فصلنامه مدیریت شهری
(ضمیمه لاتین)
Urban management
No.**45** Winter **2016**
225 - 238
Received *23 May 2016*; **Accepted** *11 July 2016*

The right of citizens in social Justice in the International Documents of Human Rights and the Constitution law of the Islamic Republic of Iran

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Abstract
The rights of citizens to provide Social justice, due to emphasis on the basic needs of human beings, known as one of the most fundamental principles in international documents of human rights and civil rights. It's indicators include the right to a fair life, right to health, right to education, right to social security, and right to work and employment, which in human rights documents, particularly in the International Covenant on Economic, Social and Cultural Rights, regarded as the second generation of human rights. Social justice, who has been noted specifically in the first, third and fourth chapters of Constitution of the Islamic Republic of Iran, are the same components that have been identified in international documents of human rights. These indicators will realize when all citizens have equal opportunity to take advantage of it. The government's obligation to support these rights is positive, and an obligation to urgent results and in some indicators the obligation of result, is increasing.

Key words: *citizens, justice, social justice, human rights, constitutional law, constitution*

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Introduction

The right of citizens to have social justice is the most important concern of the political-economic system of Iran after the Islamic Revolution and decision-makers stressed the need for quantitative and qualitative goals of social justice in the constitution. Following this view, social justice can be understood as the spirit of the constitution of the Islamic Republic of Iran. Social justice as a supplier of the basic needs of people such as the right to proper environment, labor, health, social security and education, has a special place in all chapters of constitution. Given the importance of social justice in human rights instruments including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, the main question raised is whether the norms foreseen by the Iranian constitution has the capacity to establish social justice compared with international human rights instruments? In fact, the main concern is that the authors of this paper is if view of constitution of the Islamic Republic of Iran of the criteria of social justice is the same special view of the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights? Does the government consider goals of the constitution and international instruments said above to reach the optimal situation? Or if the existing state of society is far away from desirable condition foreseen by the said norms?

The main hypothesis of the authors is that given international human rights instruments (mainly Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights), constitution of the Islamic Republic of Iran in terms of norms, theoretically, to a large extent, has the capacity of social justice, but in terms of structures and procedures, such as failure to fully implement the principles set out in the constitution and relevant government laws and lack of adequate oversight on the executive organs, as well as the lack of oversight of government over the activities of its agencies, there is the development and spread of injustice and inequality in the realization of social justice indicators. Our starting point in this paper is to examine the degree of attention to social justice in the Islamic Republic of Iran.

1. The definitions, parameters and nature

Social justice, the full enjoyment of citizenship of a country of equal material opportunities and welfare rights and its indicators are a series of rights, privileges, protections and guarantees of livelihood, health, education, employment and social security system that are enjoyed by the citizens in the shadow of protective intervention of government. Overall features include equality of social justice, equitable distribution of facilities, resources and opportunities and to correct inequalities and unfair discriminations.

1-1 Analysis of the concept of social justice

Analysis of the concept of social justice depends on the nature of rights in this subject on the one hand and the nature of the government's obligation on the other hand. Usually rights existing in the indices of social justice fall within the second generation of the triple rights, which include: 1. The right to a fair environment (the right to food, clothing and housing); 2. The right to healthcare; 3. The right to education; 4. The right to work and employment; 5. The right to social security

Some of these indicators are recognized and granted due to dignity (innate and acquired) and some due to membership of the community. Rights such as the right to a fair environment, health and education fall in the first group and the right to work and employment and social security will fall in the second category. Membership is important, because the members of a political community owe to each other; and the first thing they owe to each other is social justice and security and prosperity. If we did not supply the livelihood for each other's lives, there wouldn't be any distinction between the members of a society as citizens and aliens, and then we had no reason to form

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and maintain political community (Walzer, Salehi, 2010, p. 119).

The second generation of human rights as economic, social and cultural rights is positive rights. The idea and basis of such a separation is that the first group of rights (political civil rights) realize by refusing to take a certain action while the second group realize by doing a certain action. Naturally, if these rights may be called "right-claim" in nature, requirement of fulfillment of these rights will be different. Requirement of "negative right-claim" is duty and the obligation of performance of a certain act while the requirement "positive right-claims" is obligation to perform a certain act (Qari Sayed Fatemi, 2010, p. 62)

1-2- Nature of social justice: "right to" or "right from"?

Sometimes, the government has a duty to support citizen and provide them with the minimum and sometimes it is obliged to provide institutionalized guarantees to support free ownership of individuals. The first is in the nature of "right to" and the second is in the nature of "right from". The first one is falls within positive rights and the other within negative rights and freedoms. Usually dominant aspect in establishment of good social justice is intervention of government. That is why the human rights literature considers social justice rights as typical examples of positive rights. Analysis of these rights as positive rights is justifiable in theoretical framework of "right – claim". The result of such analysis will be that indices of social justice will cause guaranteed legal demands and claims against the government and the main obligee in human rights is the state (Qari Sayed Fatemi, 2010, p. 255). But according to John Rawls's second principle of justice, government intervention should not go so far that the efficiency and economic output reduced and economic activity motif of people is undermined (Rawls, 1971, p 122).

1-3- Nature of the government's obligation: "obligation by" or "obligation to provide results"?

Conceptual distinction between the concept of obligation to "obligation to provide result ", whether urgent or growing, "obligation by" can largely help clarify the type of the government's obligation in terms of human rights obligations. Based on three-dimensional analysis of human rights obligations, which includes "respect", "support" and "fulfillment", the government's obligation to respect requires it to avoid interfering with the liberty of the citizen, its obligation to support requires it to deter others from interference, and the obligation to fulfill requires it to undertake necessary measures to provide the right content. (Craven, Habibi Majandeh, 2008, p. 153). It is natural that the government has obligation of fulfilment in social justice rights. Perhaps it can be claimed that the obligation to provide minimum economic, social and cultural rights of citizens will be obligation to provide the urgent result and obligations to higher layer of such minima will be obligation to provide growing results.

2 - The right of citizens to exercise social justice in international instruments on human rights

The international human rights documents in this article mostly refer to international charter of human rights, including the Universal Declaration of Human Rights of 1948 and International Covenant on Economic, social and cultural rights. Considering that the Universal Declaration of Human Rights had no binding legal value, its content was approved in a treaty and two Covenants on December 16, 1966 unanimously by the United Nations General Assembly. (Donnelly, 1999. P. 612.) as follows: "International Covenant on Civil and Political Rights" (related to the first part of the Declaration) and the "International Covenant on Economic, Social and Cultural Rights" (related to the second part of the Declaration). Iran's government has acceded in 1975 thereto. International Covenant on Economic, Social and Cultural Rights is the major international legally binding instrument that shows in detail the

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attention to international law in defense of social justice indicators. The five indicators are:
1. The minimum subsistence (right to a fair living): food, clothing, housing
2. The minimum health and healthcare
3. The right to education
4. The right to social security
5. The right to work and employment

1-2 Minimum Subsistence (right to a fair living)

Today, hundreds of millions of people around the world suffer from hunger and severe malnutrition. Many grapple with death and dying every day of many complications of malnutrition and hunger. Many citizens are living without proper shelter and place. In the absence of minimum subsistence, talking of civil and political rights is very idealistic. Society unable to meet the most basic needs of its citizens cannot establish a public order and security in society and therefore persons in such communities cannot reach the ultimate goal of social justice, the human dignity. Inability to solve the problem so caused by the lack of international will and the lack of a strong human rights system to execute the rights - claims of needy people for minimum livelihood (Qari Sayed Fatemi, 2010, p. 292). Article 25 of the Universal Declaration of Human Rights proposing the idea of the right to adequate facilities for living, considers these facilities in order to provide individual and family health and well-being, and by stating the inclusion of the right to food, clothing and housing, it considers medical care and social services necessary. Then in Articles 1 and 6 of the International Covenant on Civil and Political Rights, by stating that no nation cannot be deprived of their means of subsistence (Kamali, 2009, p. 358); the rights to life is emphasized as inherent right of the human person. International Covenant on Economic, Social and Cultural Rights also recognizes this right; in accordance with Article 11 of this covenant, every person and family has not only the right to adequate facilities for survival including food, clothing and housing benefit, but also is entitled to continuously improve their living conditions. In this regard, international cooperation to ensure this right of States Parties to the Convention shall be emphasized. The remarkable thing in this matter is the use of the term "fundamental rights" in relation to food. According to the second paragraph of this Article, all States Parties to the Covenant recognize fundamental right of all individuals to be free from hunger and to take measures such as boosting production, maintenance and distribution of food, and taking full advantage of scientific and technical achievements in this matter.

(A) Components of the right to food include (a) availability of food or supply sufficient food; (b) the stability of food and access to it at any time; (c) economic and physical accessibility; and (d) healthy and usable food. The right to food has two distinct rights: (a) the right to food security through self-sufficiency in food production and sufficient income (b) the fundamental right to be free from hunger. Right to freedom from hunger means to ensure everyone has access to at least basic food for being free from hunger and death. Governments have commitment to the urgent result to ensure implementation of the fundamental right to freedom from hunger and the issue of food security is a process, and has long-term and gradual goals nationally and internationally (Esfandiari, 2014).

2-2- Minimum health – healthcare

Historically the distribution of health care should be at the hands of the medical profession; the trade dating back to Hippocrates in the fifth century before Christ. Doctors generally were dependents and servants of the rich and aristocratic families and the imperial court. Thus, the affluent members of society have benefited from good care and poorer members did not receive much care. In medieval Europe, treatment of souls was popular and prior to treatment of the body, but today the opposite is true. Descartes' famous dictum that "maintaining the health and integrity is

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top on the list of the blessings and bounties" is perhaps the symbol of this attitude (Descartes, 1960, p.85). The first form of meeting the needs occurred in the field of prevention rather than treatment. The first glimmer of social justice in health and treatment in the last years of the nineteenth century coincided with the great struggle for the establishment of public health, medical license, state medical schools and clinics, and tax cash flow large hospitals. This would represent an important universal commitment (Walzer, Michael, ibid., P. 153).

The right treatment and the right to health care are among positive rights-claims that require the obligation of government in providing services and facilities needed. Now, in many countries there is no uniform procedure in this field. For example, in America, there is no public health insurance and insurance is private in contrast with the comprehensive insurance named the UK National Health Service that covers all people, irrespective of their financial means. In some countries such as the Netherlands, there is a hybrid system that combines individual contributions and government support and private sector (Danies N, 2001, p. 316). International Association of Health Equity defines justice as: lack of systematic and potential differences in one or more aspects of health in a population and in social, economic, demographic and geographic subgroups (Shin H, 2003).

Universal Declaration of Human Rights, Article 25 refers generally to this right and put it in the category of Human Rights: "Everyone has the right to a standard of living adequate for the health and well-being of them and their families". International Covenant on Economic, Social and Cultural Rights, Article 12 and the following paragraphs in detail set forth the rights provided for in the Declaration. Paragraph one of the same recognizes the right of everyone to the enjoyment of the highest attainable physical and mental standard as emphasized by Member States. Paragraph 2 of this Article refers to the nature of the right and considered measures for the determination of the countries in the acceptance and recognition of these rights:

A. Reducing the rate of those born dead (fetal) and child mortality and ensuring their healthy growth.

B. The improvement of all aspects of environmental health and industrial hygiene.

C. Prevention and treatment of infectious disease, and overarching native, professional and other diseases, as well as fight against these diseases.

D. Creating the right conditions for the supply of medicine and medical assistance to the public authorities in the event of illness.

In the section four of second paragraph that deals with medical services, it does not show clearly whether the government is committed to provide national health care system for free or not? It is clear that from view of developers of the Covenant, the purpose of the right of access to health care is mere access to health services, and not committing the government to provide a specific system in providing these services. This approach to medical care and treatment of is a minimalist approach. It does not take into consideration care after treatment. Unless in case of broad interpretation, post-treatment cares are included in this article explicitly (Qari Seyedfatemi, ibid., P 303).

3.2 The right to education (minimum training)

Education is means of physical and mental development of the human personality. Education is a process that according to UNESCO, during which, four types of learning can be achieved: learning to live together, learning to know, learning to do things and learn to be. Obligations under the right to education are borne by the government, parents and the international community. A legal entity has the right to establish and administer educational institutions. For parents, various educational rights, including the right to choose public or private education and the right to determine the content of religious and moral education, etc. are provided (Ansari, 2013).

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The right to education is a positive right, namely, the right to claim against the government and the government will be committed here. However, the government's commitment towards the different stages of education is not the same. Perhaps basic education is positive right-claim, but higher education levels (secondary and higher professional) can hardly be considered right-claim – right - claim that requires government commitment to urgent result. However, some kind of commitment by governments to growing result towards higher education levels can be inferred from the international instruments on human rights.

Article 26 of the Declaration in three important paragraphs recognizes such right and procedure of education at different stages and the purpose of it: "Everyone has the right to education. At least the elementary and basic education shall be free. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible on the basis of merit ". Article 13 of the Covenant on Economic, Social and Cultural Rights also recognizes the right for every person. The orientation of education from the perspective of this document should be directed to growth and excellence and perfection of character and human dignity, and in particular to strengthen the fundamental rights and freedoms. States Parties to the Convention have agreed on the idea that education should be in a way that people are able to participate freely in human society, growth and development, human understanding and wisdom, tolerance and friendship among all nations and racial, ethnic or of course, religious groups and in line with the activities of the United Nations in maintaining peace.

In order to implement this Article, countries have been committed to make free and compulsory primary education available to everyone. Different forms of secondary education must be provided in society comprehensively. Higher education should be equally accessible to all on the basis of their abilities.

2-4- The right to social security

One of the most important indicators for measuring and evaluating state intervention is the issue of involvement in social security and in other words, manner of protective coverage of social security. This factor is one of the most important issues and challenges of our society today and social justice is not possible without considering it. Social security of our era includes a variety of allowances and pensions. Old age pension, disability, survivors, allowances course of the disease (treatment and compensation), pregnancy and after childbirth, injury at work allowance, pension, periods of unemployment, family allowances and medical assistance are support provided in form of social security in different countries as well as international instruments to deal with accidents that are "social risks" and reduce their undesirable effects (Araghi, 2007).

According to Article 22 of the Universal Declaration of Human Rights, all members of society has the right to social security: "Everyone, as a member of society, has the right to social security through national effort and international co-operation in conjunction with the organization and resources of his country, the economic, social and cultural rights indispensable for his dignity and the free development of his personality". This right is product of social life of man and citizens has such right because of their membership in the human community. As a result, this is a positive right.

Covenant on Economic, Social and Cultural Right, contrary to its usual procedure, refers briefly to the right to social security. Article 9 of the Convention, compared to other articles that refer to other welfare rights, is the shortest of them. It did not even mention the obligation of States to guarantee this right and only recognizes this right for all people. In this article, no reference is made to international cooperation in order to help ensure and provide this right that is stipulated in the Declaration. Proposing question of social security schemes,

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this Article has taken a step towards implementation of Social Security. However, in Articles 10 and 12, with a macro look at the Covenant, social security is referred to as a public manifestation, but such welfare rights cannot be considered in the sense of social welfare in the narrow sense of it. The issue of social security has been covered in other international documents as well, including 2 documents of ILO, in which the social security issue has been discussed in detail. Convention on equal treatment in social security, adopted in 1962, and the 1952 Social Security Convention adopted by the ILO, Article 24 of the 1951 Convention on refugee rights, Article 24 of the Convention for the Protection of People without Nationality, etc.

2-5- The right to work and employment

Job is an issue that affects a person's life and if employment is studied at the national level and planning of the country, issues such as employment relationship with development and economic growth, fighting poverty, ensuring people's livelihood, economic and even social justice arise. In the global division of labor, countries are divided into industrial and non-industrial, rich and poor, developed and developing (Iraq, 1988, p. 259). The right to work and employment is positive right- claim, this means that the state is obliged to improve the general state of society and to promote health and also use of the manpower, and provide the equipment and the opportunity to work for people. The index of social justice, like the right to social security identified and supported because of the membership in the community and its seems that the government's commitment to ensure citizens' enjoyment of this right is the growing commitment to the result and for this reason, the value of these two indicators is lower in the hierarchy, compared to livelihood, health and education rights.

Article 23 Declaration recognizes the right to fair working conditions. Among these conditions are free choice of work, fair and satisfactory working conditions, protection against unemployment, equal pay for work, without any discrimination and the right to equal wages for working. These also include the right to employment, including vocational training, emphasized by Article 6 of the International Covenant on Economic, Social and Cultural Rights. The Convention emphasizes the right to employment and this different from freedom of choice of job completely (Qari Seyed Fatemi, ibid., P. 285). Article 6 of the Convention requires the States Parties to recognize the right to work and sanctions are imposed for the protection of this right. Paragraph 2 of this Article of the Convention refers to the measures that States Parties should take to ensure that the present Covenant is fully exercised, including vocational guidance and training programs, policies and technical measures. Article 7 of the Convention expresses the right and just and favorable conditions of work, including equal wages, reasonable subsistence for the worker and his family, safe and sound working conditions, career progression based on the capacity and skills for work and leave and holiday.

3- The right of citizens to exercise social justice in the constitution of the Islamic Republic of Iran

3-1 key strategies in providing minimum livelihood

Constitution in Section 12, Article 3 provides for sound economic foundation and fair accordance with Islamic criteria for the welfare and poverty alleviation and removing any type of deprivation in the areas of nutrition, housing, work and health, and extending insurance as one of the fundamental policies. The law requires that the duty of the rulers of the country, with the proper operation of the facilities and national talent, adopt a policy that would provide comment; a controversial debate on this topic, nutrition and housing, which means whether the government should give serious attention to it. Constitution provides in paragraph 12, Article 3, for "Sound economic foundation and fair accordance with

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Islamic criteria to create welfare and poverty alleviation and removing any type of deprivation in the areas of nutrition, housing, work, health and insurance generalization" has been appointed as one of the fundamental policies. This legal obligation requires that the rulers of the country, with the proper operation of the facilities and national talent, adopt a policy that would ensure the said opinion. The controversial debate on this topic is nutrition and housing, which means the government in its broad sense, should give serious attention to it.

One of the economic criteria taken into consideration in the constitution is the family economy and providing basic necessities. The family is the basic unit of Islamic society and to meet its basic needs (Article ten of the constitution), special obligations are borne by government. In this regard, "providing basic needs: housing, food, clothing, health, education and facilities necessary for the establishment of a family" is the first economic criterion that the constitutional legislator has stipulated in paragraph one of Article forty three.

Access to adequate and appropriate food and nutritional health are the main focuses of development, social health and infrastructure for the country's future generations. Physical and economic access to enough food in order to live healthy and actively on the other hand and the right of every society to flourish capabilities as positive freedom on the other hand is duty of government (National document of the multi-sectoral development of food and nutrition security). Islamic Republic of Iran has several times, especially in the Millennium Summit, along with the rest of the world, has officially recognized political commitment and general determination to reduce hunger, malnutrition and achieving sustainable food security. The manifestation of this approaches in national policies in "Vision of the Islamic Republic of Iran in 2025", "the general policies of the Fifth Development Plan of the Islamic Republic of Iran" and "Fifth Development Plan"(Article 32 of the Fifth Development Plan) show the importance of issue and the government's commitment to it.

Housing as a component of the right to a fair living in indices of social justice is a necessary, urgent and at the same time one of the most important issues of public policy. In this regard, Article thirty-one of the constitution provides that "It is the right of every Iranian individual and family to have housing. The government is obliged to provide for grounds of implementation of this Article by observing priority for those whose are more needy is especially villagers and workers".

Given the expression "meeting" and "the provision of basic needs" in the mentioned articles, it can clearly be seen that this component of social justice indicators is as stated in Article 25 of the Declaration, Articles 1 and 6 of the International Covenant on Civil and political rights and Article 11 of the international Covenant on economic, social and cultural rights, is a positive right-claim and commitment of the government towards is urgent commitment to results. As a result, we can say that the Islamic Republic of Iran is consistent with the abovementioned human rights instruments in terms of rules and at the top of them, the Constitution. But in the structure and procedures, it has virtually not met norms of international law and the constitution, especially in the distribution of wealth and providing basic needs such as food and housing. These deficiencies can be due to the ability and disability, i.e. low-income population – which account for a large number of strata of society – in the provision of basic food items needed and especially affordable housing.

3-2 Minimum health care in the constitution of the Islamic Republic of Iran

Paragraph 12 of Article 3 states that one of the duties of government in general is to achieve the purposes set forth in Article 2, by the use of facilities, sound economic foundation and fair accordance with Islamic criteria for removing deprivation in the areas of nutrition, housing, employment and health and

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Insurance generalization. Also in paragraph 1 of Article forty-third, one of the foundations of the Islamic Republic of Iran is said to be providing basic necessities such as health care.
Article twenty-nine of the constitution states as regards the recognition of the right to health: "Benefit from social security and the need for health services and medical care as insurance, etc. is a universal right. The government is required by the rules to procedure through the national revenues and funds obtained through public contributions, such services and financial support for every citizen of the country. Like Article 25 of the Universal Declaration of Human Rights and Article 12 of the Covenant on Economic, Social and Cultural Rights, this Article recognizes the need for health services and medical care and considers the government as obliged to provide services and financial support for every individual citizen. Thus, in the constitution of the Islamic Republic of Iran recognizes this right among the positive right-claim and protective right that require government intervention to provide health care and meet the needs of all people to a healthy society.
What is far away from justice index in health and medical fields in our country is the share of direct costs of people and patient. In Iran, this share is very high in household expenditure. While paragraph (b) of Article 34 of the Fifth Plan explicitly mentions that people's contribution: "In order to achieve health equity index and reduce the share of direct costs by up to thirty percent of health care costs, creating equitable access to public health services, to help fund the intolerable treatment, drug coverage, treatment of particular and incurable diseases".
Enjoyment of health and healthcare services reflects the fit between a numbers of factors such as: the ability to pay, in terms of cost, availability, acceptability, compliance and availability of services needed. These five factors are like a chain in the enjoyment of services. Appropriate access to health services means providing the right services, at the right time and in the right places. Since the condition of people affects their ability to benefit from health services, policies must be made so to ensure fair distribution of services to all individuals; So health care resource allocation policies in the pursuit of justice services has a positive role (Karimi, Salarian, Anbari, 2009).

3-3- The right to education in the constitution of the Islamic Republic of Iran

The second Article of the constitution provides that "The use of advanced science and technology and human experiences and efforts in promoting them" is among core principles along with other principles, like access to justice, independence, national unity. In order to achieve the objective specified in Article 2, Article 3, paragraph 2 states: "The Islamic Republic of Iran is required to achieve the purposes set forth in Article 2, and use all its resources for (2) raising public awareness in all fields with the correct use of the press and mass media and other means. (3) Education and Physical Education free for all at all levels and the facilitation and expansion of higher education. Strengthening the spirit of investigation and research and innovation in all scientific, technical, cultural and Islamic fields, by establishing research centers and encouraging researchers. Also under Article 30: The government must make education free for all nations until the end of secondary school and extend higher education to the point of self-sufficiency for free and parallel to these Articles, paragraph 1 of the Article forty-third provides that Education is considered as one of the basic human needs and providing it is a rule of Iranian economy. These principles together show a fair and admirable view of the Islamic Republic of Iran's stance as to the right to education (Hashemi, 2004, p. 176).
These general and comprehensive articles remove all unreasonable obstacles in the way of nation, in the enjoyment of rights and freedoms and make every discriminatory justification impossible. Therefore there are no legal

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barriers to education in terms of age, gender, ideology or religious belief. Inclusive education means that all schools should become proportionate to teach all children regardless of physical condition, mental, emotional, linguistic features or other characteristics and this adaptation should include children with intellectual disabilities and street children and children in remote areas, linguistic minorities, and children with other cultural or ethnic exclusions (Nozohuri, 2009, No. 97). Higher education unlike primary education is not a universal and comprehensive requirement, because it is specialized and complementary education by which people will be able to have complex and specialized occupations requiring science and expertise. In this regard the third paragraph of Article 3 refers only to facilitation of the expansion of higher education and Article I states that higher education shall expand to the point of free of charge and self-sufficient. We see that the government's efforts in the development of higher education are to take it to the point of self-sufficiency and thus, higher education is not necessary for all citizens. Then, not everyone will receive this education willingly or unwillingly.

According to the principles of the constitution mentioned above, right to education, as stated in Article 26 of the Universal Declaration of Human Rights and Article 13 of the Covenant on Economic, Social and Cultural, is among positive rights-claims in the Iranian legal system, and relates to the dignity and natural rights of the human. But there are serious problems in the way of justice in this component at national, regional and local levels. Problems such as instability in the educational system during the last thirty years, lack of resources to establish or enhance the quantity and quality of schools in many provinces, and the most important challenges and deficiencies that are dramatically palpable and visible include financial inability of many families, especially rural residents and remote areas to provide support for their children to study at different levels of education. In this regard, the provision of equipment and education facilities for children and youth of Iran, approved in 1974, assigns task of providing education spending in the absence of family support to the stat; but in practice, this law remains silent and unknown.

3-4- The right to social security in the constitution of Islamic Republic of Iran

Social Security is based on the principle of mutual responsibility for public (general reciprocal responsibility) is one the main pillars of social justice where people are responsible to support each other. According to the twenty-ninth Article of constitution benefit from social security with respect to retirement, unemployment, old age, disability, absence of a guardian, being stranded, accidents and the need for health services and medical care insurance, etc., is a universal right. The government is required under the laws to procure funds out of public funds obtained through public contributions to provide services and financial support for every single one of citizens. As seen, this principle is based on three fundamental pillars:

1. Social Security is everybody's right in the sense that all members of society should live with its social assistance, as is required by the dignity and human dignity.
2. This universal right requires the government to ensure through legislation the establishment of reliable and stable financial resources for the community and providing social justice. Thus, the right to social security rights is positive right-claim that requires intervention.
3. The essence of this inclusive division is social cohesion, participation and cooperation of people that creates enormous financial reserves to ensure people's welfare in the face of hardship (Hashemi, 2005, pp. 488- 492).

Paragraphs 2 and 4 of Article 21 of the constitution, especially in case of mothers, widows and older women and protection of their government of them provides for: (2) protection of mothers, particularly during pregnancy and childbearing, and the protection of children

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orphaned, special insurance for widows and older women and orphans. These provisions are fully consistent with the standards referred to in Article 22 of the Universal Declaration of Human Rights and Article 9 of the International Covenant on Economic, Social and Cultural Rights relating to the right to social security. This factor, like other indicators of social justice is positive right-claim; however, unlike the previous three components of the government's commitment towards ensuring it, it is increasing commitment to the result and not commitment to urgent results, and individuals shall enjoy it and are supported by the legislator for their membership in the society. But some of these criteria have not been met in ordinary legislation properly. For example, despite universal social security in terms of unemployment, the first article of unemployment insurance Act excludes self-employed and voluntarily insured from the provisions of this Act. Also, despite emphasis of the twenty-first Article, widows and elderly women and orphans are still covered by specific financial and social support. Defects and deficiencies in this area include inequality of services offered by the insurance organizations, patients' dissatisfaction with the quality of service received, dissatisfaction with the delay in payment by service providers and tariffs, lack of full coverage of the population, lack of referral systems, poor financial ability of funds, the lack of a specific body to monitor and evaluate, the lack of equal access of patients to appropriate services, and low health care's share of GDP (Ghabeljoo M. 1999).

If Iran social security in its general and public form has ninety-year-old record and more than seventy years have passed since the adoption of the law on employers' social security; however, is still a major part of the population has no social security coverage and in covered sectors, there are many deficiencies. The main motive of those involved in the field of social security should be inspired by the constitution and various international documents on human rights and utilizing a comprehensive system works the expansion security coverage to disadvantaged sections of society, and to improve efficiency and increase the quality of services offered in the field of social security (Shobeiri Race, 2003).

3-5- The right to work and employment in the constitution of the Islamic Republic of Iran

Article twenty-eighth of constitution provides that "everyone is entitled to a job he desires and not contrary to Islam and public rights" and the forty-third Article focusing on the preservation of human freedom, emphasizes in paragraph 4 on "compliance with freedom of choice and not forcing people to do certain jobs", considering it one of the country's economic standards. Thus, freedom of labor and employment is the basic foundation of the Islamic Republic of Iran in the research of social justice in this component and no one can be forced to have a certain occupation and prohibit him from jobs he liked or prevent the modification or cessation and closure thereof. Of course, enjoyment of the right and freedom to work is possible when the necessary facilities are available in society. This is possible only in a healthy social and government-supported system (Hashemi, 2004, p. 170)

Preventing the exploitation of another's work is one of the basic criteria that paragraph 4 of Article forty-third the constitution considers it as tantamount to freedom of work and prohibition of forced labor. Paragraph 3 of the said article provides base criterion for dealing exploitation, which includes: Setting country's economic program in a way that form and content and working hours of each person is so that each person, in addition to the occupations efforts, has opportunity for moral, political and social self-development and active participation in the country's leadership and increasing of his skills and initiative. Consideration of quantity and quality of the condition of work in the said text is in special attention to the dignity and value of the human, and proposes the worker as a reasonable

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and creative lever in the workplace. The third chapter of labor Act, titled working conditions (Articles 34 to 84) provides detailed rules in various fields (wages, working hours, holidays and leaves, working conditions for women and teens), which if performed properly, to a large extent can meet criteria set forth in the abovementioned principles (Hashemi, 2005, p. 473) and the result will be social justice. Paragraph 12 of Article 3 of the constitution provides for Sound and fair economic foundation to remove any denial of fair work as one of the basic tasks of government. In addition, the twenty-eighth Article providing for the right to work for all people requires the government to Observe the need for various occupations, and create job opportunity and create equal conditions for taking jobs." In the case of this article, mentioning of two points is necessary. First, respect for this right requires specific planning and economic and social policy to make supply of decent work for all people possible. Second, to achieve the aforementioned, employment policy must be commensurate with the economic and social programs and community needs. This policy should be based on creating and enhancing individual skills and expertise among the community. Paragraph 2 of Article 43 of constitution provides for facilities and tools for all, so that neither the concentration and circulation of wealth in the hands of individuals and specific groups occur nor the government becomes a major and absolute employer. One of the economic criteria under paragraph 7 of the forty-third Article of constitution is the use of science and techniques of the training of skilled personnel proportional to the need for development and economic progress of the country, whose implementation can be supportive actions in order to provide job for jobseekers.

The right to work and employment, as set out in Article 23 of the Universal Declaration of Human Rights and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, has been recognized and supported in domestic law. This factor, like other indicators of social justice is positive right-claim in favor of people and against the government. And like the right to social security, government's commitment towards the protection and realization of justice in employment and occupation is growing commitment to result. People has this right as soon as joining the society and becoming a citizen and not in terms of human dignity. But despite clear statement of international instruments on human rights, the constitution and other domestic laws, in terms of structures and procedures, the right conditions for job creation and the elimination of obstacles have not realized, and for finally establishment justice in the field of labor and employment in the country. Among the obstacles and problems affecting labor and employment are:

1.Lack of employment opportunities commensurate with the population of jobseekers

2.The disorganized situation in the economy and discrimination in the allocation of funding and various economic activities and industrial production

3.Lack of a proper education system consistent with labor-market and excessive migration from less developed rural residents to big cities

4.The lack of efficient use of production capacity (supplies and equipment) in industrial sites

5.Lack of knowledge and technical skills of the workforce

6.Inefficiency and lack of flexibility of labor Act in support of workers and employers

7.The single-commodity exports

8.Economic conditions prevailing in the country, namely, its state-run nature (Mirhabibi, 2007).

Conclusion

What was discussed about social justice indicators suggests that social justice has a very special and important place in international instruments of human rights and the constitution of the Islamic Republic of Iran. These indicators

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are recognized and supported in terms of having the human dignity as well as membership in the community, in the Universal Declaration of Human Rights of 1948 and International Covenant on Economic, Social and Cultural Rights of 1966, by the countries and parties to the Covenant. The identification of these indicators as the individual rights places the person in the right holder's position and the state in obliged and committed stance with regard to these rights other. Human rights of right - claims of citizens vis-à-vis their government. Indicators of social justice, as has been said, are positive rights, as their realization realizes upon government's intervention. The constitution as the basis of policy making in the legal system of the Islamic Republic of Iran, following the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966, recognizes and provides for social equity indicators. Therefore, it can be claimed that the domestic legal system normatively and in line with international human rights instruments, has the capacity to realize these criteria normatively. But it remains to be seen whether the structures and procedures, in other words, in field and performance, at the community level, these indicators, are executed properly and fairly, as stated in the constitution and other documents. Of course, the answer will be no. Objective and very simple and superficial observation at society, with respect to horizon of 2025, shows that we are far away from international standards in the field of social justice indicators. Looking at unemployment and deteriorating conditions for workers and people subject to labor Act, we learn that the unemployment rate is over 6 million and according to the current Minister of Labor, imminent statistic is 10 million people unemployed population. The principles that suggest spiritual self-development and participation in the country's leadership are in any way consistent with 12 to 16 working hours in the workplace. The system of appointing workers' wage is not fit with annual inflation at all. According to statistics of recent 30 years of inflation and wage increases, each year the financial ability of workers has become lesser compared to formal inflation, and this gap will increase in subsequent years. And these negatively affect the minimum subsistence security, health and education of children of a worker. One of the problems in social security is per capita contribution per person out of his income, and this comes despite the fact that in some government agencies, and some occupations and political and official figures, no cost of medical insured is paid out of pocket of the insured. In the field of pension payments and social supports to some vulnerable people, such as elderly women, widows, orphans, women and disabled people, Iran's social security system is weak or it doesn't support some of these people. This situation is in no way consistent with such social justice as provided for under the constitution and international human rights documents. There are many poor families and individuals who are incapable of procuring goods basket. Usually these families are in underserved areas such as remote and marginalized villages and small towns. If the basic needs of citizens are not met, there will be no room to talk about the civil and political development, etc. Need for livelihood involves on human dignity and if such needs are not met, human dignity of citizens is undermined by the government. As for education, it must be acknowledged that the executive policy in recent years has been impressive and the development of teaching space and teaching staff is better than the other indices of social justice. But in small towns and less developed cities, students are faced with lack of qualified and suitable teaching staff. In this regard, the development of human resources recruitment for the teaching staff can be helpful. Health issues should also be taken into serious consideration by the government. Fortunately, the health care system and the health situation in

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Iran have a growing momentum. Especially with the change in the health system, it can be hoped that public health services for the public can be provided at the lowest cost by the government.

References

1.Araqi, S.E. (1988), the International Labor Rights, Tehran University press.

2._____ et al. (2007), An Introduction to social security rights (1st ed.), Tehran: Social Security Research Institute/

3.Kamali, M., United Nations Charter (2nd ed.), Kamalan.

4.Craven, one thirty. Yes, the vision of the International Covenant on Economic, Social and Cultural Rights, the translation of Majandeh Habibi, Mohammad, Qom, University Useful, 1387.

5.Qari Sayed Fatemi, S.M. (2010), human rights in the contemporary world, first and second chapters, first book (3rd ed.). Tehran: City of Knowledge.

6.Hashemi, S.M. (2005), Human rights and fundamental freedoms (1st ed.), Tehran: Mizan.

7._____, (2004), Human rights and concepts of equality, fairness and justice, Part III: Review of the concepts of justice and fairness from the perspective of the Islamic Republic's constitution (1st ed.), Faculty of law and political science of Tehran University.

8.Walzer, M. (2010), Areas of justice in defense of pluralism and equality (Trans. S. Najafi), Tehran: SALES, p. 119.

9.Esfandiari, Ch., Mir Abbasi, S.B. (2014), the right to food in conflicts from the perspective of international law, Justice Law Journal, 78 (88).

10.Ansari, B (2013), Right of children to education under international human rights, Islamic Law Journal, 36.

11.Shobeirinejad, A.K. (2003), Comprehensive system of welfare and social security challenges in Iran, Journal of Social Security 5(3).

12.Karimi, I., Salarian, A., Anbari, V. (2009), Comparative study on fair access to health services in developed countries and presenting a proper model for Iran, research paper, ArakUniversity of Medical Sciences Journal, 12 (4) (49) 92-104.

13.Mirhabibi, M. (2007), The challenges of employment and decent work in the country, Gozaresh journal, 187.

14.Nozohuri, R. (2009), Pathology of inclusive education in Education, Journal of exceptional education, 97.

15.Universal Declaration of Human Rights (1948).

16.1966 International Covenant on Civil and Political Rights.

17.International Covenant on Economic, Social and Cultural Rights (1966).

18.Constitution of the Islamic Republic of Iran (1989).

19.Twenty-year vision document.

20.Fifth Five-Year Development Plan of the Islamic Republic of Iran (2011-2015), adopted on 2010.

21.Health policies issued by the Supreme Leader.

22.National Development Document of the multisectoral of food and nutrition security.

23.Labor Act of 1990.

24.Unemployment Insurance Act of 1990.

25.Women and Orphaned Children's Protection Act of 1992.

26.Rawls, John; A Theory of justice; London, 1971.

27.jak Donnelly, human rights, democracy and development, human rights Quarterly, 21, 1999

28.danies N. (2001), Is there a right to health care and if so, what dose it encompass in ed. Kuhse H. and singer P (2001), A companion to bioethics, Blackwell Publisher

29.Rene Descartes, Discourse on Method, trans. Arthue Wollaston (Harmondsworth, England, 1960)

30.Shin H. Income related inequity in health care access and delivery. [Phd thesis] University of South Carolina, 2003.

31.claude-Albert colliard: Libertes publiques

32.Ghabeljoo M. Comparetive study in healthinsurance systems and design a model for Iran[Phd thesis]. Tehran Azad University, 1999.

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