



The Principles and Basic Rules in Institutionalizing the Citizenship Right Culture

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ABSTRACT

Background

The individual citizenship rights or rules and principles that determine the rights of individuals, the government, and the limits of their authority over each other, are amongst the important and debated discussions in today's world. In the Islamic state, the relations of the individual rights and the government have a special place.

Materials and Methods

This research is theoretical type; the research method is descriptive-analytical one.

Ethical Considerations

Honesty and fidelity in writing the text have been observed.

Findings

The rights and privileges of individuals defined as comprehensive in the laws of Islamic state and the mentioned source is not silent by nature, because the most important sources of law in Islamic state derived from Islamic jurisprudence and the most fundamental part is the declaration of fundamental rights and freedoms that are consistent with Islamic values.

Conclusion

In Islamic government, the legal relationship of the individual and the government is subject to the criteria and comprehensive rights to the human beings has been granted; the Islamic government, in order to play a role for access to social justice, can limit individual rights and freedoms depend on circumstances. Wherever there is a right to the individual, there is a duty or obligation and people in social relations should also notice their own tasks and accept that in the realization or violation of the rights of the citizenship, the entire nation and the government share the responsibility.

Key words

Citizenship Rights, Culture, Basic Rules, General Principles.

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INTRODUCTION

Citizenship rights are rights recognized by law for all people and these rights include a set of rights and privileges in the legal system of a country, which given to its citizens by considering the two principles of human dignity and refraining from discrimination in order to provide grounds for their individual and social growth. Citizenship is a category linked with the culture of each society and since the culture of each country is produced by the three basic realms of social activities, political atmosphere and economic status of that country, the culture of each society is completely unique and each culture demands a specific kind of citizen. Citizen is someone who knows his individual and social rights and defends them, knows the law and acts accordingly and demands through it, has certain rights, knows that defending other's rights is equal to defending his own and participates in urban matters. So, to be a citizen doesn't just mean residing in a city for certain length of time but also means a set of legal, individual and social awareness's. In a civil society, the rights of an individual include basic rights i.e. the basic rights of the citizens of a society, political rights i.e. the right of participation in political processes, social rights that include economical rights and the bare standards of living in social conveniences. Among the influencing attributes of a citizen are: being aware of current events and issues in the society, active participation in issues, problems and matters of the national and local society, sense of responsibly about the given roles and

duties, concern for other's welfare and peace, acting according to the moral rules, acceptance towards those in administrative or superintendence positions, capability of thinking critically about ideas and opinions, capability of making conscience decisions, adequate knowledge about the government and the state, sense of patriotism, capability of accepting special responsibilities, being aware of the international community and its problems and procedures and respecting the plurality of the society. In anyway an urban life is a collective way of living and to be successful in it individualism and egoism must be bridled to a certain extent and altruism must be propounded.

MATERIALS AND METHODS

This research is theoretical type; the research method is descriptive-analytical one.

DISCUSSION

A. Basic Principles and Rules of Islam

The religion of Islam considers all aspects of humans' lives and emphasizes upon a set of principles which play an important role in institutionalizing the culture of citizenship rights. In what follows, we shall point out some of the best basic principles and rules of Islam:

1- The Principle of Moderation

Moderation means temperance in matters and in the education of Islam. God almighty calls Islam a moderate religion and says: "And it is thus that we appointed you to be the

community of the middle way so that you might be witnesses to all mankind". [1]

2 - Principle of Toleration

Toleration means kindness and forgiveness towards the people which is necessary in the interactions between Muslims themselves and others in order to institutionalize the culture of citizenship. Imam Sadeq says: "Anyone who tolerates others in his affairs receives what he desires from the people." [2]

3 - The Principles of Legitimacy and Rule of Law

One way of institutionalizing the citizenship rights in the society is obeying the rules and laws the roots of which in the sacred Sharia of Islam. Legitimacy is a key component of the Islamic society. Law in society is either legislated by the wise and the social reformers of the society and executed by the people or is enforced on them from above, like the Sharia of God, which came down on the prophets and religious societies, have and execute. [3]

4 - The Principle of Justice

Justice in social affairs is very important subject which has been emphasized upon many times: "O believers! Stand firm for Allah and bear true testimony. Do not let the hatred of a people lead you to injustice. Be just!" And just is the law based on which all of universe works and means that everything should be in its rightful place. So, any form of extremism, deviation and violating the rights of others is against the principle of justice. [4]

5 - The Principle of Dignity

In the perspective of Islam, human dignity, like reason and conscience, are a gift from God. This dignity has a potential value which if becomes something indeed through efforts to live a reasonable life; this value will become dependent on the free will. "Certainly, we have honored the Children of Adam, and carried them over land and sea, and provided them with all the good things, and preferred them with a complete preference over many of those we have created." [1] The source of this dignity is the valuable relationship between god and men.

6 - The Principle of Right to Life

The most important principle of natural rights is the right to life i.e. before statute laws consider any rights for humans, humans have a right of life and any statute law which comes to exist later must defend this right and make it secure: And for you there is life in retaliation that you may become the pious. [1]

7 - The Principle of the Right of Equality

In the matter of citizenship rights, equality between humans means that all groups and citizens of society, is an important principle noted by Islam. Islamic doctrines emphasize upon the essential equality between humans and all humans are created from one soul: "He created you all from a single soul" [1]

8 - The Principle of the Right to Security

Security means individuals should be kept safe from any kind of violation like murder, beating

or scaring, imprisonment, physical or mental torture, and in other words any action which is against his human status and dignity such as adultery, slavery, etc. and is not according to the rules of reason and law. [5] "O believers! Do not devour one another's wealth illegally..." [1]

9 - The Principle of the Right of Security

Absolute freedom is nothing but anarchy and the violation of social commitments. Therefore, freedom means to be free to act according to the laws and is not forced to do what is against the laws and his benefits, in the perspective of Islam, human freedom is something essential and internal that God has given to men, not something that they have by contract. Therefore, no one has the right to take away somebody's freedom without justifiable cause. Imam Ali said: "Don't be someone else's slave for god has created you free." [6]

10 - Freedom of Thought

Reason in Islam is the power of thinking and reasoning, inner reason or inner prophet and the power of analyzing and relating premises, i.e. gaining premises and foreseeing conclusions. (7) one of humans' distinguishing features is reason and will, and sayings such as "one hour of thinking is better than a year of worship, or 60 years of worship, or 70 years of worship" show the importance of thinking in the Islamic thought.

11 - Freedom of Opinion

The religion of Islam acknowledges the freedom of opinion an example of which is "There is no compulsion in religion" which means that in Islam opinions are not to be forced so there is freedom of opinion. [9]

12 - Freedom of Speech

Freedom of speech means citizens have the right to express their thoughts and opinions through different means without being required to ask permission to do so or falling victim to censorship. Freedom of the press, media, speeches, and gatherings are examples of citizenship right and freedoms. [10] In verses of Quran, it is seen that freedom of speech and opinion are acknowledged and humans will choose the best one, after hearing different opinions. [1]

B. The Limits of Individual Rights in the Islamic State

Different subjects are involved in deciding the limits of individual rights the most important among which expressed as the basis of limiting the individual rights. It is noteworthy to point out in this section different the subjects and basis which can be involved in limiting the rights. Sometimes these subjects seem overlapping and sometimes related but in order to give a detailed description of the subject, all of them will be pointed out. [11]

1 - Public Interest

Shia Fiqh has always considered a high status for interests, private or public, so far that amongst the most important *Shia* Principles and

basis is following the rulings of interests and corruptions.

Some of the interests and corruptions have come into Islam's rulings and with the passing of time, those interests, and corruptions have taken other forms that are either temporary or seem new or created. Although in general principles, interests and corruptions which are considered by the rule maker are fixed and rulings which provide these interests and corruptions need to be modified or new phrasing following the day's current subjects and problems.

Individual Interests and corruptions are considered by the primary rulings of Sharia and laws have described and explained them but sometimes public interests (interests of the society) of the Islamic society sometimes are shown in a way which is apparently not compatible with individual and private rights.

Public interests of the Muslims is among the thing which should be provided and public corruptions should be fended off and in this regard, there is no difference between the Islamic state and other forms of state. The difference of these governments is in their approach of encountering these interests and corruptions and the Islamic state these interests are provided based on the Sharia and solutions to the conflicts between individual and public interests are provided. Some Jurists consider the right of enforcing public interests to only belong to the Sharia magistrate. For example *Imam Khomeini* says in *Tahrir al-Vasila*: "The Imam and the head of Muslims can do what is

best for Muslims, such as keeping prices stable, or industry, limiting trade or otherwise in general, everything that has a role in the social system and the interests of society." [12]

Others do not consider enforcing these interests to belong only to the Sharia magistrate and even if a cruel magistrate (although it is not right) takes hold of government, has the right to interfere in affairs which the public interests demands. Therefore, some jurists have given verdict (Fatva) that the cruel magistrate has the right to take financial measurements such as taxing, sharing, etc.

In anyway providing the public interests in the Islamic state is up to the government or it is legitimate for it. Public interests themselves are of different kinds and each kind has levels, some of them are: Keeping the livelihood system, Necessity, Negation of embarrassment, Repealing corruption and Security.

Sunni jurists have noted levels for interests and consider certain rulings as legitimate based on each level. These levels include: *Necessities*, *Hajat* and *Tahsinat*. [13]

In the *Shia Fiqh* certain interpretations of these three levels have not been provided but necessity has been used in its general meaning and among their interpretations the necessity of defending life or the necessity of ... Has been used as the highest level of necessity and sometimes it is less than this. Hence necessities and some parts of *Hajat* will be included in the subject of necessity but *Tahsinat* and another part of *Hajat* which are not in the level of necessity, are not considered as necessity but

are interests which are related to the opinion of the trustees. According to this point, in the case that the public interest comes to be necessary (in its *Shia* interpretation) individual rights are influenced by it and it put limits on them.

In Sharia we encounter cases of rulings where the public interest comes before the individual rights and therefore ruling have been made accordingly such as conversion, prohibition of welcoming the caravan and prohibition of hoarding which as an obvious example of it coming beforehand.

The justification for putting public interests before the individual rights and interests is that each right also has a social role -as it was said before- and rights which are acknowledged put the burden if certain duties on individuals so that their rights are put to work in the aspect that the Sharia and law have in mind. In the case that this right does not play this social role or collides with the public interest, the basis for credibility of right is disrupted.

Statute laws can violate the individual rights according to the public interests (if they are conditionally provided) because sometimes these interests are based on necessities the details of which are not foreseen in the laws or are considered to be a security necessity and internal or external security temporarily or permanently require the limitation of individual rights. For example, while protecting the country against foreign or domestic enemies the land or houses or properties of individuals are used and the owners are prohibited from

interference in their property although adequate compensation should be done.

These necessities are interests to the bare minimum of which should be enough because "Necessity is valued" *Imam Khomeini* has clearly stated cases where individual rights should be violated in the Islamic state in order to defend public interests. Two examples of their sayings are provided:

In the first example, *Imam Khomeini* says: "It is the status of the jurist, that if a man is misbehaving towards his woman, firstly give advice, secondly punish him and if these don't work, divorce them... amongst them this meaning that you asked about and said that women who have husbands now, if are suffering from such things, what should they do? They refer to where the jurist is, to the meeting where the jurist is, the court where the jurist is, the jurist will see to it and if necessary, punishes the husband, forces him to behave rightly, and if he does not, jurist divorces them. He has the *Velaiat* on this matter that if it's causing corruption, a life is going to corruption, he divorces, and divorce, although is in the hands of man, but jurist where he sees the interests of Islam, sees the interests of Muslims and where he seen there is no other way, divorces." [14]

The second example: *Imam Khomeini* says about the rights of property owners over their property: "Islam does not acknowledge these kinds of illegitimate properties, in Islam property should be legitimate and limited to limits and more than this meaning, suppose

someone has properties, and his properties are well legitimate, but his property is such that the ruler of Sharia, jurist, *Valli-e Amr* sees that this should not be how much it is. He can interfere and take for the interests of Muslims and... the ownership, at the same time that the ruler of Sharia acknowledges, but *Vali-e Amr* can see that this ownership is a limit

Against, the interests of Muslims and Islam limit this legitimate ownership to a certain extent and are taken away by the order of jurist."

CONCLUSION

In this inquiry individual citizenship rights and their place in the rules and principles of Islam were analyzed. Islam, since it considers humans the best of creatures, considers for them a special place, like the right of life which is the most important right of all citizens to details of individual and social life. Also, these rights are also acknowledged for citizens in the Islamic state. Because "law" is the safety net of all people of society and our familiarity with individual and social rights is an important factor for preventing tensions. One of the important subjects in constitutional law is individual rights and freedoms which are reflected in constitutional laws. These freedoms and rights are acknowledged for all subjects and citizens of the Islamic state. Islam also considers rights for the individual paying attention to which can provide the necessary knowledge and vision for creating a reasonable and sound relationship with the government and also other individuals in the society and

cause health and moderation in the society. Therefore, these rights are rooted in the nature of human beings, religious doctrines and the dynamic *Fiqh* of *Shia*. In the Islamic state the relationship between the individual and the government is subject to rules and considers for humans complete and adequate rights. The Islamic state can in some cases in order to play a role to achieve social justice limit and violate individual rights and freedoms. Also, there is no such a thing as absolute right and wherever there is a right there is also a duty and individuals in their social interactions in addition to paying attention to their rights must pay attention to their duties and accept that in order to realize or violate citizenship rights, it is not only the administrators who are involved and blame able, in this case it can be said that in citizenship rights, all of the people and the state have a common responsibility. Therefore, in societies where people are aware of their rights and duties and know each other's limits, we will in effect see more strength, stability, progression and legitimacy for the residing political system.

ETHICAL CONSIDERATION

Authenticity of the texts, honesty and fidelity has been observed.

AUTHOR CONTRIBUTIONS

Planning and writing of the manuscript was done solely by the author.

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None.

CONFLICT OF INTEREST

No conflict of interest was reported by the author. The author declare that he has no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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