Wolfgang Friedmann Conference Remarks

DR. SHIRIN EBADI*

Dr. Shirin Ebadi is the thirty-ninth recipient of the Wolfgang Friedmann Memorial Award, which is given annually to an individual who has made outstanding contributions to the field of international law. The award is given by the Journal in memory of its founder, Professor Wolfgang G. Friedmann. It is accompanied by the Friedmann Conference, organized by the Columbia Society of International Law. The following are excerpted remarks from Dr. Ebadi’s lunch address at the Conference at Columbia Law School on April 2, 2013 in New York City.¹ Dr. Ebadi’s remarks were moderated by Professor Lori Damrosch.²

* Dr. Shirin Ebadi, born in Hamadan, Iran, became Iran’s first female judge in 1970 and within five years she became the first female president of the Tehran City Court. Despite her initial support for the Iranian Revolution of 1979, she was eventually demoted to serve as a clerk in the court she once presided over. Finding this unsuitable, Dr. Ebadi established a pro bono legal practice in Iran during the 1980s. The types of cases she took on through her practice exemplified her desire to effect change and reform within her country, challenging the authorities on issues such as human rights, freedom of expression, and the government’s interpretation of Islam. For example, she represented the family of Zahra Kazemi, an Iranian-Canadian journalist killed in police custody, in a prominent murder trial.

Dr. Ebadi also represented the children of Dariush and Parvaneh Forouhar, one of the most important cases having to do with dissident intellectuals murdered under suspicious circumstances, known as the Chain or Serial Murders. By taking on high-profile cases such as these, Dr. Ebadi placed her life and freedom at risk. Eventually, her human rights advocacy on behalf of women, children, and political dissidents in Iran attracted international attention, leading to her receiving the Nobel Peace Prize in 2003 for her lifetime of dedication to justice. She continued to advocate for social justice in Iran, but the regime confiscated her Nobel Prize in 2009, froze her bank accounts, and forced her into exile. Today, she continues to lecture and publish widely on human rights from the United Kingdom, despite threats against her and her family.

1. Dr. Ebadi’s remarks were translated from Farsi into English by her close friend and colleague, Ms. Shirin Ershadi, to whom the Journal is extremely grateful.

2. Lori Damrosch is the Hamilton Fish Professor of International Law and Diplomacy and the Henry L. Moses Professor of Law and International Organization at
LORI DAMROSCH: Let me begin by introducing Dr. Ebadi by way of making some parallels between her career and that of the person whom we are honoring in the series of events today: the late Wolfgang Friedmann, a much beloved member of the Columbia Law School faculty until his tragic death in 1972. I didn’t have the privilege of knowing him, but I’ve been deeply influenced by his writings and he left a profound impact on my field of international law.

Wolfgang Friedmann was educated as a lawyer in Germany and became a judge of Germany’s Labor Court. He was serving as a labor judge when the Nazis came to power in the 1930s. And each year at the Friedmann banquet, one of Friedmann’s former students tells the story of the formidable courage that Friedmann demonstrated by facing down Nazi thugs in his own courtroom. Let’s look at the parallels with our honoree today.

Shirin Ebadi studied law at Tehran University in Iran. She took the examinations for the Department of Justice. She had a six-month apprenticeship in adjudication. Then, in March of 1969, she began to serve officially as a judge. She was the first woman in the history of Iran to hold a position of judge. In 1975, she became President of Bench 24 of Tehran’s City Court, but, exactly like Friedmann, she was forced from the bench in the aftermath of the regime change, specifically the Islamic Revolution in Iran.

She writes in her autobiography, and I am going to quote here a short passage, “[f]ollowing the victory of the Islamic Revolution in Iran, since the belief was that Islam forbids women to serve as judges, I and other female judges were dismissed from our posts and given clerical duties.” So, for Wolfgang Friedmann, as with Shirin Ebadi, life became intolerable when they were removed from their judicial positions in their own country. They also then both came into mortal danger in their country. Friedmann, after he was removed from his judgeship in 1934, had to leave Germany. He took refuge in Britain, Australia, and Canada before eventually settling here at Columbia.

Shirin Ebadi stayed in Iran for many years after being forced from her judicial position. She applied to practice law, but her request was turned down and she was effectively housebound until 1992 when she obtained her law license and set up her own practice. Her practice concentrated on representing those who are being discriminated against, repressed, and victimized within the Islamic Re-
public of Iran. For her work as a human rights lawyer and for her
tireless efforts on behalf of the most oppressed, the most discriminat-
ed against, the most victimized in her society, she received the Nobel
Peace Prize in 2003. Then, she worked in Iran after receiving the
Nobel Prize for about six years. But, by 2009 there came a time
when she too, like Friedmann, had to leave her own country for rea-
sons of her own safety, and she now resides in exile. Thus, like
Wolfgang Friedmann, Shirin Ebadi is a person of great intellect as
well as great moral courage.

I will conclude on the note that Wolfgang Friedmann and
Shirin Ebadi have both in their lives demonstrated great moral cour-
age at great personal risk. Dr. Ebadi has been outspoken in criticiz-
ing not only the human rights abuses of the Islamic Republic of Iran
but also the human rights practices of the countries in which she has
lived and traveled after receiving the Nobel Prize. We are honored
that her voice of conscience can be heard on our campus today, and I
am now going to pose some questions.

LORI DAMROSCH: When you were in law school, did you
have any idea that you were preparing yourself for what would even-
tually become a career in the field of human rights?

SHIRIN EBADI: As a law student, the most important issue
for me was justice. And that is why I went to law school and I decid-
ed to become a judge so that I could help implement justice. I liked
judgeship a lot, and that’s why I was promoted very well and very
fast, until one day they told me that because I was a woman I could
not be a judge. I was demoted to the position of clerk to the same
court over which I had presided earlier.

Since you all are law students, I want to bring up an issue
with you: don’t be afraid of failures in life. Any failure can be an in-
troduction to victory. On the day I was told that I could not continue,
I decided to take measures so that I could prove in practice that they
[the regime] were the ones who made a mistake by demoting me. I
started working very hard and wrote fourteen books. In my law prac-
tice, I accepted the most difficult and the most challenging cases, and
I defended pro bono. All of this work resulted in different awards be-
ing given to me, the most important one being the Nobel Prize in
2003. Sometimes I ask myself whether if they had not expelled me
from court, if I would have worked this hard. Therefore, don’t be
scared if you meet failures. I want to give you an example: when
you want to jump a hurdle, you usually take a step back so that you
can jump higher. This is the same thing with failures. It’s a step
backwards so that you can jump higher. Don’t be scared if you lose.

LORI DAMROSCH: This is great. I should just let you speak unprompted. So I was going to ask you about cases that you had as a judge but it’s probably much more interesting to hear about the cases after you were demoted from the judgeship, and these pro bono cases that you mentioned.

SHIRIN EBADI: After the 1979 Revolution, very bad laws were passed. In choosing the cases that I was going to represent in court, what I tried to do was to show the result of the bad laws that had been passed. I want to tell you about a memory that I have of one of my cases. After the 1979 Revolution, the law of custody changed—girls were given to the mother until age seven, boys until age two. After those years, they would both go to the father. This law was, of course, opposed by me and all other Iranian women.

So, I used a golden opportunity that I had to tell everyone what this law could do to children: a father was given custody of his nine-year-old girl. In his house, she experienced torture and abuse by him and her stepmother. She lost her life. She was killed.

I represented the mother of this child, and I brought a suit regarding persecution and torture of the child. During the trial, I brought up the issue of the bad law and I said the real murderer of this child was the law because this law wanted the child to go into that house and then eventually get killed. We held a memorial service for this little girl at a mosque where many white roses were brought. After I gave my speech, I asked the audience to each pick a flower and on the way out of the mosque, to throw the petals on the street symbolizing the life of this little girl who had been torn apart. Within a few minutes, all the streets around the mosque were full of white rose petals. This sight was so sad that whoever saw it started crying, thus beginning the movement that resulted in the amendment of the law.

At the present time, pursuant to the new law, up to age seven, custody of both boys and girls is with the mother. After that age, it’s the court that decides whether it’s in the interest of the child to stay with the father or the mother. If neither of the parents is competent, then the court will determine custody using the child’s closer relatives. I don’t think that this is a good and complete law, but I think it’s a big step. Most of the cases I took up were to show how laws act in society.

LORI DAMROSCH: Thank you. I wonder if you can proceed by giving some other illustrations from other cases that you
have taken on: for example, cases relating to the freedom of the press or the media, free expression, and freedom of conscience.

SHIRIN EBADI: One of the cases that made lots of noise was the issue of the Bahá’í. With a population of 350,000, the Bahá’ís are a religious minority in Iran. The Bahá’ís are deprived of all civil, political, and social rights. Since 1979, they have not been able to enter universities. The Bahá’ís experience a lot of violence, and every time that there is violence against them, the Iranian government comes up with excuses and charges of drugs or national security issues. Of course, all of these charges have been baseless, and they have actually been either killed or imprisoned on the basis of their faith and religion.

In 2007, seven Bahá’í leaders were apprehended and imprisoned. The charges against them pertained to threats against national security, so no attorney would accept the charge of representing these people. I then announced that I would accept this charge. Security officers came to my office a few times and warned me that it was a bad decision to defend them because I was a Muslim. They threatened me, informing me that I had to leave this case aside or I will see, I may see, bad things happening to me. In response, I said, “I am a Muslim but I will defend them because I want to show that Islam is a religion of tolerance.”

For a year and a half, I was not permitted to visit my clients or read their files. However, finally, as a result of the pressure that I put on and also the international pressure that was put on them, they permitted me to read the file. The prosecutor had brought charges of espionage for the United States against them. The evidence that was provided by the prosecutor was just that when these people were apprehended, the government of the United States objected. My clients had also been charged for espionage for the country of Israel. The evidence against them was that their headquarters are in Haifa and that they have a close relationship with Israel. What was ignored was the fact that the Prophet of the Bahá’ís was buried in Haifa during the Ottoman Empire, long before the country of Israel existed.

Courts in Iran have lost their independence. Therefore, I had to bring this issue to the global public and inform its opinion. Therefore, I brought the issue up in all of my interviews and all the reports that I prepared for different international organizations. This resulted in the government of Iran declaring that I had converted to Bahá’ism, which was even reported in the official newspapers and press in Iran. Under Iranian law, if a Muslim converts to Bahá’ism, the punishment is death. I am a Muslim but I believe in freedom of religion. Islam
accepts freedom of religion, and it can be found in the Qur’an as well. If there are Muslims here, they can refer to the Qur’an and go to the Psalm Al-Kafirun. In this Psalm, Muhammad talks to people, who worship goddesses and many gods, and says “your religion is yours, and mine is mine.”

And my issue is why interpret Islam this badly?

LORI DAMROSCH: Thank you. I now want to ask you about publishing here in the United States. Soon after you received the Nobel Prize, there was quite a lot of attention devoted to some difficulties that you had under the Iranian assets control regulations here in the United States, that for a time were affecting your ability to proceed to have your own writings translated and published here. I wonder if you could tell us about your initiation of litigation in this country and what happened.

SHIRIN EBADI: In 2004, I was going to publish my memoirs and I signed a contract with an American publisher. But we found out, as a result of a sanction that was placed years ago, since I am an Iranian, the publisher could not give me any money for my book. This law pertained to the government of Iran and not a citizen of Iran. I was a citizen of Iran but it did not pertain to me. And I sought counsel and brought a claim. In the complaint that we brought, we raised the issue that this sanction would result in a censorship against the people of the United States [similar to that which exists in Iran] as well. Because, if I cannot publish my memoir here, you have censored the people of the United States from learning what I have to say, and this is against the Constitution of the United States. Fortunately, this argument won the case in court. Since my suit, numerous writers have been able to have their books translated and published in the United States.

LORI DAMROSCH: Many of us in this country wonder what we can do to help the people of Iran. You mentioned a few things about bringing publicity to human rights violations. I wanted to ask specifically about human rights sanctions. In the U.S., the purposes behind sanctions are often mixed, so the same blunderbuss weapons and tools would be used for both non-proliferation and human rights purposes. You are a voice for the people of Iran, you are the voice of conscience inside and outside Iran, and I wonder what you can tell us about the use of this technique of putting economic

pressure on the government of Iran to try to induce it to improve its human rights performances.

SHIRIN EBADI: I am against economic sanctions because it hurts the people of Iran. Moreover, due to the corruption that exists in the government of Iran, they use the excuse of sanctions and they enrich themselves and they have become richer. The real issue here is what could we do with a government like the government of Iran that does not respect any international laws and regulations? The government of Iran neither accepts the resolutions of the United Nations nor refrains from violations of human rights in a systematic and expansive manner. So shouldn’t we take any measures against these governments because the people will be hurt? Of course not.

This is why for years I’ve been saying, instead of economic sanctions, politically sanction Iran. What I mean by political sanctions is measures that weaken the government but do not hurt the people. For example, there are sixteen non-Persian language television stations, which are all the propaganda of the Iranian government. Television programs from these stations are broadcasted using international satellites. A use of satellites for broadcasting Iranian television programs should be prohibited. Previously they used the Hot Bird satellite which belongs to the company called Eutelsat, and their contract has been terminated with the government. Now they use the Arabsat and AsiaSat.

The government of the United States can prohibit them from activity in the United States on the basis of the argument that these satellites provide service to the Iranian government. This is one example. There are other examples as well—like the software or program for controlling telephone conversations come from different countries. It used to be Nokia who provided that service, and now they are getting it from Ericsson and other companies. Companies that engage in such insulting activities with Iran should not have the right to be active in the United States. Therefore, we have to put pressure on these companies to either choose between the expansive market of the United States or the insulting trade with the government of Iran.