all the lawyers whose offices were near the family court, I realized that demanding my mahr and filing for divorce would not be in my best interest.

The lawyers that Sahdi consulted failed to provide adequate information, instead highlighting the biases of the judicial system and how judges typically rule in cases where women initiate divorce proceedings. This approach did not address Shadi's specific concerns or provide her with the guidance she needed to make an informed decision. The lawyers reshaped Shadi's definition of what was in her best interest and her approach to demanding her rights. After consulting multiple lawyers, Shadi came to the conclusion that claiming her monetary rights and pursuing a unilateral divorce would be in vain. Thus, she decided to convince her husband to agree to a mutual-consent divorce. In order to get her husband to agree to divorce, she forfeited her monetary rights and received only 10% of her mahr (14 gold coins out of 140 gold coins), despite financial difficulties and the absence of support from her family. Due to a lack of financial resources, Shadi never hired a lawyer.

Some women reported that lawyers not only explained the difficulties of the divorce process but also suggested that they reconsider their decision to get divorced and attempt to save their relationship. For instance, Leila, a 47-year-old woman who had finished middle school, was married for 27 years to an aggressive husband. She and her children experienced physical violence during the final three years of her marriage, but she chose to tolerate it because her family encouraged her to do so and suggested it was normal. She was also hesitant to pursue a divorce because she was worried about its impact on her children's welfare. After discovering her husband's affair, Leila contacted a lawyer. While she was not certain if divorce was the best

choice for her children, she did consider the possibility of living apart from her husband without going through a divorce. But the lawyer discouraged her from pursuing a divorce:

I talked to a man lawyer. I explained my situation and he said I couldn't get anything from my husband. He said they might give me my mahr in several installments, but they would not ensure any of my other rights. He told me that I should forgive him and not get a divorce or my mahr and try to live with him.... I discussed the affair with him. He said I should not bring it up in court because the judge will tell me it's Ok.

In explaining the divorce process, the lawyer with whom Leila consulted focused more on describing the personalities and tendencies of the legal actors than the law on the books. As Sarat and Felstiner (1989) argue, “emphasizing people over rules” sends a clear message to the client that “it is the judge, not the rules, that really counts” (p. 1674). Leila’s account also indicates that the lawyer downplayed the seriousness of her legitimate grievances and suggested that she reconcile with her husband. This, combined with the portrayal of the legal system, where men judges are more likely to make decisions based on their personal biases rather than the specifics of each case or the needs of the parties involved, made her feel uncertain about pursuing a divorce, and thus she remained with her husband. It appears that Leila’s decision to accept the lawyer’s advice not to pursue a divorce was also influenced by a lack of family support, limited financial resources, a lower level of education, and a lack of knowledge about her rights.³⁶

³⁶ Leila had a chance to talk to another lawyer who took a more proactive approach. Leila’s children approached a woman lawyer who also acted as their tutor. Initially, the lawyer informed them that she

Women's experiences with lawyers are consistent with Sarat and Felstiner's research on the role of divorce lawyers in managing and (re)shaping clients' expectations and demands. By explaining the law, family lawyers often lower their clients' expectations of the legal system in terms of rationality and predictability and point out the limits of "legal justice" in practice (Eekelaar & Maclean, 2000; Sarat & Felstiner, 1986, 1989). The purpose of the discussion on the peculiarities of the legal process and the limits of the rules is to teach them to take a "realistic" approach (Mather et al., 2001) and to validate the lawyer's proposed strategy for resolving the case (Sarat & Felstiner, 1986). My findings indicate that women's ultimate decisions were influenced by a combination of their lawyers' advice and other factors they considered.

Most women who followed their lawyers' advice to pursue a mutual consent divorce and relinquish their monetary rights before trying any other approach were dissatisfied with the outcome. However, not all of them held their lawyers responsible for their dissatisfaction. For instance, Shadi believed that pursuing a mutual consent divorce was the best option for her. Although she wished she could have negotiated more strongly with her husband, she did not think that "lawyers could be of much help" given that she "did not have a significant amount of mahr and had not signed

could not represent their mother due to a lack of evidence in her case. However, a year later, Leila spoke with the lawyer again. The lawyer finally agreed to take on her case. The process of obtaining a divorce and a portion of her monetary rights took two years. Leila stated that she would have continued living with her husband had her children not sought out another lawyer who supported her in pursuing a divorce.

any of the terms of the *Aghdnameh* [marriage contract].” Somayeh, like Shadi, believed that a lawyer “could not do anything.” Somayeh decided to pursue a mutual consent divorce based on a lawyer’s advice, and she was able to reach an agreement with her husband quickly by forgiving her mahr and dowry. She expressed dissatisfaction about giving up her mahr but was satisfied that she did not have to go through the “unpleasant” and “degrading” experience of dealing with judges, based on her previous experience in domestic violence cases. Elnaz, unlike Shadi and Somayeh, was from a wealthier socio-economic class. Elnaz decided to give up her mahr and pursue a mutual consent divorce after her lawyer informed her that a unilateral divorce at the request of a woman could take years to be granted. From the beginning, Elnaz “did not place much value on mahr,” so it was an easy decision for her to forgo her monetary rights in exchange for a divorce and she was satisfied with the outcome.

The outcome-oriented approach was particularly inconvenient for women who were hesitant to start from a weak position or were not willing to terminate their marriage in the fastest possible way if it meant giving up what they felt was rightfully theirs. Women who had been married for a longer time were more likely to share this dissatisfaction, although it was not exclusive to them. Half of the women who sought legal assistance voiced dissatisfaction with lawyers’ failure to provide thorough information about their legal rights and available strategies for pursuing such rights. They also criticized lawyers’ lack of empathy and understanding of women’s unique situations. In most cases, women consulted with multiple lawyers, making it difficult

to determine the specific gender distribution of outcome-oriented lawyers with whom they interacted.

Women expressed disappointment with lawyers if they failed to provide detailed information about divorce and did not show an interest in using their expertise to secure women's rights. For instance, Marziyeh was a 32-year-old woman who decided to pursue a divorce after being married for ten years. She explained that her husband was heavily reliant on his mother and that every decision had to go through her. This was difficult for Marziyeh, who saw herself as an independent woman. Despite her efforts to save the marriage, it did not work out and her husband eventually "kicked [her] out of the house." She had also experienced physical violence. It was then that she turned to a lawyer for help. Initially, Marziyeh was willing to give up her monetary rights and proceed with the divorce. However, her husband's demand that she must also return all her jewelry made her reconsider her decision. Marziyeh believed that this was an unjust deal. With the exception of one (man) lawyer, none of the lawyers she consulted supported her desire to fight for her rights:

They tell you that you'll be in court for at least three years and will finally have to give up your monetary rights. So why don't you do it initially? But why did I need a lawyer if I wanted to waive my mahr and other monetary rights? I already knew about this option. What can you bring to the table as a lawyer? A lawyer who advises me to give up my mahr is not technically my lawyer, but rather my husband's. My lawyer is the one who explains my rights, my options, and pros and cons of each option before I decide. I have friends who are divorced. They gave up their monetary rights to get a divorce and that was very detrimental because they married and divorced without having their rights protected. They regret that they didn't fight. I wanted to avoid

becoming an anxious divorced woman. I preferred to fight hard. So that when I look back, I won't regret not fighting.... Lawyers should explain all available options and let clients ask questions and challenge them. I had studied law, so I knew how to do it but not all women can.

Marziyeh expected a lawyer to present all possible options rather than hastily recommending that she waive her rights. From her perspective, by having a clear understanding of their rights and options, women could make decisions that protected their interests and prevented them from becoming regretful later on. She also appeared to lack trust in lawyers who suggested that women should compromise. She believed that they were not acting in her best interests. Marziyeh had the resources to consult with multiple lawyers and eventually found a lawyer who met her expectations. As a law graduate, Marziyeh believed that family cases were not “profitable” for lawyers, which resulted in the best lawyers avoiding them. Consequently, lawyers who were not interested in dealing with family cases did not invest much time in them and preferred clients to agree to a consensual divorce.³⁷ This implies that divorce-seeking women do not receive effective legal representation because as “one shot” litigants—first and one-time claimants—they do not have enough resources. As of the interview, Marziyeh was still going through the divorce process and had no regrets about her decision to fight for her rights instead of conceding everything to her husband.

Marziyeh's closing statement at the end of the interview was that if women are

³⁷ In mutual consent divorce cases, lawyers receive lower fees compared to unilateral divorce cases, because mutual consent divorce operates more like an administrative process, where the outcome is clear from the beginning. However, the substantial investment in time and energy and the complexities involved in unilateral divorce cases at the request of women make them less financially lucrative for lawyers.

empowered to demand their rights, “the pressure of patriarchal society can be overcome over time.”

Women also complained about lawyers’ failure to fully understand their situations. Many women found themselves in an insecure situation when they were advised to pursue a mutual consent divorce. They had no savings or financial support to rely on, either because their husbands had prevented them from working or because they had shared their income with their spouses without having any assets in their own names. Some were also worried about losing custody of their children and did not want to give that up. Therefore, a mutual consent divorce that required them to give up their rights to alimony, mahr, and/or child custody was not a viable option for them. For instance, Haniyeh was a 32-year-old woman who lived with her husband for almost ten years. Although they had cultural and political differences, these were not the main reasons for her divorce. Her husband was verbally and physically abusive towards her, even after the birth of their child. Despite hoping that the presence of their child might change his behavior, nothing improved. Haniyeh’s husband offered to divorce her on the condition that she give up her monetary rights, but she did not believe that this was a fair deal. Haniyeh consulted with various lawyers in the hope of obtaining what she believed was rightfully hers:

The first lawyer told me that my husband did not have any of the conditions that would enable me to get a divorce. He suggested demanding mahr as leverage. Another lawyer told me the same thing and suggested having a meeting with my husband to convince him to agree to a mutual consent divorce. He told me that I should forget about my monetary rights.

But Haniyeh was not satisfied with this advice:

But if I wanted to compromise and forgo my monetary rights, why would I need a lawyer? I could have done it myself. I was looking to get my rights. I had worked all those years and shared all my income with my husband. We bought a house together which was under his name. I wanted my share back. I didn't even want my mahr. I didn't want anything more than my share of that house. I had spent my life, my money, and my youth in that relationship. I could have bought two houses with my income over those years. But I shared it with him.... When I told the lawyer about this, he said we could talk about other options. But I was so disappointed to see that his first option was to compromise. I didn't feel he would fight for my rights if I had hired him. I looked for another lawyer.

Haniyeh expressed her frustration with the advice of the lawyers. She thought that if she was willing to compromise and give up her monetary rights, she could have done so without the need for a lawyer. Haniyeh lost confidence in the lawyer and her decision not to proceed with that lawyer indicated how women sought zealous advocates who could represent their voice and dignity in a legal battle that was stacked against them.

On the whole, women did not seem to expect their lawyers to act as “mouthpieces” or “hired guns,” defending clients’ rights and furthering their interests even if it required crossing moral boundaries (Freedman & Smith, 1990; Mather, 2003; Mather et al., 2001; Sarat & Felstiner, 1995). Most women expected lawyers to be more attentive to their specific needs and take a more proactive rather than defensive approach to ensuring their rights. Given the fact that women often enter a divorce with less bargaining power (Bryan, 1999; Meyers, 1995; Rothkin, 2022), they expected lawyers to strongly advocate and negotiate on their behalf and ensure a more

equitable outcome. Women were hesitant to pursue a mutual consent divorce because they felt their needs and interests would not be sufficiently protected, and that their husbands would have an unfair advantage. However, lawyers overlooked this concern and instead emphasized the advantages of a consensual divorce, such as saving time and money as well as minimizing emotional distress.

Family lawyers who seek to achieve an amicable divorce settlement for women take on a role that is comparable to that of a mediator, who acts as an impartial third party and “encourages the disputants to find a mutually agreeable settlement by helping them to identify the issues, reduce misunderstandings, vent emotions, clarify priorities, find points of agreement, and explore new areas of compromise and possible solutions” (Pearson & Thoennes, 1983, p. 498). The literature on collaborative divorce and divorce mediations in the U.S. indicates that even where laws appear to be gender-neutral and there is a preference for negotiations rather than judge-made settlements, women tend to experience unfavorable outcomes due to factors such as power imbalances, gender bias, and the indeterminacy of laws (Bryan, 1999; Rebouche, 2016; Wieggers & Keet, 2008). Feminist scholars argue that divorce mediations fail to effectively address inequalities resulting from the disadvantageous position of women within patriarchal power structures in society (Maxwell, 1992; Shaffer, 1988). In the context of my study, where family law does not support gender equality, women face additional challenges due to power imbalances that are officially sanctioned by the law. While divorce-seeking women in Iran seemed to be aware of their disadvantaged position and wanted their lawyers to be advocates who would

actively work to counterbalance the gendered power dynamics in the divorce process, their lawyers were less attentive to this concern and were more focused on facilitating and expediting the divorce. Lawyers seemed to be so preoccupied by their experience and expertise about the law in action that they overlooked the individual needs and expectations of their clients. Thus, their definition of what was in the client's best interest revolved around achieving the most favorable outcome, which often meant facilitating an amicable divorce. As such, they failed to effectively address the power imbalance between parties and failed to take actions to promote a more equitable distribution of power that would encourage fair negotiations and outcomes.

Meeting Expectations: Satisfying Experiences with Lawyers

After consulting with multiple lawyers, approximately one-third of the participants were finally able to hire a lawyer who provided them with information on all available options and warned them about potential difficulties that might arise in the divorce process. Moreover, these women stated that their lawyers reassured them that they would support them throughout the process, do their best to represent them, and prioritize their needs and interests. These lawyers were candid about the fact that they could not guarantee a particular outcome. The majority of those who hired lawyers who offered more proactive strategies had initially consulted with or hired lawyers who fit in the category of outcome-oriented lawyers. This indicates that Iranian divorce lawyers do not typically serve as gatekeepers for all women in the sense of impeding their access to justice, as defined by Michelson (2006). Women

have the option to seek advice from multiple lawyers before making a decision to engage one. However, it is important to recognize that not all women have the means or knowledge to consult with multiple lawyers. Nevertheless, if we consider gatekeepers as those who cause delays in accessing justice, it is evident that family lawyers do indeed delay women's access to justice.

For instance, Mona, a 42-year-old woman, made the decision to get a divorce after finding out about her husband's affair. She had been married for 18 years and had a 13-year-old daughter. Mona had not been employed prior to the divorce, and the lack of financial support made the process challenging for her. Initially, she hired a lawyer who agreed to pursue her mahr but failed to explain the divorce process to her and provided no support during court hearings. Mona had to frequently follow up with the lawyer to ensure progress and the completion of tasks. Additionally, the first lawyer appeared to be motivated solely by financial gain. Mona blamed herself for not talking to more lawyers before hiring the first one. Mona subsequently hired a different lawyer who was highly understanding and competent:

A friend of mine recommended a lawyer to me, and I went to meet her at her office. She gave me a full breakdown of the divorce procedure and was upfront about the possibility of losing at the trial level and having to appeal to the appellate court and supreme court. She stated that we could win or lose at those levels as well. She told me that my husband's affair was not an admissible legal ground for divorce by the courts.... As things unfolded, all the information she had provided turned out to be accurate. Throughout the process, she provided both

legal and emotional support, going above and beyond what was expected of a lawyer. I trusted her. I owe my divorce to her.³⁸

Mona's lawyer went beyond just discussing the judges' discretion and power and provided a more inclusive portrayal of the divorce process, including the possibilities of success and failure. This enabled Mona to ultimately make a decision that aligned with her emotional needs and interests. Mona's description of the second lawyer aligns with the approach of incrementalist lawyers in divorce cases, as they take on the role of "legal educators" (Herrin, 1996), striving to help clients make informed decisions by providing them with clear information about the legal process, their rights, and the potential outcomes of different courses of action.

Women's narratives indicated that locating a lawyer who was attentive to their demands and who took a proactive approach was not easy. For instance, Neda had to consult with 15 different lawyers before finding one who was willing to advocate for her rights. Neda, who was 50 years old, had been married to her husband for 25 years. She made the decision to end the marriage due to several issues, including her husband's prolonged absence, a lack of emotional intimacy, and a complete absence of a sexual relationship for over ten years. Furthermore, he had been unemployed for 12 years. Neda described her first interaction with her lawyer:

³⁸ Ultimately, Mona was able to get a divorce through mutual consent. Following the Supreme Court's decision to remand the case back to the appellate court for further investigation, her husband agreed to a mutual consent divorce.

Out of the 16 lawyers that I consulted, I found a woman lawyer who made me feel comfortable. During our discussion, I mentioned that I wanted to live separately from my husband but wasn't interested in pursuing a divorce. However, she advised me to reconsider, as I would need my husband's permission to renew my passport and leave the country. Her understanding of my situation and her caring attitude made me give her suggestion some thought. Other lawyers I spoke to had advised me to return to my husband, and some had even told me that I was at fault and that my husband could take legal action against me for not being obedient. But the lawyer I hired showed genuine concern for me and my case. During our first meeting, I couldn't help but cry as I shared my story, but she didn't pressure me into getting a divorce, nor did she demand a high consultation fee.

Neda was impressed with her lawyer's non-judgmental and attentive approach, as well as her thorough explanation of all available options. Unlike Neda's previous lawyers, this lawyer did not attempt to discredit Neda's complaints or hold her responsible for the pain she was experiencing. Although the lawyer pointed out the challenges of not getting a divorce, she also allowed Neda to weigh this option based on her specific situation. Neda was also impressed with her lawyer's decisiveness and dedication to the cause of women's rights:

As someone who was involved in women's rights activism, I didn't expect a lawyer to share my passion, but I felt that my lawyer was very much like me. She was persistent and explored all possible options, even though she warned me not to get my hopes up. When she said, "We'll do our best," it meant a great deal to me.

Once Neda decided, the lawyer encouraged her to demand her rights and promised to do her utmost to support her throughout the process, while also cautioning her to remain realistic. The lawyer provided Neda with both legal and emotional support, which was precisely what most participants sought when looking for a "good" lawyer.

One of the reasons for women's satisfaction with their lawyers can be traced back to the client-centered approach adopted by their lawyers. Women like Mona and Neda who had positive experiences with their lawyers described them as actively listening to their concerns, assessing their diverse needs, showing empathy towards their situations, and explaining all the necessary legal steps. In the framework of client-centered lawyering, lawyers are bound by both professional and moral obligations to help their clients maximize their autonomy and agency (Binder & Price, 1977; Freedman & Smith, 2010). To fulfill this obligation, lawyers must first understand clients' goals and provide them with information regarding their legal rights. This empowers clients to make informed decisions regarding the pursuit of their rights through legal processes (Freedman, 2011). Client-centered lawyering may also involve lawyers advising their clients on what they believe to be the most ethical course of action (Freedman, 2011).

Moreover, both Mona and Neda were satisfied with their lawyers' approach because they recognized that their lawyers had done and/or promised to do everything possible to fight for their rights, which left them feeling empowered. Although women did not explicitly express the need for lawyers to actively confront gender bias, their strong emphasis on asserting their rights and striving for greater equality with their husbands during the divorce process implies a desire for their lawyers to work towards achieving a more gender-equal outcome, even if it does not involve directly challenging gender inequality. While women acknowledged the significance of the ultimate outcome, which was a divorce, they placed greater emphasis on the means by

which they attained it, or “how” they obtained a divorce. This consideration was also evident in the remarks of women who were dissatisfied with outcome-oriented lawyers’ approach to divorce. This aligns with Tyler’s argument about the significance of procedural justice in determining clients’ satisfaction. Tylor (1988) argues that “clients care most about the process— having their problems or disputes settled in a way that they view as fair, second most important is achieving a fair settlement, the least important factor is the number of assets they end up winning” (p. 40). Taken together, women’s dissatisfaction with outcome-oriented lawyers and satisfaction with client-centered lawyers suggest that divorced women consider an approach to be fair when lawyers prioritize the protection of their clients’ *rights* and *interests*, rather than focusing solely on finding the quickest way to obtain a divorce at the expense of other rights.

Conclusion

This chapter has shed light on the motivations driving Iranian women to seek legal counsel when pursuing a divorce, as well as their expectations of and experiences with lawyers. The findings illustrated that women sought legal counsel to receive not only legal information but also emotional support. For women, the gender of a lawyer was salient in their initial search for a lawyer. While most women preferred women lawyers for their perceived compassion and ability to handle clients, some sought men lawyers because they viewed men as more effective in a male-dominated context.

Prior to consulting with a lawyer, clients might “expect the legal process to follow its own rules, to proceed in an orderly manner, and to be fair and error free” (Sarat & Felstiner, 1986, p. 125). However, the women in this study did not believe that the law is neutral and objective, nor did they perceive the legal system as inherently just. This understanding was shaped by the gender-based discrimination they experience in their daily lives. Nevertheless, their lack of trust in the legal system did not diminish their conviction in the effectiveness of rights advocacy. Divorce-seeking women were positioned “with the law” and expected that by utilizing legal resources, such as hiring a lawyer, they could strategically navigate the legal system and ensure their limited rights (Ewick & Silbey, 1999).

Examining women’s narratives about their experiences with their lawyers demonstrated that the majority of women encountered lawyers who advised them to refrain from taking an adversarial approach. However, lawyers’ views on the best course of action did not always align with what women deemed to be in their best interests. Women who were unwilling to settle for less took a more holistic approach to defining the best course of action. These women defined what was in their best interests in terms of both the outcome and the methods of achieving it. These women often felt strongly that they should fight for their rights. Although lawyers might aim to persuade clients that as “repeat players,” their reputation and understanding of how the legal system operates can be advantageous to clients as they navigate the divorce process (Sarat & Felstiner, 1989), women did not seem to view outcome-oriented lawyers as capable of doing anything beyond what lay people could do, except for

explaining the barriers and devising alternative approaches to avoid the barriers rather than overcome them.

Women who placed emphasis on the process as well as the outcome of a settlement in defining their best interests, expressed greater satisfaction with lawyers who acknowledged their concerns and facilitated their active involvement through informed decision-making. The principles of a client-centered approach that prioritizes clients' empowerment seem to be the foundation of women's satisfaction with their lawyers. Despite being represented by regular private lawyers, women seeking divorce expect their lawyers to empower them by providing information and assisting them in prevailing power structures, which originate from within the family. This, in turn, leads to what scholars of public interest lawyering have called "process-oriented client empowerment" (Cummings & Eagly, 2000, p. 460).

These findings cast new light on the discussion of clients' evaluations of their legal representations' performance and efficacy in private law practice (Berrey et al., 2017; Gleeson, 2021). This study indicates that individuals from marginalized groups tend to prefer an approach that prioritizes both their rights and interests. Moreover, these clients place greater emphasis on "how" their legal representative reaches a resolution. Specifically, these women tended to prefer a client-centered approach that incorporates both conciliatory and adversarial strategies, which they believed would help mitigate their weaker status in dealing with the law and their husbands.

Overall, the women's narratives presented in this chapter complement the findings from Chapter 4 and provide additional evidence that family lawyers fail to

challenge gendered legal reasoning of judges in divorce cases and disregard the impact of gender power imbalance on divorce negotiations, thereby contributing to the reinforcement of gender inequality. While family lawyers justify their approach as being in the best interests of their clients, women's accounts indicate that this approach may not always be effective in protecting women's interests. Instead, it reinforces the status quo and perpetuates the underlying systemic inequalities that affect women in the context of marriage and divorce.

Chapter 7

CONCLUSION

Yalda's experience with her divorce and the legal representation she received was disappointing, as she felt her lawyer was not fully committed to the case and lacked optimism from the beginning. This experience motivated her to pursue a career in law. She believed that even if she had not hired a lawyer, the outcome of her case would have been the same. Although she understood that there were limitations to what a lawyer could do in terms of the outcome of a case, she believed that lawyers have an "ethical" and "professional obligation" to do their best for their clients. Yalda's decision to pursue a law degree was driven by her desire to gain a deeper understanding of the legal system and to prevent others from facing the same challenges she did, despite her dissatisfaction with the legal system, judges, and her lawyer. Her hope is to make a positive impact by utilizing her legal knowledge to assist those in need:

I have a completely negative view of the law and judicial system in Iran. Despite this, after personally experiencing it and seeing its flaws, I decided to study law. I realized that if I had had a lawyer with a greater sense of responsibility towards me during the time that I had no support, he or she could have been of great assistance to me during the process and after it. As a result, I decided to become a lawyer in the hopes of making positive use of the minimum rights and laws that exist and assisting others through dedicated work.

Yalda recognized that going through a divorce process and seeking monetary rights in court can be an emotionally and financially draining experience. She acknowledged that it can be particularly frustrating if one does not have the support of a “good, competent, and responsible lawyer.” Yalda emphasized that the “right” lawyer could make all the difference in a case, not only in terms of achieving a fair outcome but also in terms of providing emotional support and guidance throughout the process.

Yalda’s personal experience with family court and the experiences of other divorced women in Iran reveal that despite the efforts of women’s rights activists, family law in Iran still discriminates against women in certain ways. While one cannot disregard the long-term impact of women’s rights activists on raising women’s awareness, which is now enshrined in the Woman, Life, Freedom uprising, it is important to recognize that family law and its implementation remain significant obstacles to gender equality in Iran. The legislature and the judiciary continue to uphold laws and introduce new laws and policies that perpetuate gender inequality. Exploring the role of lawyers as key actors within the legal system is crucial when considering gender discrimination in the context of marriage and divorce, as they are not only responsible for upholding the law but also have a significant impact on shaping the law through their advocacy and representation. While the state and its institutions are responsible for legalizing discrimination, it is important to recognize the power that lawyers have in perpetuating and challenging discriminatory practices.

Lawyers, acting as gatekeepers to justice, have the power to facilitate, impede, or even obstruct individuals’ access to justice. Operating in any of these capacities,

lawyers have the potential to challenge and/or reinforce the gender inequalities codified in law. In what follows, I will discuss the primary findings of this dissertation and their contribution to our comprehension of how lawyers reinforce and disrupt codified gender inequality and gender ideologies in their everyday practice, specifically in the context of marriage and divorce. Additionally, this dissertation offers a typology of non-cause lawyers based on their perception of professional responsibility regarding legal mobilization and the barriers to effective mobilization. Finally, I will discuss the limitations of this study, provide suggestions for future research, and offer recommendations for women's rights activists in Iran.

Gender Inequality and Divorce: The Role of Family Lawyers

The present findings provide a valuable contribution to the existing literature on lawyer-client interaction, particularly in relation to the role of lawyers in the process of dispute transformation and resolution. Prior studies have primarily focused on how family lawyers shape their clients' expectations of the law and navigate disagreements surrounding the clients' best interests in light of what is legally feasible (Felstiner & Sarat, 1992; Mather et al., 1995, 2001; Sarat, 1990; Sarat & Felstiner, 1986, 1989, 1997). Family lawyers also try to prioritize the immediate interests of their clients and their children, which sometimes requires clients to accommodate the demands of their spouses (Eekelaar, Maclean, & Beinart, 2000). The present study complements this line of inquiry by delving deeply into the role of lawyers as the

principal legal actors in the dispute transformation process and their potential to perpetuate gender inequality through their legal strategies.

Given the obstacles that family lawyers encounter in their everyday practice, which include discriminatory laws in both theory and practice, one can argue that family lawyers strive to challenge state policies and mitigate the impact of discriminatory laws on women by facilitating mutual consent divorce proceedings. The high rate of divorce, particularly through mutual consent, has raised concerns among both the judiciary and the state, who have voiced their concern and criticized lawyers for their involvement in such cases. In light of this, the efforts of family lawyers to assist women in obtaining a divorce can be interpreted as a form of resistance to discriminatory laws and policies. By supporting women as they navigate the legal system to obtain a divorce, lawyers are effectively circumventing legal barriers to women's autonomy. However, this common strategy can also inadvertently contribute to the reinforcement of gender inequality. I argue that gender inequality in the context of divorce is not only a result of systemic, legally sanctioned discrimination against women, but it is also due to the approaches taken by family lawyers towards women's requests for divorce. As Ridgeway (2009) argues, gender structures and inequalities are shaped by a complex interplay of processes at various levels. Since individuals and institutions are mutually constitutive, individual interactions and behaviors contribute to the perpetuation and reproduction of broader gender inequalities, while institutional norms and practices shape micro individual/interactional practices (Martin, 2004). Therefore, addressing gender

inequality requires acknowledging and examining the underlying mechanisms operating across different levels.

First, lawyers seem to disregard how gender as a social institution organizes and coordinates society and other social institutions, including family. In Chapter 4, it was explained that most lawyers reinforce the existing gender power imbalances within couples' relationships, which are primarily constructed at the intersection of law, gender, and religion. For divorce-seeking women, family lawyers prioritize the objective of reaching a settlement with their husbands to expedite the dissolution process, even if it requires women to compromise their monetary rights. While this strategy may not always be subject to criticism, it exposes women with restricted economic agency—stemming from factors such as unemployment, lack of savings, or enforced domesticity by their husbands (sanctioned by the law)—to heightened vulnerabilities in the aftermath of divorce. This situation exemplifies a broader systemic discrimination against women, whereby the economic autonomy of wives is contingent upon their husbands' consent, meaning that upon their husbands' request, women must adhere to traditional gender roles as homemakers or primary caregivers within their households. Post-divorce financial vulnerability of women remains a concern even in jurisdictions with seemingly gender-neutral laws, attributed to pervasive workplace discrimination against women (Becker, 1985), gender biases in divorce negotiations (Shinall, 2019), a lack of legal representation during divorce (Bryan, 2000), and adherence to traditional gender roles by women (Hersch, 2009; Starnes, 1993).

Moreover, encouraging women to give up their other rights in order to achieve a right to divorce, which is conveniently granted to men by the law, reinforces the disadvantageous position of women and dismisses their limited rights on the books. Furthermore, family lawyers inadvertently enable husbands to retain control and power even in divorce negotiations by offering them the option to have their obligations to pay mahr and dowry partially or fully lifted if they agree to divorce, despite potentially having the financial resources to fulfill this legal obligation. This strategy, while facilitating the process of divorce for women, can have disempowering effects on their position, which was evident in the accounts of some divorced women. It is important to reiterate the significant influence of the husband's socio-economic status on divorce negotiations. If the husband lacks the financial resources to fulfill his wife's monetary entitlements, relinquishing these rights may become the only viable way to get a divorce.

Second, family lawyers often prioritize the mental health and well-being of their clients over other considerations, adopting a paternalistic/maternalistic approach. More specifically, they invoke women's vulnerability to justify their less confrontational approach in handling divorce cases and to define what they believe is in the best interest of their clients. This approach also stands in contrast to the client-centered model, which "discourages lawyers from 'taking the lead' in rendering opinions about the proper decision the client should make" (Herman & Cary, 2009, p. 7). Rather than involving clients in an "advice-giving dialogue," through which clients can determine their best interests and can make decisions that they believe are their

own, family lawyers often underscore the challenges of pursuing legal action to convince clients that the best course of action is the one lawyers recommend (Binder & Price, 1977; Herman & Cary, 2009, p. 8). More specifically, family lawyers do not work to strengthen women's autonomy by helping them to critically reflect on their desires, actions, and social circumstances (Solanki, 2011). Although it is unclear if the lawyer-centered or paternalistic approach is the predominant method adopted by Iranian lawyers across the board, the results of this study suggest that the vulnerability of divorce-seeking women influences the tendency of family lawyers to take a paternalistic approach. While lawyers attempt to minimize this vulnerability by avoiding court processes, divorced women have reported that this outcome-oriented paternalistic approach often lacks empathy and fails to provide adequate information about the divorce process. Thus, one can argue that the paternalistic approach, even though well-intentioned, has the potential to perpetuate the already weak and vulnerable position of women in such situations, as it may further disempower clients and undermine their agency (Lopez, 1992).

As explained in Chapter 6, divorced women in Iran were critical of this paternalistic approach, as they felt that their perceived best interests were being disregarded. Divorced women expect lawyers to advocate for them by safeguarding both their interests and legal rights, thereby empowering them in the divorce process. While obtaining a divorce is a significant objective for women wishing to end an unsatisfactory marriage, their pursuit of this goal does not necessarily indicate their willingness to compromise their legal entitlements in order to expedite the divorce

process. In other words, an approach that prioritizes the outcome of the case, without considering the adverse effects of the process itself, is not considered acceptable by women seeking a divorce. For women who opt for a more adversarial approach, this is perceived as the only viable means to achieve a fair settlement given the absence of a conciliatory approach that could redress their disadvantaged position and secure a just outcome. The significance of the procedural aspect for women in Iran and its relationship to the subject matter warrant further investigation.

From divorced women's perspective, a reliable lawyer is one who "is obligated to make every reasonable effort to accede to the client's decisions about the end and means of the representation" and gives clients power to make informed decisions (Herman & Cary, 2009, p. 7). Divorced women expressed satisfaction with their legal representation when their lawyers demonstrated certain aspects of client-centered lawyering, which also align with some of the components of the procedural justice theory (Thibaut & Walker, 1975; Tyler & Lind, 1992). These factors included providing information about available options (trustworthiness), outlining potential benefits and drawbacks of each option (trustworthiness), assisting clients in making informed decisions, and taking clients' needs and views into account (voice). Moreover, divorced women's accounts indicated that emotional support and empathetic communication throughout the legal process also influenced their perception of fairness in their interactions with lawyers. Interpreting women's satisfaction through the lens of procedural justice suggests that divorced women prefer lawyers who take a "constructive approach" to the dispute resolution process, "in

which the lawyers protect, support, and encourage clients towards fair and reasonable resolutions of their disputes” (Howieson, 2008, 2013, p. 72). These findings contribute to the limited body of literature that has utilized the procedural justice framework to assess clients’ satisfaction with their lawyers (Howieson, 2008, 2013; Raaijmakers et al., 2015; Sprott & Greene, 2010).

Third, because lawyers typically view consensual divorce as the best solution, they fail to provide women with all the necessary information about the legal process and alternative courses of action available to them. As such, knowledge stays within the legal profession rather than being shared outside of it with those who need it most. This in turn prevents women, who are most impacted by discriminatory laws, from making informed decisions and may even push them to compromise their rights unnecessarily. To put it differently, the prospect of not being able to obtain a divorce given their limited knowledge of the complex legal alternatives can lead women to abandon their rights altogether. In retrospect, this can leave women with a sense of remorse for missed opportunities and the loss of their legal rights.

Fourth, in cases of unilateral divorce, family law explicitly grants judges the power to exercise discretion. Despite this provision, lawyers argue that judges either hesitate to exercise their discretion or use it in ways that disadvantage women. Lawyers attribute this practice to the influence of gender ideologies on shaping judges’ interpretation of the facts of the case and the law. As elaborated in Chapter 4, by refraining from taking divorce-seeking women’s disputes to court, lawyers fail to challenge the gendered legal arguments advanced by judges, thereby inadvertently

contributing to the perpetuation of gender biases against women in divorce proceedings. Furthermore, such reluctance to contest judicial interpretations of the law further empowers judges as primary actors in the construction of family law in practice, as their rulings are seldom contested. Finally, lawyers' failure to challenge gendered legal reasoning in divorce cases can inadvertently contribute to the reinforcement of gender inequality, as legal discourse serves as a mechanism of symbolic domination that legitimates particular ways of understanding and organizing society (Bourdieu, 1987). In other words, legal discourse functions as an institutional form of discourse that not only reflects but also actively constructs power relations (Foucault, 1980) and inequalities within society (Hirsch, 1998; Merry, 1990; Ng, 2009). While it is imperative for lawyers to take a client-centered approach and consider their clients' interests and demands before initiating a case that has low prospects of success, my findings suggest that there is a dearth of communication between lawyers and clients regarding the possibility of initiating a divorce case that aims to challenge the gendered legal reasoning put forth by judges.

Finally, the screening process employed by most lawyers in deciding which divorce cases to pursue, typically based on whether women have experienced multiple instances of suffering and hardship—a strict interpretation of suffering and hardship developed by judges—further reinforces and perpetuates the perception of what is considered an acceptable and “legitimate” ground for divorce. Furthermore, the hesitance of lawyers to initiate divorce cases can have a profound effect on women as it may leave them feeling unvalidated and that their problems are not given any

meaning beyond personal issues (Shdaimah, 2011). Ultimately, this can undermine the sense of rightness of their claims (Shdaimah, 2011) and leave them feeling disempowered and unsupported.

The role of lawyers in reinforcing gender inequality may seem more pronounced in contexts where legal protections against discrimination are insufficient. However, this function is not exclusive to family law practitioners in Iran. Comparable patterns can be observed in other settings where underrepresented groups rely on lawyers for legal redress, including instances that pertain to workplace discrimination or sexual harassment. In these cases, where legal provisions are meant to ensure equal treatment, lawyers may serve as gatekeepers to justice (Michelson, 2006), prioritizing the interests of organizations or “haves” over those of individuals or “have nots” (Galanter, 1974). These lawyers may dissuade potential plaintiffs from pursuing legal action by framing it as being in their best interest, thereby legitimizing discriminatory practices and perpetuating systemic inequality (Berrey et al., 2017; Edelman et al., 2011; Marshall, 2017). However, one of the main differences between these lawyers and family lawyers in Iran is that the latter do not intentionally serve any interests other than their clients. Future research should further explore the role of lawyers as “unwitting agents of the status quo” in other areas where the rights of socially disadvantaged groups are at stake and legal relief is sought from non-cause lawyers.

Gender as a Primary Frame in Lawyer-Client Relations

Previous studies that have explored the role of gender in lawyer-client interactions have primarily focused on whether/how gender can impact lawyers' professional identity and practice style in dispute resolution (Felstiner et al., 2003; Maiman et al., 1992; Mather et al., 2001; Menkel-Meadow, 1985; Schultz et al., 2003). Additionally, studies that have examined the impact of gender on the experiences of lawyers have shown how gender influences various aspects of their professional lives, including interactions with clients, firms, and other legal actors (Ballakrishnen, 2017, 2021; Bogoch, 1997, 1999; Bogoch & Halperin-kaddari, 2006; Rhode, 1994). My findings provide insights into how gender as a primary frame shapes lawyers' understanding of their clients' experiences, as well as clients' assessment of the effectiveness and success of lawyers. Such insights can potentially help with "understand[ing] the shape that the gendered structure of society takes" and its impact on broader gender inequalities (Ridgeway, 2009, p.159).

Within the context of interpersonal interactions, even lawyers who advocate for gender equality may ascribe meanings to clients' behaviors that are rooted in prior experiences and cultural references, including primary frames of gender (Ridgeway, 2009; West & Zimmerman, 1987). By employing "gender as a primary frame to understand others," lawyers bring cultural understandings of gender into their interactions with clients, using hegemonic gender beliefs about married women to interpret women's grievances and blame them for not "doing gender" properly. My findings indicate that gendered societal norms such as the expectations of women to

demonstrate traits of “forgiveness,” “self-sacrifice,” and “tolerance” have an impact on how lawyers interpret their women clients’ responsibilities within their marital relationships. In other words, some lawyers hold women “accountable” for not performing gender properly in their marital relationships (West & Zimmerman, 1987). Some divorced women reported receiving advice from their lawyers to reconcile with their husbands and not to make things difficult, which reflects the influence of gendered norms and expectations on legal counsel. This approach further creates a situation in which the legitimacy of a woman’s grounds for divorce is viewed through gendered legal discourse, reinforcing a limited range of acceptable reasons for seeking a divorce. As a result, law and gender become intertwined in shaping the meaning of individual experiences, particularly where gender norms are central to the interpretation and assessment of individuals’ behaviors and actions. In addition to reinforcing gender ideologies, this may result in legal actors, such as prosecutors (Frohmann, 1991; Spohn et al., 2001) and lawyers (Li, 2015), becoming gatekeepers to justice (Michelson, 2006).

Gendered assumptions not only shape lawyers’ evaluations of their clients’ experiences but also influence how clients expect lawyers to practice law. My findings indicate that clients’ perceptions of lawyers’ competence are heavily influenced by what is referred to as “cultural knowledge” (Ridgway, 2007), where gender-specific attributes like dedication, sympathy, understanding, authoritativeness, and aggressiveness contribute to clients’ assumptions about lawyers’ effectiveness and success in family law disputes. Notably, family law practice is often considered an

extension of women's purported innate caregiving traits (Mather, 2003; Sommerlad, 2003), which explains why the majority of women who sought divorce preferred women lawyers. This observation is consistent with previous studies on how gender shapes organizations and clients' preferences for lawyers of a certain gender, indicating that, in certain contexts, stereotypically feminine traits may be evaluated favorably and women are "seen as ideal fits for the job" (Ballakrishnen, 2017, p. 338). Unlike previous studies that often rely on lawyers' perspectives to understand clients' preferences, my research draws on the narratives of clients themselves, indicating how lawyers and clients both bring their gendered expectations to their interactions, albeit in distinct ways.

In their efforts to overcome the unfavorable outcomes that they presume result from the gender biases of judges, some women choose to be represented by a man lawyer. Women who prefer men lawyers justify their choice by citing gender attributes, such as being more agentic, confident, and aggressive. This preference is, to some extent, influenced by the structure of the legal system. Women believe that in a male-dominated system, displaying stereotypically feminine traits could undermine a lawyer's credibility. As a result, lawyers are more likely to succeed only if they display certain masculine characteristics, such as being less emotional and more aggressive. Women assume that the masculine norm is the primary standard by which lawyers are evaluated in court, and that judges may perceive male lawyers as more competent than female lawyers. Thus, it can be argued that women clients' preference is informed by the structural context in which male lawyers are often more advantaged

than female lawyers (Ridgeway & Smith-Lovin, 1999). As such, the gender system is reconstructed in everyday interactions of clients with their lawyers.

Lawyer-client relations is one of the sites in which gender, as a social institution, is “constituted by collectivities of people who associate with each other extensively and, through interaction, develop recursive practices and associated meanings” (Martin, 2004, p. 1256). On the one hand, lawyers’ assessments of women clients’ grievances highlight the significance of gender within the realm of family, an institution in which gender inequality is reproduced and reinforced, not only by couples but by society at large (Connell, 2010; Risman, 1999). On the other hand, gender plays an influential role in the legal profession, which has traditionally been perceived as a male-dominated field in which “gender status beliefs shape the expectations actors form of the competence of men and women” (Ridgeway & Smith-Lovin, 1999, p. 200). As such, both clients and lawyers contribute to the reinforcement of gender beliefs about men and women as inherently different and unequal.

Lawyering for Social and Legal Change: Iranian Family Lawyers’ Reservations

The current study’s findings provide illumination regarding the intricacies of legal mobilization for the purpose of achieving gender equality within authoritarian regimes. The findings offer valuable insights into two interconnected areas of research: lawyering and legal mobilization within authoritarian regimes. First, most studies on legal mobilization in authoritarian regimes center on legal tactics and actions employed by cause lawyers to uphold the rule of law (Ahmed & Stephan,

2010; McEvoy & Bryson, 2022), address human rights violations (Van der Vet, 2018), and resist and curb the state power (Dezalay & Garth, 2001; Hajjar, 2001; Liu & Halliday, 2011). These studies typically focus on cases in which the state is directly involved in or is the plaintiff and underscore the perilous consequences that cause lawyers confront while engaging in advocacy work (Flaherty, 1994; Pereira, 2005). The study by Batesmith and Stevens (2019) is one of the few that looks at the everyday practice of “ordinary” lawyers in an authoritarian regime. By investigating how these legal practitioners negotiate the lack of rule of law and devise legal strategies to address the challenges their clients face in the criminal justice system, the study sheds light on an aspect of lawyering that is often overlooked in the literature: “everyday lawyering.”

Second, the findings shed light on the barriers to effective legal mobilization that non-cause lawyers identify and their approaches to overcoming these barriers. Previous studies on legal mobilization under authoritarianism have shed light on the role of organizational resources of social movements (Epp, 1998), legal opportunity structures (Tam, 2010, 2012; Wilson, 2017), and political context (Chua, 2012, 2015; Rajah, 2012; Tam, 2012; Van der Vet, 2018) in facilitating or constraining effective legal mobilization by advocates and social movements. While previous studies have identified the judiciary’s unreceptivity as one of the main barriers to effective legal mobilization (see Hilson, 2002; Tam, 2010), family lawyers’ accounts reveal a more nuanced understanding of this barrier. It is noteworthy that, despite some claims that using legal strategies may be less effective in civil law systems where judges have

limited capacity to create legal precedents compared to common law systems (Fon & Parisi, 2006), my findings did not indicate that the structure of the legal system acted as a barrier to legal mobilization in the context of divorce.

To gain a deeper understanding of the complexities of lawyering in controversial cases within authoritarian regimes, I propose a typology of non-cause lawyers, distinguishing between lawyers who adopt a semi-bystander role and lawyers who embrace an incrementalist approach. This typology provides an understanding of how professional responsibility is perceived, talked about, and acted upon within the legal profession in an understudied context. Furthermore, this typology classifies lawyers according to their perceptions of obstacles to legal mobilization and the viable approaches they identify for achieving reform within these constraints.

My findings reveal that family lawyers' understanding of their professional responsibility shapes their approach to addressing gender inequality in the context of divorce in their everyday legal practice. This finding aligns with previous research that underscores the pivotal role of lawyers' understanding of their professional responsibility, regardless of whether they identify as cause or non-cause lawyers, in shaping their approach to their everyday practice (Hilbink, 2004; Kilwein, 1998; Mather et al., 2001; McEvoy, 2011; Sarat & Scheingold, 1998). My findings suggest that most family lawyers maintain a conventional perception of professional responsibility, prioritizing the immediate needs of their clients over broader societal considerations even in cases that have gender implications, despite the contentious and politically charged nature of women's rights in Iran. This approach to lawyering in

cases where the state has a vested interest in preserving the status quo can result in lawyers taking on what I call a semi-bystander role. Semi-bystander lawyers do not actively challenge the state, nor do they prioritize upholding the state's interests. The key characteristic of semi-bystander lawyers is that they acknowledge the existence of discriminatory policies and practices in the legal system and their detrimental effects on women's lives. However, they often do not feel compelled or equipped to act beyond meeting what they perceive as their clients' best short-term interests, which does not always align with what divorce-seeking women consider their best interests. These lawyers believe that any attempt to engage in legal mobilization or activism would conflict with the professional principles and ethical standards that regulate the legal profession.

A distinct conceptualization of professional responsibility shapes the unique practice style of incrementalist lawyers. In contrast to semi-bystanders, a small number of family lawyers who perceive themselves as more than just "paid technicians" incorporate acts of resistance into their everyday legal practice. For incrementalist lawyers, "legal representation is both means and end, simultaneously helping the individual and seeking broader change" (Hilbink, 2004, p. 648). Incrementalist lawyers believe that advocating for their clients' immediate needs and advancing women's rights are not conflicting goals but rather complementary ones. These lawyers believe that empowering their clients is a crucial step in advancing women's rights, which requires equipping women with all the information they need to make informed decisions and supporting them throughout the divorce process.

Incrementalist lawyers perceive divorce cases as more than mere routine legal cases; instead, they view them as valuable opportunities to foster awareness and actively contest discriminatory policies and practices within the realm of family law.

Incrementalist lawyers are willing to file for divorce even if their clients' chances of winning are slim, as long as their clients are on board and other paths to achieving a fair settlement are closed. Although there are some similarities between incrementalist lawyering and certain aspects of cause lawyering, such as using the lawyer-client relationship as a means to empower clients (Trubek & Krantzberg, 1998, p. 204), most incrementalist lawyers do not consider themselves to be cause lawyers. In contrast to some cause lawyers, incrementalist lawyers prioritize the needs and goals of their clients over their own political and moral agendas.

Legal education may play a role in shaping lawyers' understanding of their professional responsibility, thereby shaping their attitudes toward the long-term impacts of their strategies and the broader implications for social justice. The role of legal education in shaping lawyers' practice styles, their professional skills, and their professional values is a multifaceted issue, encompassing aspects such as the content of the law school curriculum, pedagogical approaches, and the integration of social justice principles into legal training, among other considerations. For instance, a legal education with a public interest focus emphasizes the social and professional responsibility of lawyers to challenge injustice and promote social justice (Wizner, 2001). This type of legal education aims to produce competent, ethical, and socially responsible lawyers who use their education to make a positive impact on society

(Phan, 2005; Rand, 2018; Wizner, 2001). Scholars have identified several issues with legal education in Iran, including a lack of emphasis on the practical applications and impacts of laws. Law schools in Iran mainly focus on teaching students about the law in theory and fail to train law students about the ethics and morals of lawyering (Farzaneh & Javahernia, 2022; Safai & Kazemi, 2014). Moreover, due to the lack of legal clinics in Iranian law schools, students miss out on valuable practical training (Safai & Kazemi, 2014) that could help them understand the inequalities and injustices that are (re)constructed through legal practice. Legal clinics can provide law students with opportunities to use their legal knowledge and skills to empower marginalized individuals and communities. Moreover, legal clinics can help law students become committed to promoting social justice and cause lawyering—the idea that legal practice should be directed at altering the social, economic, and political status quo to empower marginalized groups. While the impact of legal education on family lawyers’ practice style was only mentioned by one semi-bystander participant, it deserves further investigation.

In addition to law schools, bar associations play a crucial role in shaping the professional development of lawyers. Bar associations can organize workshops, seminars, and conferences that focus on the intersection of law and social justice, enabling lawyers to enhance their understanding of the broader societal implications of their legal work. By fostering a supportive environment and providing resources for lawyers interested in social justice advocacy, bar associations can contribute to the development of a legal community that is conscious of its role in promoting equitable

and just outcomes. However, in practice, bar associations have not only neglected to offer such training programs but have also failed to protect lawyers who face criminal charges while advocating for their clients in politically sensitive cases.³⁹

Another distinguishing factor between semi-bystander and incrementalist lawyers pertains to their varying interpretations of the judiciary's unreceptivity as a barrier and their divergent conceptions of what constitutes substantial "reform." While both groups acknowledge the judiciary's lack of receptiveness to women's rights as a significant impediment to effective legal mobilization, their perspectives diverge in terms of the extent to which they perceive this barrier as hindering meaningful change. From the perspective of family lawyers in Iran, the state's broader agenda to uphold men's authority over women results in the judiciary's reluctance to embrace women's rights, thereby restricting opportunities for effective legal mobilization. More specifically, the state's imposition of gendered policies on the judiciary and the absence of judicial autonomy create significant impediments to the advancement of women's rights, as the judiciary becomes less responsive to the promotion of gender equality. These findings suggest that the judiciary's lack of responsiveness goes beyond the individual biases and political beliefs of judges, on which prior research has mainly focused (De Fazio, 2012; Epp, 1998; Hilson, 2002).

³⁹ For instance, in 2022 and during three months of nationwide protests in Iran, at least 44 lawyers were arrested after representing individuals who had been detained.

Semi-bystanders view an unreceptive judiciary as an insurmountable barrier to seeking justice. From their perspective, rights talk will not result in “meaningful” changes since gender, as a social institution, plays an active role in shaping and enforcing rules. Similarly, incrementalist lawyers acknowledge that the judiciary functions as an extension of the patriarchal state, thereby serving as a barrier to transformative change. They also acknowledge that structural problems and inequalities cannot be fixed and changed through courts (Handler, 1978; Scheingold, 1974). In other words, they agree that providing legal services to socially disadvantaged individuals within the existing legal framework is unlikely to result in substantial legal reform or significant changes in societal power structures (Houseman, 1994; Tremblay, 1989). However, incrementalist lawyers believe that they can still take steps to empower women and avoid reinforcing gender inequality even if they cannot achieve formal gender equality. This group of lawyers tends to work within the existing legal culture and power structures to alleviate injustices without adopting radical approaches that seek to dismantle the system itself (Batesmith & Stevens, 2019; Prasse-Freeman, 2015). Instead of engaging in direct confrontations with the state, incrementalist lawyers rely on “radiating” effects of their strategies. While focusing on individual cases, incrementalist lawyers seek to gradually shift societal norms, perceptions, and legal interpretations in the context of marriage and divorce, ultimately leading to broader social and legal transformations.

Both semi-bystanders and incrementalist lawyers recognize the importance of promoting rights awareness for social and legal change, though they have different

views on the relationship between the two. Semi-bystanders view social change as a prerequisite for effective legal change if it is to happen at all. They believe that raising awareness about women's rights and educating everyone about gender equality beyond what the law mandates is essential. Incrementalist lawyers, on the other hand, do not necessarily view raising awareness as a prerequisite for effective legal change. They also recognize that raising awareness is just one of the approaches that can contribute to social and legal transformation.

Overall, my findings highlight the significance of further exploring the contribution of conventional lawyers, who criticize state policies but do not perceive it as their responsibility to address such issues, in reinforcing social injustices and inequalities. Future research should focus on exploring the impact of their actions, or lack thereof, on maintaining and reinforcing the status quo. This research should also examine the underlying reasons for lawyers' reluctance to take on a more proactive role in addressing systemic injustices. Moreover, it would be valuable to investigate whether conventional lawyers' perspectives change over time, and if there are any external factors or events that prompt them to take a more active role in promoting social and legal justice.

Limitations and Future Research

This study sheds light on the practices and interactions of lawyers and clients in an authoritarian regime with a civil law system in which women face discrimination by design. However, given its exploratory nature and the small sample size, the study

has certain limitations with respect to its generalizability and scope that must be acknowledged when interpreting the results and drawing conclusions from the study regarding Iranian family lawyers as a whole.

First, in order to capture participants' experiences, it is essential to pay close attention to their narratives and personal accounts. While interviews undoubtedly offer invaluable insights into the experiences and expectations of divorced women and family lawyers in Iran, adopting a more ethnographic approach that involves real-time observation of their interactions could have contributed to a deeper understanding of the underlying dynamics at play. This approach would allow researchers to explore a broader range of interactional aspects, such as non-verbal cues, power dynamics, the overall practice style of family lawyers, and clients' demands and expectations.

Second, it is important to note that this study does not make causal claims about how lawyers' strategies influence women's decisions and litigation outcomes. Establishing a causal relationship between lawyers' advice, women's decisions, and the ultimate outcome of divorce cases would require a more rigorous methodological approach, such as a longitudinal study that tracks women's interactions with their lawyers throughout the litigation process. By observing the entire legal process, including negotiations, court appearances, and post-divorce matters, such a study could offer a more comprehensive understanding of the impact of different lawyering strategies on the outcome of divorce cases. Additionally, it could shed light on how clients' expectations and personal circumstances evolve over time, as well as how lawyers adjust their strategies in response to these changes. Finally, such a study could

also consider how lawyers' strategies may be met with resistance or adaptation by judges.

The third limitation pertains to sampling. It is important to acknowledge that the findings of this study are not generalizable due to the sampling techniques employed. The experiences and perspectives documented here primarily involve divorced women and lawyers who have access to the internet and are proficient in using social media platforms such as WhatsApp, Telegram, and Instagram. By concentrating on major cities and nearby towns, the study may not accurately capture the experiences of divorced women and lawyers in more rural or remote areas. Moreover, while the sample of divorced women was diverse in terms of the age, the majority of the participants were in their 20s and 30s. As younger generations often hold different attitudes towards gender roles and expectations, future research could explore how the experiences of younger generations with family lawyers might differ from those of older generations, considering changing attitudes towards gender roles and expectations. Such investigations could shed light on the ways in which the legal profession can adapt and respond to shifting societal norms and expectations surrounding gender and family issues, ultimately leading to a more progressive practice.

Another limitation of the study is that it does not explicitly address the role of religion in shaping the practices and interactions of family lawyers and their clients in Iran. While Iran is an Islamic Republic with a legal system deeply influenced by *Sharia*, it is important to note that not all Iranians practice religion or identify as

Muslims. Further research could investigate how religious beliefs and values, as well as secular viewpoints, shape the perspectives and actions of family lawyers in Iran, along with the expectations and experiences of their clients. This line of inquiry could explore how religious principles are integrated into legal practice and the extent to which lawyers and clients rely on religious guidance or secular reasoning in making decisions about their cases.

Last but not least, the study did not examine the potential differences in expectations and experiences between men and women who seek divorce. While the law grants men the right to divorce, their expectations of family lawyers may differ from those of women, and lawyers' advice and suggestions may also vary depending on the gender of their clients. The existing literature on dispute transformation suggests that the gender of the client can indeed influence the outcomes and consequences of divorce disputes (Gerstel, 1988; Leopold, 2018). Therefore, future research could explore the experiences of divorced men and the perspectives of lawyers who represent them to gain a more comprehensive understanding of gender dynamics in divorce cases and its impact on legal consultation.

Moreover, in accordance with Kidder's perspective, "I make no assumptions about the true state of people's meanings or their true 'voice.' Rather, I assume that their words and actions contain information about what they want the observer to think about them" (2002, p. 91). Thus, it is important to recognize that participants' accounts cannot be read as absolute truth or desires. That said, in this study, participants were asked to reflect on their experiences with family lawyers while their

divorces were already finalized. It is crucial to consider the potential impact of hindsight bias on their responses, as individuals may reinterpret their experiences and expectations as time passes and their perspectives evolve. Furthermore, the emotional context of recalling these past events may influence how participants frame their stories and highlight certain aspects over others. Thus, incorporating alternative research methods, such as longitudinal designs, could help to capture the experiences and expectations of divorced women over time.

Finally, examining the role of external factors, such as social movements and cultural shifts, could provide valuable insights into how these forces shape the context in which family lawyers operate and the expectations of their clients. Future research could also explore the role of legal education and professional training in shaping lawyers' practice styles and approaches to client interactions. By examining the content of legal education programs, the pedagogical approaches employed, and the professional socialization experiences of lawyers during their education and early career, researchers could gain a better understanding of the factors that contribute to the development of lawyers' practice styles and their commitment to promoting gender equality in their everyday practice.

Concluding Remarks

In conclusion, while a less adversarial approach in family law, such as mediation, has been praised for its cost-effectiveness, efficiency, and perceived fairness, it is important for Iranian family lawyers to consider the power imbalances

that exist between couples and that are reinforced by the law. If family lawyers in Iran prioritize a less adversarial approach without addressing the gendered power imbalances within couples' relationships, they inadvertently contribute to the perpetuation of gender inequality in the context of divorce and marriage.

In order to tackle this challenge, women's rights activists can enhance their grassroots mobilization efforts by raising awareness among family lawyers about the far-reaching implications of their strategies in divorce cases. They can promote mediation approaches that aim to empower clients by providing them with information about their rights, assisting them in making informed decisions, and focusing on long-term interests instead of only seeking the most efficient outcome. By taking a holistic approach, women's best interests can be considered in both the short and long term.

Furthermore, collaboration between women's rights activists and incrementalist lawyers can be beneficial in raising awareness among other lawyers about the significance of rights-talk and claim-making in court, and the need to challenge judges' gendered legal reasoning. By doing so, they can aim to transform the legal culture of passivity in the field of family law and promote the concept of holding judges accountable. This, in turn, can facilitate progress towards gender equality by utilizing all available tools and advocating for judicial accountability.

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Appendix A

LAWYER INTERVIEW GUIDE

1. How many years have you worked as a lawyer?
 - A. Probe: What drew you to the profession?
 - B. Probe: What do you like most about your job?
 - C. Probe: What do you like least about your job?
2. What city do you practice law in?
3. What are your cases mostly about? How many (or what proportion) of your cases involve divorce or family-related cases?
4. Are your clients mainly women, men or a mixture of them?
5. Could you tell me about the last divorce case (unilateral divorce at the request of a woman) that you had?
 - A. Probe: What did your client want?
 - B. Probe: Had your client thought about getting a divorce before coming to your office? What was your suggestion(s)?
 - C. Probe: What did you end up with?
 - D. Probe: Was this case a typical case?
6. How do you usually counsel women seeking a unilateral divorce?
7. Except for the facts of each case, what else might shape your strategies in unilateral divorce cases?
 - A. Probe: Does challenging the family law, specifically divorce law, play a role in choosing legal strategies in divorce cases?
8. How much do you care about your reputation when you make a decision with regard to filing a divorce case?
 - Probe/Follow-up questions based on the lawyer's answer
 - A. Probe: About the cost, your time and energy?
 - B. Probe: Why might you suggest women that they should reach an agreement with their husbands for getting a divorce and settle a case out of the court?
 - Probe: Why do you prefer not to file a unilateral divorce case on behalf of women?
9. How do you usually decide about taking a divorce case and representing a woman in a divorce process?
 - A. Prob: Have your criteria changed over time?
10. In any of the cases that you represented women in family court, have you ever found a judge's decision not to be compatible with your assumptions and expectations?

11. What is your opinion about divorce law?
 - A. Probe: Any difference between the written law and law in practice?
 - B. Probe: Have you ever thought about reforming family law? How about family court?
12. When women turn to you to discuss a family issue, such as divorce, do they have a clear understanding of their problems, demands, and possible legal solutions/remedies?
13. Do you find clients' demands reasonable/logical? (By reasonable, I mean compatible with your understanding of the law and the legal system.)
 - Prob/Follow-up questions based on the lawyer's answer
 - A. Are the clients' demands compatible with your recommended course of action?
 - What do you do/suggest in case of any conflict? How do you resolve it?
 - B. Are they aware of their rights under the law?
 - C. Are they familiar with instances of "hardship and suffering?"
 - D. Do they have any idea about law on the book and law in practice? In other words, do they know how does the legal system work?
 - E. Do your clients attend any of the hearings?
 - F. Do you often ask your client to attend?
14. What factors do you think inform women's knowledge about (understanding of) the law?
 - A. Probe: Specifically, laws related to women's rights during/after marriage?
15. Some scholars in the U.S. believe that invoking courts is a way of penetrating into the legal system and changing law.
 - A. Probe: What do you think about this strategy in the context of divorce cases at the request of women?
16. Do you consider yourself as a social reformer/activist?
 - A. Probe: Do you think your career has the potential to facilitate/provoke social reforms?
 - B. Probe: Are you engaged in social reform or activism outside of your career?
17. Is there anything else that you would like to talk about?

Appendix B

DIVORCED WOMAN INTERVIEW GUIDE

1. How has been your day so far?
2. Can you tell me a little about yourself, for example where you live?
3. What is your age?
4. Can you tell me about your educational background?
5. Do you work outside the home?
 - A. Probe: What is your career?
6. For how many years have you been/were married?
 - A. Do you have children?
7. Why did you decide to consult a lawyer?
 - A. Probe: Had you talked about the family matter with anyone else before?
 - B. Probe: What did they suggest?
8. Had you turned to court before talking to a lawyer?
9. How did you find the lawyer?
 - A. Probe: Have you ever hired a lawyer before?
10. Was the lawyer male or female?
 - A. Probe: Did you have any reason for choosing a male/female lawyer?
11. Did you only talk to one lawyer?
 - A. Probe: Did you have any consideration in choosing a specific lawyer?
12. What were you seeking when you consulted a lawyer?
 - A. Probe: What outcome were you expecting?
 - B. Probe: How did you think a lawyer could help you?
 - C. Probe: How did you explain your problem?
 - D. Probe: Was there anything you could not/did not share with your lawyer?
 - E. Probe: Did you feel that your lawyer understood your problem? Or did it make sense to him/her?
13. What did the lawyer suggest?
 - A. Probe: How did the lawyer present the legal system (family law and family court?)
 - B. Probe: Did the lawyer explain all possible options that you would have?
 - C. Probe: Did you discuss your lawyer's suggestions with anyone else? (Explain)
 - D. Probe: Did your lawyer say anything that made you feel uncomfortable?

14. Did you have any idea about the requirements of getting a divorce? Please explain.
15. What did you end up with? Why?
 - A. Probe: What factors did you consider before finalizing your decision?
 - B. Probe: How did your lawyer help you to make decision?
 - C. Probe: Was there any disagreement between you and your lawyer?
How did you resolve it?
 - Probe: How did you feel about the outcome?
16. Do you think you could have made a different decision (chosen a different strategy) if you had not talked to a lawyer?
 - A. Probe: Was there anything that you would have done differently if you did not have a lawyer?
17. What were your expectations of your lawyer?
 - A. Probe: Did he/she satisfy your expectations?
 - B. Probe: How did you feel about having a lawyer accompanying you in court sessions or any of your negotiations with your ex-husband?
 - Did that make you feel more comfortable and supported?
18. Did you think you had control over your case?
 - A. Probe: Why or why not?
19. Did you attend in court with your lawyer?
 - A. Probe: Did you have a chance to talk to the judge of your case?
 - B. Probe: How was the courtroom's atmosphere? By atmosphere I mean the interaction of courtroom's staffs and judge with you.
 - C. Probe: Did anyone in the courtroom make any verbal statement that you did not expect to hear?
 - A. Probe: Or anything made you feel uncomfortable? Please explain
 - D. Probe: Was the atmosphere compatible with what your lawyer had explained to you? How?
20. What did you think about family law and the legal system before talking to your lawyer?
21. After your experiences with your lawyer and the court, what do you think about the law and the legal system?
 - A. Probe: What advice would you give a friend?
22. Is there anything else you would like to share with me about your experiences?
 - a. Prob: And about interactions with your lawyer and the legal system?

Appendix C

RECRUITMENT LETTER

“Dear Sir/ Madam,

I am an Iranian PhD student in the Sociology and Criminal Justice Department at the University of Delaware. I practiced law in Iran for 10 years and worked with women who sought a unilateral divorce or were victims of domestic violence. I am conducting a research study on lawyers’ role in challenging discriminatory family law in Iran. For the purpose of this study, conducting interviews is necessary. So, I am looking for lawyers who are expert in family law. I am also looking for women who consulted with or hired a lawyer to get a divorce or women who filed a divorce case without having a lawyer.

Because I live in the U.S., interviews will be conducted through phone calls or WhatsApp audio calls. Interviews will last around 90 minutes. Participation is completely voluntary and at any point during the study, participants are free to withdraw. So, if you are willing to participate in this study, please contact me, using the following information:

Email: atieh@udel.edu

Phone Number in Telegram or WhatsApp: +989124216337

I appreciate any help you are able to provide throughout the research process.

Sincerely,
Atieh Babakhani”

Appendix D

IRB APPROVAL LETTER



Institutional Review Board
210H Hollihen Hall
Newark, DE 19716
Phone: 302-831-2137
Fax: 302-831-2828

DATE: March 24, 2023

TO: Atieh Babakhani
FROM: University of Delaware IRB

STUDY TITLE: [1386380-6] Lawyers' Confrontation with Discriminatory Family Law Through the Lens of Dispute Transformation Model

SUBMISSION TYPE: Continuing Review/Progress Report

ACTION: APPROVED

EFFECTIVE DATE: March 24, 2023

NEXT REPORT DUE: March 5, 2024

REVIEW TYPE: Administrative Review

REVIEW CATEGORY: Expedited review category # (6,7)

Thank you for your Continuing Review/Progress Report submission to the University of Delaware Institutional Review Board (UD IRB). The UD IRB has reviewed and APPROVED the proposed research and submitted documents via Administrative Review in compliance with the pertinent federal regulations.

As the Principal Investigator for this study, you are responsible for, and agree that:

- All research must be conducted in accordance with the protocol and all other study forms as approved in this submission. Any revisions to the approved study procedures or documents must be reviewed and approved by the IRB prior to their implementation. Please use the UD amendment form to request the review of any changes to approved study procedures or documents.
- Informed consent is a process that must allow prospective participants sufficient opportunity to discuss and consider whether to participate. IRB-approved and stamped consent documents must be used when enrolling participants and a written copy shall be given to the person signing the informed consent form.
- Unanticipated problems, serious adverse events involving risk to participants, and all non-compliance issues must be reported to this office in a timely fashion according with the UD requirements for reportable events. All sponsor reporting requirements must also be followed.

The UD IRB REQUIRES the submission of a PROGRESS REPORT DUE ON March 5, 2024. A continuing review/progress report form must be submitted to the UD IRB at least 45 days prior to the due date to allow for the review of that report.

If you have any questions, please contact the UD IRB Office at (302) 831-2137 or via email at hsrb-research@udel.edu. Please include the study title and reference number in all correspondence with this office.