

Different Rights of the Persons with Disabilities in the law Islamic Republic of Iran

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Abstract: Persons with disabilities should take part in peaceful societies and associations like the other people of the society that these societies include general societies that all other people take part in it and also the associations and gatherings specific for the persons with disabilities. Article 3 of Universal Declaration of Human Rights also recognizes life, freedom and security to be the right of each person.

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1. **Security Right:** Imam Ali (peace be upon him) states in this case that: "People need statesman so that the road will be safe and secure during his/her ruling, the right of the weak is take from the unreasonable people, righteous people live in welfare and people be in safe from the wicked. (Imami, Ashtiani, the explanation of Nahjolbalagheh, Letter31). Persons with disabilities should take part in peaceful societies and associations like the other people of the society that these societies include general societies that all other people take part in it and also the associations and gatherings specific for the persons with disabilities. Article 3 of Universal Declaration of Human Rights also recognizes life, freedom and security to be the right of each person.
2. **Traffic Freedom (easy accessibility):** The only allocating right to the persons with disabilities is not enough but also the guarantee for accessing and enjoyment of people from what has considered in this right is necessary and without accessing the right is nothing more than a theory. The society must be the supplier and accessible to things like roads, public transportation system, public facilities (schools, hospitals, clinics, homes, work environment) and communications and information for the persons with disabilities. The government's duty for easy accessibility of the persons with disabilities (and not just the old people, little children, pregnant women, ...) taking necessary actions for complete removal of the obstacles for the physical presence of the persons with disabilities in the environment. These measures include: compiling standards and guidelines and study making of rules for guaranteeing easy accessibility of the persons with disabilities to the streets and other open spaces. This point is important that the conditions relevant to the easy accessibility of the persons with disabilities should be inserted in designing and contraction of physical environments from the begging of designing stage.
3. **Freedom of Speech:** "this right is of the rights which seems can be mostly fulfilled through the interference of government, but again the specific condition of the persons with disabilities is in a way that this noninterference can result in a high level to the deprivation of the persons with disabilities from this right. Freedom of speech has a physical relation to the right of accessibility to information, education and traffic possibility. The person who can speak and has not been taught sign language and is illiterate, how can express his ideas? In fact the purpose is that the government should not only consider the right of expressing ideas and thought for these people but also pay attention to its presentation method in a way that it can be presentable to others." (Eftekhar, A review of the Principles of Convention of Rights of persons with disabilities, No.24, P.11).
4. **Political and Civil Law:** "We have a right if it is given to us we are free; otherwise we are on the back of camels like captives even though a long time passes in this way." (Imami, Ashtiani, the explanation of Nahjolbalagheh, Imam's Wise Saying). This is an eloquent saying of Imam Ali (peace be upon him) and it means that if the right is not given to us we will be like despicable and low level people. "the civil and political rights are manifestations of suffrage. Suffrage or the right to determine ones fate is translation of human rights, moral idea, individual independence or individual self-directing. The ordinary wise grownups in

ordinary situations can both make reasonable decisions and have freedom to execute their decisions. But in the case of the retarded persons both their ability for reasonable making decisions and their ability to execute decisions are seriously questionable. Accordingly the theoretical-moral basis of the rights of the persons with disabilities differs from the theoretical basis of the rights of ordinary people." (Seyed Fatemi, Discourse Changes: Rights and The Freedoms of the handicapped in Human Rights Refelction, P.388).

5. **Family Life and Personal Prestige:** "Family is the first and the most important social foundation. The foundation that mostly has security and protection with itself and family life is one of the definite rights of every individual that includes the family life that one belongs to it or making a new family. The life of the persons with disabilities like other people are protected by the law and the governments have duty to guarantee their family life and don't discriminate in relation to sex, marriage, being parent and instruct them in the case of precautionary measures against sexual abuse and other abuses. The persons with disabilities should have the ability to live with their family and the government should remove all unnecessary obstacles on the way of the people who want to train a persons with disabilities child or grownup or accept that person as a ones child and should support the change of negative attitude to marriage and forming family in the societies." (Jannat, the Rights of the Persons with disabilities and equality of Opportunities. P. 57).
6. **Religion:** "The freedom of belief and religion are included among the Articles mentioned in Universal Declaration of Human Rights. Everyone has right to have belief and religion performing religious actions, instructing and popularizing belief and religion are the outcomes of this right. The persons with disabilities have right to believe any religion and they should have right to perform their religious actions and or they should have right to be aware of the beliefs and religion of the other people. On the other hand the government should encourage the religious authorities to include the information about making policies relevant to the persons with disabilities in education for religious professions and also in religious instruction programs." (Ibid).
7. **Education:** The developments of the concepts of citizenship rights have caused them to be applicable in other domains. Educational right is one of the rights that has been recognized from

the beginning and included in Universal Declaration of Human Rights that is one of the efforts for recognizing the minimum rights for human beings. Article 26 of the Declaration, recognizes primary education to be obligatory that denotes the importance of education. Benefiting education is the right of everybody and it should be free at least that is relevant to primary education and basics. So the government has duty to supply free education for all children including the persons with disabilities children. The Article 8 of the executive bylaw of the Comprehensive Act for Protection of the handicapped states that education for the persons with disabilities and handicapped is not only their right but also in some cases they can benefit from free education in educational units dependent to the Ministry of Education, Ministry of Science, Research and Technology, Ministry of Medical Education, Islamic Azad university and other governmental systems. "The aim this action is preparing the persons with disabilities students for education in public schools. The quality of this instruction should reflect the standards and purposes of public education. The aim of the countries should be the gradual combination of specific and ordinary educational services. For performing this approach the government should guarantee that the teachers have been educated to educate the persons with disabilities students in ordinary schools and the necessary equipments and supports are provided so that they can promote the persons with disabilities persons to the educational level of their ordinary homogenous." (Bastenegar, Human Rights from the Intelligentsia point of view, P.32).

8. **Protection against Law and Accessibility to Judicial System:** The thought and the ideality of equality, in its primary diagram, the human beings equality is before the law, the law that has the spirit of justice in itself and it is one of the most important necessities for the fulfillment of the people's rights. In this case also the specific particulars of the persons with disabilities can demand more care. Since the people who are mentally retarded, their specific conditions mostly can abate their responsibility but in the case of the persons with disabilities especially in the case of those who suffer several kinds of disabilities the issue is somehow complex. How can the Law treat with the person who has committed an illegal act and who is blind and deaf comparing the observing of execution of justice between this person to a healthy person who is aware of the laws. Even if many of these issues are case by

case and rarely occurs but the nature of human rights are a kind that all these specific conditions should be recovered.

Some recognize the accessibility to protection of law one of the basic principles for other rights, since in the case of unfulfillment of a right or preventing a right to somebody that person should have the right to refer to legal system and take action for justicing. (Jannat, the Rights of the Persons with disabilities and equality of Opportunities, P. 47).

9. **Accessibility to Information:** It is not a long time that digital revolution has been occurred but during this short period a full change has occurred in human life and different aspects of life has been changed.

Regarding that the persons with disabilities are one of the groups that live on the fringes of the cities, providing the facilities for their accessibilities to digital technology can have considerable help for the persons with disabilities in natural life of the society. One of the privileges of digital life is the lessening of the importance of physical accessibility issue for attending and participating of the persons with disabilities in social life. "In Article 21 of the Convention in addition to referring and emphasizing on freedom of speech and idea and accessibility to information, efficient strategies have been presented in this case. The member governments should provide all the necessary measures to ensure that the persons with disabilities can optionally obtain the right to freedom of speech and the right to express their opinion including search, receive and exchange of information and comments equal as the other people through sign language, Braille, reinforced and substituted communications and accessible ways and methods and different kinds of communications." (Yousefian, A Meditation on Comprehensive Act for Protection of the handicapped under the emanation of the regulations of convention of the rights of the handicapped, P.211).

10. **Employment:** "Equality of opportunity requires confronting the discrimination that deprives the persons with disabilities from the domains of their daily life. And this confrontation needs laws with simple method and enforceable against discrimination that covers the social, economic, public service and civil liability domains that should be accessible to the persons with disabilities together with help. Since economic independence is more important for full and effective enjoyment from most of the rights many of the antidiscrimination laws pay attention to

discrimination in the case of employment." (Zarneshan, The strategies for supporting the employment rights of the handicapped in Iran Law and International Documents of Human Rights, P.237)

"Up to the time that suitable and appropriate space and conditions created for the persons with disabilities the structural progresses and high quality education can't create a real change and economic independence. In principle there is a direct relation between social welfare and the quality of the life of the people and their employment and unemployment and poverty that follows it will have social challenges for this reason the employment of people is inseparable part of their life. And there aren't equal benefiting facilities and employment opportunities for the persons with disabilities due to their physical or psychological disabilities. So it is necessary that more specific protections should be done." (Ibid, P.240)

For removing or reducing obstacles that prevent employment of the persons with disabilities manufacturing workshops specialized for the persons with disabilities, the protective centers of the persons with disabilities, quota plans, payment of subsidy to cooperatives and the employers that instruct the persons with disabilities and employ them or the cooperatives that are made for the persons with disabilities can be recommended as the alternatives.

The Laws Supporting Employment of the Handicapped.

For fulfillment of the aims predicted in Article 29 of the Constitutional Law of the I.R. of Iran, presently some laws have been passed in the form of budget law, municipality law, civil employment etc. that the most important of them are as follows:

Sub-clause 74 of state budget law of the year 1983: "the Social Welfare Organization is permitted to give the purchased equipments required for the handicapped and disabled Revolution veterans no gratuitously to the handicapped and the Martyr's Foundation. (The collection of Laws and regulations for disabled war veterans, martyrs and prisoners of war, Vol.2, P.427)

The Unit Article of the Law for making it obligatory to the government to employ 10% of its required personnel from those disabled I.R. of Iran Revolution veterans enacted in 1985: "All the ministries, Islamic Revolution Foundations, governmental institutions, companies and factories and banks and municipalities and all the organizations that benefit public governmental budget in anyway are obliged to supply at least 10% of their required personnel from those disabled I.R. of Iran Revolution veterans, the children of martyrs and the prisoners of war, the untraceable and superannuate disabled war

veterans observing the other relevant regulations and coordinating with Martyr's Foundation of the I.R. of Iran if the qualified persons are among them." (Ibid, Vol.4, P.596).

In the mentioned Unit Article the quota is 10% it is mentionable that in the year 1985 the Foundation for the Oppressed and Disabled War Veterans had not been formed so these affairs were assigned to the Martyr's Foundation. In the case of ordinary handicapped the 1st sub-clause of the law is as follows: "the organizations described in Unit Article are obliged to supply 3% of their required personnel from the ordinary handicapped in appropriate professions observing all the relevant regulations and coordinating with the State Welfare Organization." (Ibid).

Of course it is mentionable that 3% was just included the governmental organizations so employers and companies in private sector are not obliged to observe it and are not subject to it. On the whole it can be understood from these definitions that the cause of disability and handicaps are not important regarding their specific conditions but the important thing is that how these people can be directed to employment. In fact, today it should be acknowledged that the disabled people can't have full share in professions like the healthy persons and they lose the opportunities of employment due to their disability and weakness. Unfortunately most of the employers are also unaware of their ability to perform the affairs and this case and several other obstacles prevents the handicapped to access the appropriate profession.

Researches show that "Innovations and the methods considered in domestic law for promotion in profession and employment of the disabled people have not mostly been enough for helping the handicapped." (Farzamfar, Employment of Disabled People Principles of Selective Employment, P.52).

Therefore, here we mention the methods and ways of expanding employment opportunities:

A- Creating Employment Facilities through Independent Professions: for disabled persons who live in areas with limited employment opportunities and or those face difficulties in traffic to work place, having an independent profession maybe the best form of activity. Unfortunately most of the handicapped who apply for an independent profession don't have enough experience in that profession or lack enough capitals. Of course the necessities of these affairs are preparing educational programs facilities for the handicapped.

In Sub-clause 2 of the Article 43 of the Constitutional Law of the I.R. of Iran it is stated that: "Providing conditions and facilities of work for all people for achieving full employment and supplying with work tools all those that are able to work but don't have tools in the form of cooperative, through loan without interest or any other canonical way that neither results in centralizing and using capitals at the hands of specific individuals and groups nor makes the government as the definite big employer. This action should be done through observing the necessity dominated state economics general planning in any stages of growth." The constitutional law with the predicting the supplying work instruments for those who are ready to work has taken a valuable and useful step in achieving social justice. If this issue is followed with precise and calculated planning it will bring favorite effects.

In addition to that in Sub-clause 1 of Article 119 of Labor Law it has been stated that: "the employment services centers in the center of each province obliged to establish an office titled Office for planning and supporting employment of the handicapped and all the institutions mentioned in this Article are obliged to cooperate with these offices."

B- Creating employment facilities through forming cooperatives specific for the disabled and the handicapped: in constitutional law of the I.R. of Iran based on Note 2 of the Article 43 some discussions and explanations were given about cooperative which was discussed. But in Sub-clause 2 of Article 119 of Labor Law it has been stated that: "the government is obliged take actions to support the handicapped to create cooperatives (productive, agricultural, industrial and distributional) through giving them long term interest-free loans and necessary instructions and establishing the facilities for performing the profession and supporting production or services and remove the architectural obstacles in all the centers that are subject to this Article and its sub-clauses that the handicapped attend those centers".

"Of course it is better that the handicapped be the member of the general cooperatives but since this seems not to be practical so the facilities for forming cooperatives specific for the disabled people should be studied." (Alavi, Employment of the handicapped, selection strategies and employment of the handicapped, P.56)

In sub-clause 1 of Article 6 of the Executive Bylaw of the Sub-clause 3 of State Budget Law of the Year 1993 dated Mar. 17, 1993 it has been stated that: “ the general offices of cooperative in the provinces are obliged to take actions for preparing the plans relevant to cooperatives of sacrificers with the cooperation of other executive organizations when it is necessary and all the relevant executive organizations will cooperate in preparing the plans issuing principle agreement and other permits and other actions that are necessary for presenting and performing the plan.” (The collection of Laws and regulations for disabled war veterans, martyrs and prisoners of war, Vol.3, P.78) also in Article 109 and its Note “H” of the Act for the third Economic, Social and Cultural Development Program of the I.R. of Iran in the case of forming agricultural cooperatives the priority has been given to the cooperatives of the sacrificers.

The Study of the Results of Some National and Universal Researches for the Welfare of the Handicapped.

“ with the announcement of the year 2002 as the International Year of the Handicapped the decade 1983 to 1993 was called the decade of United Nations for the Handicapped and in the same direction some promising essentials and actions have been fulfilled by the developing countries with the cooperation of the United Nations and International Nonprofit Organization in the case of preventing handicap, rehabilitation and equality of the opportunities.” (Program for Universal Actions for the Handicapped, Translated by Mahdi Babaei Ahari, P.98)

“The necessity for adapting urban environment for the disabled and persons with disabilities in all the final acts, laws, bylaws and the instructions shows that benefiting equal opportunities in the society are the right of all people and the people of the society should have equal share from the economic and social development and surely paving the necessary way for this important affair is undertaken by the governments, i.e. the governments should draw the attention of all people to the uses and privileges of this action and prepare them to participate in the economic, political and cultural development through making their people be aware of it. Since making all the social strata in supplying material and financial resources will cause the extension of social services and improving the economic facilities and this affair is specifically important for the handicapped.” (Mostafa, International Actions for Supporting the Right of the Handicapped, P.24)

“The assessment of the performance of the law and regulations relevant to the handicapped shows that the general instruction and information sections have been facing with basic challenges and the result of many researches in this case are the witnesses to this

claim; such as the valuable research titled “The case analysis of the performance of the standard and regulations of urbanization and architecture for the handicapped” that was performed by the technical structure office of the ministry of interior in the year 1994 with the following 3 aims:

1. The study of the amount of successfulness of the approval enacted May 29, 1989 for the handicapped.
2. Recognizing the reasons of “unsuccessfulness” through direct reference to the factors of designing and manufacturing.
3. Summation and recommendation of poor performance of instructional section including general and or specialized sections in this domain.” (National and Universal Programs for the Welfare of the handicapped, P. 5-6).

“So in revising the approval enacted May 29, 1989 by the Committee for reviewing the standards and regulations of urbanization and architecture for the physical handicapped a subcommittee was formed titled Education Committee and defined its aims and duties in compiling new bylaw as follows:

- Making strategies and preparing for making aware the different social strata in the case of architectural and urbanization rights of the handicapped.
- Predicting and recommending educational programs and following up their execution based on the laws and regulations of Housing and Construction Research Center using the abilities of the other relevant organizations.
- Studying and recommending methods for making the handicapped aware of their relevant laws and rights in the case of architectural and urbanization issues.
- Summation the experiences of the members of the committee in the case of dissemination of the result of the researches and advertise it for making sensitivity and for using the planning and construction and residential and urban environment implementers. (Ibid, P.13-15).

Research Results

1-Islam regards this right not only for all the citizens of Islamic Government but also for the other creatures and human beings. It is in this safe and calm environment that human being can think for growth and perfection of oneself. So the Holy Koran states in this case that: " the recompense of those who make war against Allah and his messenger and spread corruption in the land is that they are to be killed or crucified, or have their hand and a foot cut off on

opposite sides, or be expelled from the land- the discerning of the entitled punishment is stated by the lawgiver- for them is shame in this world and a great punishment in the everlasting life."

2- In sub-clause 1 of Article 6 of the Executive Bylaw of the Sub-clause 3 of State Budget Law of the Year 1993 dated Mar. 17, 1993 it has been stated that: " the general offices of cooperative in the provinces are obliged to take actions for preparing the plans relevant to cooperatives of sacrificers with the cooperation of other executive organizations when it is

necessary and all the relevant executive organizations will cooperate in preparing the plans issuing principle agreement and other permits and other actions that are necessary for presenting and performing the plan." (The collection of Laws and regulations for disabled war veterans, martyrs and prisoners of war, Vol.3, P.78) also in Article 109 and its Note "H" of the Act for the third Economic, Social and Cultural Development Program of the I.R. of Iran in the case of forming agricultural cooperatives the priority has been given to the cooperatives of the sacrifices.

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