A Review of Justice and Citizenship Rights

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Abstract

One of the topics that has been showing off more and more among nations in the recent years beside the growth of societies and them being civilized is topics related to citizenship rights because by development of the rights the path toward creation of justice and discipline will be smoother and easier. In a simple view, what is meant by Citizenship rights is all the rights that every member of a society should own and benefit from it. Citizen is a member of a political society who benefits from rights which in contract the membership duties are preserved and has rights and responsibilities. the mentioned rights include individual, group and social rights that each of them need to be explained, which the most prominent one is meeting preliminary needs including freedom, education, sanitation, treatment and etc. human has rights, obligation and responsibility and it is because of the responsibility that he should consider society, too. This is where sociability should be regarded as an integral part of human being. Justice is the main and the most important result of getting familiar and developing the rights of citizenship. For instance, by creating justice men will not be able to harass women in the family and force them, or society is obligated to prepare the condition for every people and social groups by every ethnic to express themselves. For example, a simple worker can get his right from his employer easily or a person inhabiting village, in every corner of the country, will be able to make use of his primarily rights easily.

Keywords: Justice, rights, citizenship, society.
Introduction

Citizenship and civil society are two concepts that have always been together, in this regard, many of scientists know the modern society as civil society because the most important specific of modern society is integral connection of citizenship orders and civil participation and it takes place in a political, geographical center called city. While the movement of people in the development of civil life is towards the development of civil society, we reach to the concept of city from the concept of town. Habermase defines the civil society as a domain in which decisions are made through group approaches and active participations of citizens in free and equal conditions. Therefore, the main hero of the civil society is the citizen for who participation is among the basic rights. The principle of legality or the principle of impartiality and independence of judicial proceedings, prevention from prolongation of procedure, the presumption of innocence and the defense rights of accused and totally observing citizenship rights, privacy of individuals are interpretable in code of criminal procedure as significant effects of fair principle of justice or judgment based on fairness and equity (Tadayon, 2013). Fair justice is shortly defined as following law and extracted, induced principles from laws in the procedure of justice in order to gain a result which is accepted by society based on equity and fairness. Although, equity and justice are two sides of a coin, justice is based on simply implementing the law and equity is based on the accurate interpretation of law enforcement and just in this case we can talk about fairness. Sometimes requires that people have legitimacy before the law, but in some other times, it requires to apply some rights and privileges to some people in the justice procedure that other people do not require to have them. Simply to say, equity looks at justice procedure through the window of kindness while fairness looks through the window of law. Since the beginning of history that human formed society and processed toward the social life, this issue attracted the attention of thoughtful people that what should be done for violation of social rules and to those who violate them. During history to answer this question, what trials and abuses and injustice that saw and history includes this gradual evolution of human thought that once torture was legal, judges stated rules based on it and presumption of innocence was still on the begging of its way and was nothing in comparison with article conviction. What was considered important was finding a defendant who confesses and a trial in which the only witness was the defendant himself and he should proof his own innocence (Eshrafi, 2007). But this human, thoughtful human, has never kept silence in front of his justice seeking nature and has been searching to satisfy his thirst for justice elixir. The great revolution of France was a milestone in this search; a revolution that forced human to not to justify the tools because of achieving goals (although higher) and the time arrived that presumption of innocence come out of its cover and finds its place among people’s thoughts, speech of revolutionary men and scientists like Montesquieu, Rousseau, Beccaria and Bentham were showing off in the rules. Torturing was not only considered bad but also some decisions were made that unruly officials would be punished. Justice is based on respect to individuals ‘rights. As the declaration of human rights states: recognition of inherent character and equal and inalienable rights of all members of human society is foundation of freedom, justice and peace in the world. When a person is present in a trial because of a criminal charge, he is facing with all the system of government. How deal with a defendant expresses the respect for human rights in that government.
Citizenship rights from Rule view

Rule is expression of right. Expanding cultural backgrounds to respect to rule is a step in developing citizenship rights so that citizens learn and believe that rule is holy and respectful inherently because it guarantees their rights and provides public benefits and people equity (Vakilian, 2003). In contract, bad rule is better than not having rules at all or wrong running out of a good rule. Respecting to legal freedom and preserving citizenship rights rule, acted in 20004 consisting 15 items, is a distinct sample of this view. It addresses judiciary, public, revolution and military courts and prosecutors and it is written to respect human rights of defendants and convicts (Verdi Nejad, 2013).

Human rights is an international perspective

A) Peoples Charter (2001): the charter is written based on one of the most valid legal documents of England (charter magna) in 2001. On the basis of the great charter, for the first time, one royal officials granted some rights to people. This document is known as one of the first citizenship rights in the new era. This rewriting is done because of attention of human to his basic rights in order to emphasize on this document and have a renewed commitment to achieve these rights.

B) Declaration of the Rights of Man (1789): the mentioned declaration was adopted in France courts of general assembly, after the great revolution of France (which was on the greatest attempts of Europe to gain freedom) in 1979. therefore, this document is like mother of many of human right declarations.

C) Canadian Charter of Rights and Freedoms, (1982): this charter was written in 1982 and expresses views of North America’s people about citizenship rights.

D) African (Banjul) Charter on Human and Peoples Rights: the charter is product of an official meeting in 1981 and includes many views, and enforcement of it is emphasized by rule.

E) Shibuya Citizen’s Charter, (1997): the charter is thoroughly allocated to a new city and it is written by a comprehensive and futuristic view in 1997.

F) European Charter of Rights (2000): the charter is written according to realization of European Union and expression of this old wish in the frame of European parliament. it, also, has a noticeable comprehensiveness.

G) World Charter on the Right to the City, (2004): the charter is written in the urban world discussion of Barcelona 2004 and social discussion of the America continent in 2004 which was held in Kyoto. it mainly discusses city, urbanization and rights of cities residents. Due to comprehensiveness of the charter, some other documents are written based on it; like Charter of leaders of Asian organizations (LOCOA) which was published in Philippine in 2005.

Citizenship rights and justice

Citizens are primarily human, therefore, their human nature is prior to their citizenship features. Inherent dignity does not make any benefit for human, unless human will be in social situation and in modern terms, have the title of a citizen. In this condition, talking about preserving human inherent dignity as a citizen or violating the dignity is meaningful. All human being are born free and enjoy some rights as being human that nobody can withdraw those rights and nobody can be deprived to have the rights. But, in the given human rights, people should be under the shadow of a government. if government grants human the defined rights which are generally enacted as law,
we will say human dignity of citizen is respected. In the other words, man citizen is entitled to a series of fundamental and basic rights that human dignity is the source and base of them. States organizations are obliged to respect and guard these fundamental rights (Shafaie, 2014).

The International Covenant on Civil and Political Rights (1966 AD), one of the important treaties has converted the written rights in the global human rights declaration to binding legal rules. The above-mentioned covenant includes political and urban rights shared among all the nations that governments are committed to respect and spread them. The rights oversee: life, security, political freedom, expression, though and religion, denial of slavery and torture.

The fundamental rights based on undeniable dignity of human should be recognized and guaranteed and Organs of legislative, executive and judiciary should be obliged to perform and respect them; it meant that legislator should not enact a rule that damage it, particularly, where there is no clearness of rule in doing or not doing an action. Of course, fundamental rights is not the only request of citizens from the government; rather, when a citizenship relation is built between people and government, citizens will earn some especial rights which is possible that these rights are different from one society to another. But, fundamental rights provides a value system; to the extent that it will be the creator and organizer of state organizations and their mechanism.

Another important aspect of citizenship is its political aspect. Nowadays, we cannot consider citizens away from political issues. In closest and the most autocratic political systems, citizens, at least as the footstone of politics have a prominent role and states cannot come to existence by denying their citizens. Today, there is no government that accepts its citizens do not benefit from human fundamental rights.

But, about political citizen and idealistically, we need a policy that originates from human dignity and recognizes human rights stemmed from human dignity as the preface of its political words and deeds. Since every country constituents is a political declare and is root of politics and comes from its history and is political record of the people who created them, besides, since politics in our records was destructed by ignoring human dignity, path of foreign policy to human dignity should be blocked in the name of rule.

Relation between citizen and government is a mutual connection. In the relation, citizens are required to respect government rights if, first, their human rights which are morally superior and higher than requests and benefits of government are met. Then, citizens are forced to obey state and, of course, government is allowed to act to the extent that systematically protects the efficiency of the human rights of citizens.

It is clear that the duty of governments is not just not interfering in private lives and urban freedoms and of course, this is a very important part of their responsibility; but another essential responsibility of government and state is activism in the granting of rights to citizens; meaning that government is obliged to do some practical and concrete measures to improve standard of living and keeping their so-called reputation, in addition to not intervening in human inherent right. In a society, some of the human groups are exposed to risk more than others; some groups like women, marginalized, back falls and religious and ethnic minorities that all together are majority fraction in society. So, first their dignity and respect are at the exposure of higher social classes and also government, on the other side, their social and citizenship rights are not in equity with smart classes (Shafaie, 2014).
Fundamental rights based on human dignity

1- Inborn rights
Inborn rights are the natural rights which are born with human. So, these rights are not granted to people by somebody. Knowing the origin of granting inborn rights either from humanism perspective or deistic perspective, the existence of inborn and inherent rights is unquestionable. In this assumption, there are three principles that are tightly tied up to human dignity. It is apparent that preserving and respecting to these rights by governments can be solid foundation for citizens’ rights in a society. The most important principles of inborn rights which are born with human and are considered as human life principles are the right of ‘life’, ‘equality’ and ‘liberty’.

Right of life
As creation of human is an affair out of other people’s control, authority of his life and death is not also in their hand. Human history has a black list of life right of human.

Equity
Equality does not justice here. Indeed, equality is an inherent and inborn concept than human beings own it since their birthday. The most apparent meaning of equality is equalization and Syncretism and in political and legal culture this concept comes to mind. The principle of equality has two political and urban faces. Although, equality concept is same in both, its tools are different is urban and political issues, and this justifies division of equality value to two groups of political and urban.

Liberty
What is meant by inherent liberty is in contrast with slavery. Of course, nowadays there is a more common concept of freedom which has political form, we will refer to it later. In 1926AD, the slavery rule was abolished; but new forms of slavery and a modern kind of it were replaced with the traditional form. The global society is moving toward a direction that weak governments are enslaved together with their nations. Declaration of Independence of America has emphasized on abolishment of slavery; but the American governments with some Demagogic slogans and systematically enslaves poor nations.

2- Public rights (political)
The goal of public rights, will be mentioned in this part, is something other than economical and juridical rights, because these rights will be discussed separately as basis and foundation of citizenship rights. Here public rights mean a group of rights which are of the necessities and privileges of political and social life of a citizen so that his human dignity is well-respected under its shadow.

3- Public freedom
Freedom here is in contrast with the freedom in inherent rights which is against ‘Thralldom’. This group of freedom is one of the most widespread legal discussions which are very important in the view of thinkers and supporters of human right. But, the concept does not have any clear boundary and it has been defined as the number of scholars. Imam Khomeini said:’ liberty is not an issue that can be defined .no body obliges you to have such an idea. Freedom in speech is: “the right of expressing ideals in public issues and denying or accepting issues based on personal
The power of expression and speech is one of human special gifts which empowers him to transfer his thoughts and opinions. Therefore, this right is a necessity for a man who has become a political citizen by force. If it is supposed that citizens participate in social and political affairs, they should have liberty to express thoughts, opinions and ideas. Limiting liberty destroys security and downfall of security is lack of transparency and ideas and trends being hidden. If we permit different sounds to be heard, undoubtedly, we have strongly decreased underground resistances. A person who cannot talk will follow his desire in other form. Freedom in selecting belief and thought is one of the most prominent factors of public freedom. Thoughts and beliefs are a part of human body and nature as long as they have internal and private face.

4-The right to political participation
Citizens participating in action of decision making has become more important in current societies more than past societies. Citizens are out of sheer command taking in many countries and intervene in their country affairs. The right of participation in leadership affairs has been highlighted in Islamic cultures. Imam Ali (AS) in support of allegiance says: «But Shura of immigrants and supporters gathered on the man and his imam was such case to God’s satisfaction. »

5-The right to form parties and gatherings
Freedom of parties and gatherings is accepted as one of the political and social rights of people. Against power and domination of states, people can inform government of their requests better. Of course, this right does not mean that Militant and predatory groups can also enjoy this right. Martyr Motahhari writes about political parties: in Islamic government, parties are free. Every party that has non Islamic beliefs is also free; but we do not let any Conspiracy and fraud.

6- Equality and justice
Justice and equality in opportunities and facilities are the necessity of human dignity. Although Social inequalities and economical grouping exist in societies, equality and social honesty in every field is ideal of human rights advocates. In the sixth article of the Universal Declaration of Human Rights states: “Everyone has the right to be recognized everywhere as a person before the law”. In seventh article also, equality and prohibition of racial discrimination are highlighted. In a society where people are ranked and either declared or not, there are citizens of first, second and third classes, value and dignity of citizens of lower levels will be decreasing. Prophet Muhammad (PBUH) in a famous narrative said: ‘people are like a hair comb seeds”. Imam Ali (AS) addressed to the people, says: And with all of you so I treated equally’.

7- Social security
The citizen who does not have security, in fact, his financial and moral investments will be menaced. Nowadays, one the positive actions of states and indexing of them is the amount of security they have provided. All agree that unsecure societies are undeveloped in economic and cultural aspects and people of them suffer from many mental problems. If an inefficient government is at work in a country, robber groups will be active so much and so, the first victim
will be respect and dignity of defenseless citizens. In paragraph 2 of Article 21 of the Universal Declaration of Human Rights, Social Security is considered the rights of all humanity. In Islam, also, social security is so much important. The holy prophet (PBUH) said: “your blood and property and honor are respected on each other”. Imam Ali (AS) says in a letter to Malek Ashhtar determined social security of people as the greatest duty of Islamic government. After the jewelry of one a woman in dhimmi was looted by Umayyad forces “Warehouse”, Imam Ali also said: Had a Muslim man died of this regret, what was done to blame”.

8-Judicial law (justice and preserving the citizen’s respect)

If we pay attention to a citizen in his private or social life, it is clear that existence of a good justice system for guarding and implementing the rights is of his essentials. Among the government systems, juridical system has a great responsibility of preserving dignity and respect of citizens and their lost rehabilitation. A government with an inefficient or corrupt judiciary, its citizens are the first victims of social, political and economic indifferences. Moreover, the juridical should be that much powerful so that it can persist against the abuses and willfulness of the other apparatus (Bagheri, 2008). Therefore, governments cannot come under control without dominance of a coercive and independent force of judiciary and nothing but a powerful and independent court which is out of administration of those in power can prevent violation of governments to human rights and citizenship rights. The holy Quran intrigues believers that if a right is missing from them, they should not keep silence and should raise their lawsuit voice. “God does not like to speak badly, but to say the injustice”. About fair judge, Quran recommends rulers to judge people with justice. When sit to judge the people, judge with justice. Therefore, if citizens can not refer to court to rehabilitate or if a court overhears their lawsuit, an accusing finger will sign towards wholeness of the government. Because government has not been able to fulfill its responsibilities for its citizens; because the first work of government is making security, justice and preventing abusing citizen’s dignity. Imam Ali (AS) in a letter to one of the rulers severely reprimand him that why people have been treated unkindly and strictly and human dignity and their fundamental and urban rights have not been respected.

According to act 34 of institutions: ‘nobody can be prohibited from a court that because of rule can refer to it “. And also, according to act 65 of the same rule, courts should be held in public so that lawsuit and verdicts will not been settled under the effect influential authorities. Imam Khomeini (RA) in an eight-article letter has clarified the duties of executive and juridical systems: addressing the competence of the judges, prosecutors and courts should be done so fast and accurately so that current of affairs become legal and divine and people rights will not be violated.

Conclusion

The global wave of supporting human right and then citizens’ rights started to grow when the western part of the world entered to the current of modernity and industrialization. At this time, the recently reaching to light human found out that how much they have been kept away from their rights and inherent dignity. Since that time, the wave of right getting as support of human and then citizens filled half of the world, and attempts and sacrifices of thinkers and people made some governments to recognize human and citizens’ rights. Following that, global declarations
for human and citizen rights were published. In 1948, majority of governments throughout the world signed the convention. But theoretically, human inherent dignity is accepted in brief by divine and human schools and religions. An important part of the divine religion teachings are about social and legal life of human that Man qua man benefits from them. As the most complete and comprehensive religion, Islam know human as the superior creature and the caliph of God on the earth, in addition, it has predicted a government in which all the Muslims have a united title of “nation”. Therefore, Islamic nation are citizens of Islamic government in which all the rules, teachings and commands of Islam are founded on “human inherent dignity”. Instances of urban, political and social rights or citizen rights are widespread in different domains of social and individual lives of citizens. And absolutely, realization of all of them requires pre-conditions that without them, it is not possible to be hopeful of the realization of citizens’ rights. It should be said, discussion about citizens’ rights follows realization of citizen concept and their recognition. Another point is that citizen right is not something to be granted to people from governments, but, it is fixed and protected in sight of real citizens and it is also, one of the characteristics by which citizenship is formed. Citizenship rights are not made in government, rather, it should respect and protect them, and even, if it has violated these right, it should compensate for them. In fact, the government, itself (in democratic societies) is a display of citizenship rights. In the other word, state is influential in supporting and respecting to human rights and adjusting the construction related to its realization. But, wholesome of citizenship rights is not due to government will and its tendency to grant it to people (Pegah 2011). Citizenship has such a comprehensiveness that places the form and kind of government and governors in itself. Indeed, this is citizens who select government and governors based on their own legal affairs. Based on this, an entity which is born by citizenship right cannot be creator of this right. The other point is that citizenship enjoys a wholeness and unity that it cannot be broken into its components. Abstract and incomplete look at citizenship rights and attempt to respect to a part of these rights in contract ignore the other part find not only will not find performance and realization background but also skews all the citizenship rights.
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