

Cultural Citizenship in the Constitution of the Islamic Republic of Iran

Mohammad Ali Tavana¹

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Abstract

Iran is a multicultural country that encompasses various ethnic, lingual and religious groups. The purpose of this article is to show how does the constitution of the Islamic Republic of Iran deal with the issue of cultural diversity? We used the method of conforming theory with sample. Cultural citizenship theories are also used as a theoretical framework to analyze the solution. The most important finding of this study is that the Constitution of Iran provides a two-layer solution for the issue of socio-cultural diversity. The lower layer comprises cultural politics of centralism which, in turn, is the result of domination of Islamic, Shiite, Persian, and patriarchal culture. In contrast, the upper layer comprises a combination of politics of wide recognition (especially in language and ethnicity areas) and politics of narrow recognition (especially religion, women, and vulnerable social groups). Although the constitutional solution has similarity with modern culture citizenship, some citizens (including ethnic, religious and sexual minorities) do not consider the complete autonomy.

Keywords: Cultural Citizenship, Socio-Cultural Diversity, Cultural Politics of Centralism, Wide Recognition, Narrow Recognition.

1. Associate Professor of Political Science, Department of Law and Political Science, Yazd University, Yazd, Iran, tavana.mohammad@yahoo.com.

Introduction

The victory of the Islamic Revolution of Iran in 1979 significantly changed the political and socio-cultural structure of the country. One of the areas highly influenced by the Islamic Revolution was the constitution of this country; that is, *Mashrouteh* Constitution (1906) was replaced by the Constitution of the Islamic Republic of Iran¹ (1979). It seems that the IRI Constitution not only plays the role of institutionalizing the country's system but also reflects the historical, political, cultural, and social life of the Iranian people. So, it is expected that it presents a fundamental solution for the basic issues of the Iranian society. One of the most fundamental issues is its diverse socio-cultural structure consisting of various ethnicities (including Fars, Turk, Lor, Balouch, Arab, Sistani, Mazani, Gilak, Gorji, etc.), languages (including Persian, Mazani, Kurdish, Pashto, Balouchi, Lori, Laki, Zazaki, Gilaki, Taleshi, Tati, Asi, Semnani, etc.), schools of thought (including Imami, Ismaili, Hanafi, Maleki, Shafei, Hanbali, etc.), and religions (including Islam, Judaism, Christianity, Ashourians, Kaldanis, and Baha'i) (Maqsoudi, 2003: 17-18). The present article tries to explain how the IRI constitution has been faced with the issue of cultural diversity. Accordingly, a key question is raised in the present study: what specific solution can be preferred to the Constitution on organizing the current socio-cultural diversity? The method of conforming theory with sample is used here in which, a case or a sample is measured with one or a set of theories (Matthew, 2012: 154).

Theoretical Framework

Cultural citizenship tries to organize the relationship between various socio-cultural groups within a society based on the principle of equal respect (Rosaldo, 1997: 27). In fact, the cultural citizenship is a type of citizenship. In this sense, it can be seen as involving membership, rights, duties and commitments, and participation of socio-cultural groups (such as women, children, patients, unemployed, forsaken, the marginalized, ethnicities, and races) within a political society (O'byrne, 2003: 7; Stevenson, 2013: 307).

The cultural citizenship is a rebellion against centralist cultural policies regardless of cultural differences (Fraser, 2000: 107). The most important centralist cultural policies include assimilation and homogenization, benign negligence, and exclusion. Politics of assimilation and homogenization tries to absorb or merge minor groups into the culture of majority, so that the society can become integrated (Esman, 2004: 155). Yet, this process is accomplished significantly by knowledge builders and ideological organizations (such as training and educational organizations, and media). Benign negligence is a liberal policy based on classifying the society into two sectors, public and private. According to this policy, different socio-cultural groups are free to follow their own cultural ideas and patterns in a private sphere, while they should forget their own culture in public and get a common civic identity (Gagnon, 2005: 27). Exclusion policy is based on excluding distinct socio-cultural groups as abnormal or, at least, tries to marginalize them. For example, it is possible for the dominant culture to deprive them of having a job, housing, and educational opportunities equal to others. Suppression,

¹ Which is called IRI hereafter in this article.

genocide, contempt, and disdain of minorities can also be regarded as parts of this policy (Esman, 2004: 135). In contrast, the cultural citizenship tries to establish plural socio-cultural and political structures that pave the way for membership of all socio-cultural groups in this structure, and create a sense of cultural, social, and political solidarity among them. A significant theorist of cultural citizenship is Will Kymlicka. He presented the theory of *multicultural citizenship*, according to which not only all people benefit from public rights regardless of what cultural groups they belong to but also they should have special rights to maintain their identity. Kymlicka speaks of three types of *group rights* including *Self-government Rights, Polyethnic Rights, and Special Representation Rights* (Kymlicka, 1995: 34-48). Bhikhu Parekh suggests that resolving the issue of diverse cultures requires active participation of different socio-cultural groups in the common political and cultural structure as well as protective policies of government in favor of minority groups, so that smaller groups can have a strong sense of belonging in a larger society. He also calls for spreading justice, public rights, and multicultural education as other government plans for organizing a multicultural society (Parekh, 2000: 209-230).

According to the above, the macro solutions derived from recent cultural citizenship can be classified into two groups: narrow (weak) recognition policies and wide (strong) recognition policies. The narrow recognition policies consider cultural differences as real issues which can be controlled through tolerance, granting more freedoms, changing some general rules,

granting financial exemption and even positive discrimination. In fact, the narrow recognition policies are based on non-discrimination (Seglow, 2003: 89). By contrast, the wide recognition policies consider no substantive difference between minority and majority groups, see all socio-cultural groups as having an equal inherent value, and try to integrate them in a socio-cultural and political structure through the principle of inclusion. Such a process requires not only granting autonomy, veto right, guaranteed representation, and equal access to public spheres but also equality of values of the minority to those of the majority or the dominant group (Seglow, 2003: 92). Now, we can deal with the IRI Constitution with this background.

Cultural Citizenship in the Islamic Republic of Iran's Constitution

The IRI Constitution was passed in 1979, and, in 1989, some modifications were brought in it. In this study, the latter, namely the (1989) version, is explored. The Constitution has Introduction, 14 Chapters, and 177 Articles (principles).

The first issue raised in understanding how the IRI Constitution organizes socio-cultural diversity is discovering the underlying structure or the general spirit governing it. It seems that the introduction of the Constitution, to some extent, determined the underlying citizenship identity in the Islamic Republic. According to its introduction, Iranian socio-cultural, political, and economic institutions were established based on Islamic principles (Mansour, 2012: 9-11). In this sense, Islam is the basic element of the underlying structure of citizenship identity in Iran. This element (i.e. Islam) is, more than anything else,

representative of the domination of the Islamic (Shiite) culture on the religious, historical, and political structure of the Iranian society. In the introduction, we also read that the 1979 Islamic Revolution was the result of anti-despotic and anti-colonial struggles of Iranian Muslim people (Mansour, 2012: 12). So, nation can be the second element of the underlying structure of citizenship identity in the Islamic Republic of Iran. At the same time, these two elements are combined and integrated in Islamic identity to make a united whole. Yet, in the introduction part of the Constitution, "Independence", "Freedom", and "Islamic Rules" were enshrined as the other elements of the underlying citizenship identity in the Islamic Republic (Mansour, 2012: 16). Above all, these elements represent contemporary evolutions in general and the Islamic Revolution (1979) in particular. However, in an overview, we can consider region, history, political heritage, cultural heritage, rituals, national language, Islam, and nation as the underlying structure of citizenship identity, which are reflected, for example, in Articles 17 and 18 (Ahmadi, 2011: 420).

But which of them has priority among the components of citizenship? The answer should be found in constitution itself. In the introduction, ideology, being Islamic based on the Guardianship of Islamic Jurists, creation of a global Islamic nation, training human with Islamic values, providing indigent government, establishing Islamic economics and publishing Islamic culture are mentioned as the main goals of IRI. Also, introduction of the Constitution declares that political structures should be Islamic. Moreover, according to the second clause of the Article 2 of the Constitution, the source of legislation is inspiration.

Additionally, based on Clause 16 of Article 3 as well as Article 152, support weakness and that the people have priority over national interests. In conclusion, citizenship identity is religious and ideological in the IRI Constitution. Therefore, other factors of citizenship identity such as nationality, history, culture and modern human achievements have been defined in congruence with religious and ideological way of citizenship. As a result, it should not be expected from the Constitution which recognizes the rights of religious minorities and social groups.

The next issue is the recognition of socio-cultural groups in the IRI Constitution. In this regard, we can refer to Articles 12, 13, 15, 19, 20, 21, and 64 which recognize religious groups (e.g. Hanafi, Shafei, Maleki, Khanbali, and Zeidi), religions (e.g. Zoroastrian, Christianity, and Judaism), all ethnic and lingual groups living in Iran, women and vulnerable groups like the elderly, widows, orphans, and the disabled. It seems that the range of recognized groups in the constitution is somehow more limited. According to this background, we can analyze how the IRI Constitution organizes socio-cultural diversity based on elements of cultural citizenship (i.e. membership, rights, duties, and participation).

Membership of Socio-cultural Groups in the IRI Constitution

Membership is the basis of cultural citizenship. Although inclusive membership has not been realized yet, its scope is increasingly expanding (Bosniak, 2008: 18). In the IRI Constitution, membership can be found under a nationality title. This is so because nationality is a kind of political, legal, and spiritual relationship which

represents the belonging of individuals to a society or a state (Balazadeh, 2004: 39). Articles 41 and 42 are assigned particularly to nationality. Article 41 states that "Citizenship of Iran is the unquestioned right of all Iranians. The state may not deprive any Iranian of his citizenship, except at their own request, or if they take up citizenship of another country." According to this article, then, we can recognize the citizenship of all Iranians regardless of their race, ethnicity, religion, language, gender, political position etc. In this sense, this article, at least legally, does not set any obstacle for citizenship of the members of different socio-cultural groups. In any case, the article considers the Iranian identity as a cultural, historical, and political structure which is transferable generally by land and blood, and entering it or leaving it requires individual's own will. So, we can have a flexible attitude toward nationality. At the same time, in a strict interpretation, citizenship of socio-cultural groups is subject to accepting the dominant culture (namely the Islamic-Iranian culture). Also, Article 42 states that "Foreign nationals may, within the limits of the law, take up Iranian citizenship. The citizenship of such persons may only be taken away if, possibly, another state accepts them into its citizenship, or at their own request." This article recognizes the acquired citizenship. It seems the article is somehow similar to civic assimilation policies according to which the requirement for citizenship of foreign people in a host culture is acceptance of the culture of the majority or the dominant culture. Generally, these two articles indicate that, in the IRI Constitution, citizenship is apparently inclusion-oriented. In this sense, there is privately no obstacle for approving

various people and socio-cultural groups in the society, but the Constitution distinguishes them from the Shia majority therefore they are considered second degree citizens.

Rights of Socio-Cultural Groups in the IRI Constitution

The issue of rights is the second basis in cultural citizenship. As Kymlicka claims, the cultural citizenship includes both public and private rights. So, such rights can be investigated in two dimensions.

Public Rights of Cultural Citizenship: Article 3 of the Constitution is the one dealing with public rights of cultural citizenship. Clause 7 of this article states that "the state is obliged to provide political and social freedoms within the framework of law"; the clause explicitly represents civil and political rights of cultural citizenship and poses no constraining condition except for law. Clause 9 demands "the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both material and intellectual spheres". This article implies equal legal behavior toward all citizens. Clause 12 emphasizes the just economic system and considers it as aiming at "creating welfare, eliminating poverty, and abolishing all forms of deprivation with respect to food, housing, work, healthcare, and the provision of social insurance for all." This clause particularly emphasizes public citizenship rights and, as Riley believes, it can create the ground for active participation of citizens in political and social arenas (Riley, 2009: 96). Clause 14 confirms "securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law. This clause

represents civil rights, especially the judicial dimension of cultural citizenship, and at least, because of the phrase 'men and women', it is considered as a sign of principle of non-discrimination about women, which is a fundamental concept in narrow recognition policies. Generally, Article 3 has a right-based view of citizenship. Principally, there is no constraint or restriction, hence generalizing the range of citizenship rights to all members of socio-cultural groups can be derived from it.

Article 20 states first that "all people, men and women, are equal before the law", and then considers "all human, economic, social, and cultural rights" as including "all people of the nation". The article seems to imply civil rights and is particularly based on the principle of non-discrimination because it grants an equal legal situation to all the people of the nation, regardless of their race, religion, sex, and so on. Also, the word *all* in this article makes the civil rights public. Yet, this article reminds us that the only criterion violating legal equality and inclusive rights is "opposition to Islamic criteria", which is one of the main infrastructures of the Iranian citizenship identity. According to the article, it can be said that civil rights of socio-cultural groups should not be opposed to the values of the majority.

Articles 22 to 40 are generally about public, civil, political and social rights of citizenship. For example, Article 22 declares that "the dignity, life, property, rights, residence, and occupation of individuals are not to be violated, except in cases sanctioned by law". This article indicates personal, social, judicial, and economic civil rights. Article 23 states the forbiddance of inquisition and stipulates that "no one may

be molested or taken to a task simply for holding a certain belief". This article corresponds to the principle of freedom of belief in citizenship civil rights (Marshall, 1992: 8). Article 25 emphasizes forbiddance of "spying and investigating private and social relationships of citizens" except by the order of law. This article corresponds to the principle of non-exposing of civil rights of citizens (Castells and Davidson, 2003: 217). Article 26 implies "freedom of political parties and societies, political and craft associations, and Islamic or recognized minority religious associations", provided that "no violation is involved in the principles of independence, freedom, national unity, Islamic standards, and the foundations of the Islamic Republic". This article indicates part of political rights recounted by Marshall (Marshall, 1994: 14-16). Yet, its restrictive constraints, especially the condition of keeping national unity and Islamic criteria, remind us of the underlying structure of citizenship (religious and national) in the Iranian society. Article 27 states that "unarmed assemblies and marches may be freely organized, provided that no violation of the foundations of Islam is involved". This article is about freedom of assemblies which is the intersection of public civil and political rights of citizenship (Castells and Davidson, 2003: 223-224). Article 29 emphasizes "social security in retirement, unemployment, old age, being laid off, being without a guardian, casual misfortune, accidents, and occurrences giving rise to the need for health services and medical care and treatment, through insurance, etc.". It also declares that "health care and medical insurance are the rights of all people and the state is obliged to provide these services and the above mentioned financial supports for each individual in the

country". The article is a complete reflection of public social rights in citizenship (Marshall, 1994: 24-26). It is obvious that mentioning 'each individual' in this article implies the equality of citizens in terms of citizenship rights. At the same time, this article particularly recognizes vulnerable groups. Article 32 states that "no one may be arrested without order of law". Article 33 "rejects ousting people from their residence or forbidding them from residing in the location of their choice or compelling them to reside in a particular location, unless the law prescribes this". These two articles represent the judicial and social aspects of civil rights (Marshall, 1994: 31). Article 34 considers "asking for justice as the unquestioned right of all people" and declares that "everyone may refer to competent courts, and no one may be prevented from recourse to any court to which the law entitles him to refer". The article is also about the judicial aspect of civil rights. Article 37 implies innocence of citizens and states that "no person is considered legally guilty, except in cases where his guilt is established in a competent court". This article is about the issue of immunity and not exposing the civil rights of citizens. Article 38 forbids "any kind of torture to elicit an admission of guilt or to obtain information" and states that "compelling people to give evidence or confess or take an oath is null and void". The article emphasizes civil immunity of citizens and notes their human dignity.²

² This article and the previous ones are in accordance with Verse 70 of Surah Al-Isra saying:

And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference.

It seems that the above-mentioned articles are inclusive. In simple words, they are about the superstructure of citizenship identity and include no order for exclusion of members of socio-cultural groups, except that they violate the infrastructure of citizenship identity enshrined in the IRI Constitution including nationality, Islam, and law as the political convention.

Article 43 implies public social and economic rights of citizenship. For example, the first clause of this article states that "basic necessities including housing, food, clothing, hygiene, medical treatment, education, and the necessary facilities for the establishment of a family must be provided for all citizens". The second clause states that "conditions and opportunities for employment must be provided for all people". In the third clause, we read that "the plan for national economy must be structured in such a manner that each individual has sufficient leisure and energy for intellectual, political, and social activities leading to all-round development of his self, to take an active part in leading the affairs of the country, improve his skills, and make full use of his creativity". Clause 4 states that "people should be free in choosing their jobs, and exploitation or compelled labor should be prevented". These clauses imply provision of social and economic facilities necessary for a better life for all citizens and refer implicitly to the fact that, without fulfilling fundamental requirements, the active participation in political, socio-cultural, and economic structure is impossible. This clause can be compared with civil principles in European welfare statements (Bussemaker, 1999: 1-10). Article 47 puts an emphasis on respecting "private ownership, legitimately acquired". Although

this article is similar to the liberal ownership right of Locke type (Locke, 2009: 93-113, 175), it seems that it has been derived from the principle of legitimate ownership in Islam.³ Generally, these articles, which imply particular citizenship social rights, seem to be inclusive, and there is no restrictive constraint in them to deprive an individual or a group for a political, cultural, ethnic, ideological, gender, or lingual reason.

Also, Articles 156 to 174 represent the judicial aspect of public civil rights. For example, this states that “judiciary power not only is the protector of rights of individuals and the society as well as responsible for the implementation of justice but also investigates and passes judgment on grievances, violations of rights, and complaints. It also serves to resolve litigations, settle disputes, and take all necessary decisions and measures in probate matters as the law may determine”. While emphasizing the rule of law (Qazi, 1994: 656, 666), this article considers no difference between people and groups and is inclusive in this sense. Article 165 emphasizes “open trials” while Article 168 not only emphasizes “open political and press trials” but also claims that such trials should be held in courts of justice. It seems that these articles were written with total consideration of the judicial and civil rights of citizens.

Generally, it can be said that the IRI Constitution has public, civil, social, and political rights in it which are, in turn, part of cultural citizenship rights. Of course, it is

to be noted that these articles solely resolve the legal obstacles of realizing cultural citizenship. In other words, they have a privative aspect, but we cannot necessarily derive wide recognition policies for the rights of minority socio-cultural groups. As Amied Zanjani has reviewed, where ever has being used the absolute and general words such as "All the nation of Iran" : It should be proved they don't have any contradiction with the Islamic standard (Zanjani, 1377: 214). So, the general right of citizens are measured with the mentioned basis of citizenship. It means religious and ideological way.

Specific Rights of Cultural Citizenship:

In cultural citizenship, there is an emphasis on specific cultural rights in addition to public rights. This is because specific cultural rights not only compensate for structural injustice but also make it possible to have an equal access to public spheres and, finally, have participation in cultural, social, and political structures (Kymlicka, 1995: 34-48; Parekh, 2000: 199-203; Young, 2002: 189). Accordingly, Article 12 of the IRI Constitution can be considered as one of the first articles about specific cultural rights, which introduces Islam and Twelver Ja'fari School as the official religion of Iran and, at the same time, recognizes the other Islamic schools including Hanafi, Shafei, Maleki, Hanbali, and Zeidi. It also represents the issue of freely holding rituals in these schools and stipulates that, in any region in which the followers of these schools constitute a majority, people can pass local regulations according to their own school provided that they do not violate the rights of other schools and religions. This means that, in the IRI Constitution, religious self-ritual is recognized for some schools locally. The important point about

³ For example we can refer to Verse 29 of Surah Al-nisa saying:

O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.

this article is its introduction of Islam and Twelver Ja'fari School as the underlying citizenship structure, declaring that this infrastructure is neither changeable nor tenable. Hence, any grant of specific cultural rights should be made based on that or, at least, not be in contrast with that. In Article 13, Zoroastrianism, Judaism, and Christianity are recognized, but the right of having local rules according to these religions has not been granted to them, which represents the limitations posed to religious minorities. In any case, these two articles determine the range of religious minorities and the official religion in the Islamic Republic of Iran. In a restricted interpretation, it seems that the other religious groups are excluded from this range (Aryamanesh, 2011: 81). However, in a wide and more flexible interpretation, it can be said that these articles are solely about religious rights and do not necessarily violate citizenship rights of other religious minorities. In addition, Article 14, which documents Verse 8 of the Quranic Chapter Al-Mumtahanah,⁴ obliges the IRI state and Muslims to behave non-Muslims in a good manner and with Islamic justice and observe their human rights. Yet, such rights concern people who do not conspire against Islam and the Islamic Republic of Iran. This article includes several fundamental points about specific cultural rights. First, the culture of Muslim majority in general and the Shia culture in particular are considered as the basis for granting cultural rights. Second, it demands nice and just behavior toward

non-Muslims. Third, it recognizes fundamental human rights, aside from other religious rights which belong to humans. Fourth, it includes the condition of not being opposed to Islam, tantamount to no conspiracy against the Islamic Republic of Iran, which is, in turn, another political infrastructure for the citizenship identity in the IRI Constitution. In this sense, the article considers the superiority of Islam over other religions as an unquestioned issue and recognizes religious minorities solely out of benevolence and in the scope of human rights.

It may be said that these articles represent a centralized cultural policy at the first level (i.e. at the underlying layer) and a kind of narrow recognition policy at the second level. The implication of this is that the articles seek to recognize the religious freedom of minorities and promote a tolerant behavior toward them by focusing on their cultures and religions. However, one cannot imply deep and wide recognition of differences, equal opportunities of minorities and the majority, or equal participation of religious groups in the political and socio-cultural structure of the Islamic Republic of Iran. Also, it is not clear to what extent the religious groups have an access to public spheres. Article 15 shows other aspects of specific cultural rights. It emphasizes maintaining the language of ethnic minorities and recognizes "the possibility of using local and ethnic languages in group press and media and teaching ethnic and local literature at schools beside the Persian language". It makes it possible for minorities to keep their ethnic and local identity in public spheres. It should be remembered that language is one of the main elements of keeping an ethnic

⁴ . Allah does not forbid you from those who do not fight you because of religion and do not expel you from your homes - from being righteous toward them and acting justly toward them. Indeed, Allah loves those who act justly.

identity (Hermidas Bound, 2005: 27). According to this article, ethnic minorities can establish bilingual schools as well as press and TV networks with their local and ethnic languages, as it is true in later cultural citizenship (Young, 1989: 404). Hence, it not only recognizes ethnic and language differences but also, based on wide recognition policies, provides access of ethnic and language groups to public spheres, but in a limited capacity.

Article 19 emphasizes “equal rights of Iranian people regardless of their ethnicity, color, race, language, and so on”. In fact, it points to public civil rights and specific cultural rights together. At the same time, at least from a legal perspective, it puts minorities and various socio-cultural groups in a similar position. Equal respect to socio-cultural groups can be elicited from this article at least in social spheres, which is in accordance with narrow recognition policies (Patten, 2000: 193).

Article 21 of the IRI Constitution is specific to rights of women, as one of the socio-cultural groups. It holds that “the state must 1) create a favorable environment for the growth of a woman's personality and the restoration of her rights, both material and intellectual, 2) protect mothers particularly during pregnancy and delivery and protect children without guardians, 3) establish competent courts to protect and preserve the family, 4) provide special insurance for widows, and aged women without support, and 5) award guardianship of children to worthy mothers in order to protect the interests of the children in the absence of a legal guardian”. This article represents the attention of the IRI Constitution to specific rights of women and implies enhancement of women’s abilities and their families in a social situation. It seems that exemption of

women from some public rules affecting them adversely and even positive discrimination in favor of women can be derived from this article, as it is in narrow recognition policies (Young, 1989: 386). However, it should not be forgotten the main range of women practice is family, and the task of women is defined motherhood. Additionally, the presence of women in society and politics have been accepted according to necessity and framework of Islamic school (Mansoor, 1391: 21). It means, women are referred as the second degree citizens in public sphere.

Article 64 recognizes the representativeness assured for religious minorities (Zoroastrians, Jews, Ashourian, Kaldani, North and South Armenians). It is similar to special representations presented by Young (1989). Although, it is quite obvious that generalizing special representation to other socio-cultural groups such as Sunnis, women, and the disabled is not deduced from this article, it seems that, at least, it resolves legal obstacles for such a generalization. Generally, as Galeotti points out, granting assured representation to minorities and particular groups provides conditions for them not only to determine their own destiny but also to belong to a larger society (Galeotti, 1999: 44-45). At the same time, it seems that the principle of special representativeness makes a bridge between narrow and wide recognition policies. It means that it provides a ground for resolving discriminations and, at the same time, makes it possible for them to have an access to public arenas.

In short, it can be said that the IRI Constitution grants special but limited cultural rights to recognize socio-cultural groups, including religious, ethnic, and

language minorities as well as women and vulnerable social groups. It should be said as well that the scope of such groups is limited and does not, for example, include Dervishes or Baha'is. Also, the recognized groups enjoy a narrow range of recognition including legal rights, holding their self-government, own rituals, and so on. At the same time, some of such groups as religious and language groups enjoy a wide recognition in some ways such as having an access to public arenas, but deepening or expanding such a recognition may make the sense of belonging of those socio-cultural groups to a larger society stronger and, as Parekh points out, help political and socio-cultural enrichment in the society (Parekh, 2000: 205).

Duties and Commitments of Socio-Cultural Groups in the IRI Constitution

Citizenship rights and duties are the two sides of one coin. That is to say, a person's rights determine the scope of another person's duties and the first person's duties determine the scope of the second one's rights. Hence, the cultural citizenship without commitments and duties is not only incomplete but also fundamentally infeasible (Delanty, 2000: 9-10). In this sense, the same principles, including public and specific cultural rights, determine the scope of mutual duties and commitments. At the same time, there are articles in the IRI Constitution implying specific duties and commitments. Yet, such articles mostly regard duties and commitments of the state. For example, we can refer to Articles 3, 21, 28, 29, 30, 43, and 49. However, there are articles indicating duties and commitments of citizens and the state together. For instance, Article 8 considers *al-'amr*

bilma'ruf wa al-nahy 'an al-munkar (calling to the good and keeping from the evil) as a universal and reciprocal duty that can set a relationship between people together and between the nation and the state. It seems that it not only makes supervision of people by the state possible but also provides the ground for supervision of the nation over the state. This article has also been derived from original teachings of the holy Quran.⁵ Of course, it is not clear whether or not it involves all socio-cultural groups. At least, in a limited interpretation, it can involve all Muslim socio-cultural groups and provide the ground for their active participation in public arenas. At the same time, not only does it recognize the possibility of public control over rulers but also it reminds them of their responsiveness and responsibility (Haqiqat, 2008: 61). Article 40 states that "no person may exercise his own rights as a means of constraining others or violating public interests". Article 46 reminds that "everyone is the owner of the benefits of his legitimate business and labor, and no one may deprive another person of the opportunity of business and work under the pretext of his right of ownership." These two articles determine the limitations of freedom of citizens in public arenas, which is somehow similar to the *negative liberty* in the thoughts of Isaiah Berlin (Berlin, 1992: 282). At the same time, these articles represent a combination of public and individual duties. Article 50 represents the environmental commitments of citizens. It points out that environmental protection is a public duty and destroying or polluting of

⁵ For instance we can refer to the following examples: Surah Surah Al-Imran, 104; Surah Luqman, 17; Surah Al-Imran, 110; Surah Al-Imran, 114; Surah Araf, 157; Surah Tubah, 71; Surah Tubah, 112; Surah Hajj, 41;

the environment is forbidden. Indeed, the article refers to the principle of sustainability in green citizenship (Dobson, 2000: 221). Article 51, which regards paying taxes, makes no distinction among citizens. Also, as socio-cultural minorities have the right to refer to competent courts, according to Articles 61 and 159, they are obliged to pursue their complaints through formal courts of the country. The interesting point is that the duties and commitments of socio-cultural groups are general and include all the cases which all other citizens have to follow. In this sense, such duties and commitments are measured based on the underlying citizenship structure in the IRI Constitution (that is, the principles of the Islamic Republic of Iran including Islam, Shiite school, independence, territorial integrity, national security, and the authority of Faqih).

Participation of Socio-cultural Groups in the IRI Constitution

According to the wide recognition policy, the possibility of participation of all socio-cultural groups in political, social, and cultural structures is a part of cultural citizenship. Yet, it is not clear whether participation is in the category of citizens' rights or their duties. In any case, we can observe certain articles and clauses in the IRI Constitution which regard public and particular participation of socio-cultural groups. For example, in Clause 8 of Article 3, we read "the state is obliged to provide the ground for the participation of all people in determining their political, economic, social, and cultural destiny". This clause involves all kinds of citizenship for all people and groups, and, at least as a limited interpretation, obstacles of participation of people and socio-cultural groups in

determining their own destiny is legally removed by this article. Clause 15 of the same article demands for "the expansion and strengthening of Islamic brotherhood and public cooperation among all the people". This article which has an Islamic origin⁶ reminds once again the most important citizenship infrastructure, namely Islam. Also, like new civic republic citizenship theories, it establishes a direct relationship between social solidarity and participation (Schwarzmantel, 2003:, 15). Article 56 emphasizes the right of humans for determining their own destiny as a divine and unquestionable right.⁷ It seems that, in contrast to modern social conventions which consider the right of determining destiny natural, this article attributes it to the status of God's vicegerent of human.⁸ Yet, it is not clear if the principle

⁶ For example, Surah Maidah, Verse 2:

And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty.

⁷ For example, in Verse 120 of Surah Maidah, we read:

To Allah belongs the dominion of the heavens and the earth and whatever is within them. And He is over all things competent.

⁸ For instance, in Verse 30 of Surah Baqarah, we have: And [mention, O Muhammad], when your Lord said to the angels, "Indeed, I will make upon the earth a successive authority." They said, "Will You place upon it one who causes corruption therein and sheds blood, while we declare Your praise and sanctify You?" Allah said, "Indeed, I know that which you do not know."

Of course in other Verses, reference is made to the status of God's Vicegerent of human. For example, Verse 69 of Surah A'raf reads:

[This is] a Book revealed to you, [O Muhammad] - so let there not be in your breast distress therefrom - that you may warn thereby and as a reminder to the believers.

Verse 14 Surah Yunus:

of God's inheritor involves all people regardless of their gender, religion, ethnicity and so on or only includes Muslims.

In Article 59, "direct recourse to popular vote through a referendum" has been represented as one way for political participation. Since, in this article, there is no restrictive limit, public participation can be derived from it. Article 62 is about "direct and secret ballot with which to elect representatives of people in the Islamic Consultative Assembly". This article implies a maximum participation (at least with regard to electors), but it seems that the requirements set by the law for those who are going to be selected are derived from the citizenship infrastructure in the Constitution, which are Islam and nation (Hashemi, 2004: 82-94). Hence, it is a public participation to some extent.

Chapter 7 of the IRI Constitution, which is dedicated to councils, can provide the ground for participation of citizens in controlling the issues of their own locality. For example, Article 100 states that "Members of villages, divisions, cities, municipalities, and province councils will be elected by the people of the location in question". It seems that this article is half the way between narrow and wide recognition policies which, in turn, provides the ground for active participation of socio-cultural groups in the political and cultural structure of regions. At the same time, it can lead to a participation that is based on "equal respect policy" and is not ignorant of differences (Taylor, 1994: 61-62). This article can

implicitly provide the grounds for maintenance and flourishing of local traditions, rituals and cultures. So, it can lead to a multilayer citizenship according to which citizens can establish connections, in their underlying layers, with their local culture and, in higher layers, with the general culture of the society (Lister, 1997: 196).

Article 115 of the Constitution which regards requirements of presidency is one of the most controversial articles in the IRI Constitution. It states that the president must be elected from among religious and political personalities possessing certain qualifications including Iranian origin, Iranian nationality, administrative capacity and resourcefulness, good past record, trustworthiness and piety, conviction in the fundamental principles of the Islamic Republic of Iran, and the official religion of the country. It is, above anything, derived from the underlying layer of citizenship in the Islamic Republic of Iran (that is, being Shiite and Iranian) and, accordingly, limits the scope of participation in presidential elections. It seems that religious minorities are excluded from this scope automatically. However, there remains the question of whether women can be elected as president? In this regard, at least two interpretations can be presented both of which result from the etymology of the word "Rijal" (literally meaning men). In the first interpretation, *Rijal* is perceived as meaning men (Rostami and Musapour, 2011: 227). It seems that this interpretation has been applied in twelve presidential courses so far. Yet, the masculine structure of politics during Iranian history strengthens this kind of interpretation. In the second interpretation, *Rijal* is taken as a common word meaning

Then We made you successors in the land after them so that We may observe how you will do.

Or Verse 62 of Surah An-Naml:

He makes you inheritors of the earth

'people' (Mardom) which involves both men and women. In any case, it seems that the article is still limited because, even in the second sense of the word Rijal, many people belonging to minority socio-cultural groups are prevented from achieving high levels of political power. So, the article is consistent with centralized cultural policies which have been formed at least around men, the Shiite, and the tight circle of the ruling powerful people. In general, it seems that, in the IRI Constitution, participation in public arenas is more accessible for ethnic and local groups than for other minority groups. At the same time, the issue of participation of such groups can be followed as a subset of public participation.

Accordingly, it may be said that participation of social groups such as women and the disabled in political arenas is not faced with fundamental legal barriers. However, there seems to be two main barriers in this regard; first, the political interpretations made of their participation by power institutes and, second, treatment of public culture which, because of historical beliefs, has not experienced much of political participation of these groups.

In general, in constitution, power belongs largely to religious traditional groups (like Leadership and Guardian Council) rather than modern groups (like Parliament and Presidency). For example, according to Article 110 of the constitution, general politics of IRI are defined by leader; or according to Article 112, Experts of Leadership -a traditional group- consists of religious men just right to determine and supervise the leader. Also, according to Articles 94 and 96, sanctioned laws or regulations of parliament should be vouched through the Guardian Council based on constitution. Moreover, according to Article

99, the Guardian Council has a holistic surveillance over election processes. As a result, such groups supervise the contribution of social and cultural groups.

Conclusion

This study was conducted around the question: what -solution can be proffered to the Constitution of the Islamic Republic of Iran on how to organize the variety of socio-cultural structure of the Iranian society? Apparently, the solution to this problem is a combination of cultural policies concentrated in the underlying layer and narrow recognition policies in the top layer. In other words, the IRI Constitution is based on the culture of majority in the underlying layer which is raised to a high degree from Shiite school in particular, and Islam, Iranian nationality, Persian language, and patriarchal culture in general. At the same time, in this underlying layer, the superiority of men over women and the ruling elite over other social classes is observable. Also, narrow recognition of ethnic, language, and religious groups as well as that of women and other vulnerable groups (such as the disabled, the elderly, children without guardians, and so on) can be observed in the upper layer. Yet, such recognition depends generally on the same underlying layer as was the result of historical, political, and cultural exploration in the Iranian society. Hence, socio-cultural groups raised from new religions such as Baha'is are not recognized. At the same time, women are protected generally and not necessarily as a particular socio-cultural group. Yet, with regard to access to political power at high levels, they are faced with serious barriers both legally and culturally.

In the Constitution of the Islamic Republic of Iran, there exist both narrow

and wide recognitions of socio-cultural groups. For example, it contains particular articles to remove discrimination from socio-cultural groups such as women, religious minorities and vulnerable ethnicities and classes. However, there still exist restrictive articles. Accordingly, not only should the barriers of formal equality be resolved, but the socio-cultural barriers of their access to public and private rights should be eliminated too. It can be said that attention to social and economic prerequisites of cultural citizenship is one of the strengths of the IRI Constitution. However, its weakness is ambiguity in the scope of inclusion of cultural citizenship. Generally, the Constitution of the Islamic Republic of Iran has not proposed a new pattern for the solving problem socio-cultural diversity, but merely in the predominant cultural frame has identified several groups restrictedly. Although the constitutional solution has similarity with modern culture citizenship, but for some citizens (Including ethnic, religious and sexual minorities) do not consider the necessary autonomy.

Another point of significance is that realization of perfect cultural citizenship in Iran involves fundamental arrangements and prerequisites, one of the most important of which is deepening the citizenship in the public culture. In simple words, inclusive and stable citizenship is not formed unless traditions, rituals, and social values gain authenticity with rights and duties of cultural citizenship. Without changing the culture, and if the rules remain incomplete, cultural citizenship cannot be realized. Yet, it seems that the way to change the culture is neither compelling from the upper powers nor left to the invisible hand of history, but

there is a need to have *Praxis* in public arenas. As Turner states, citizenship is a Praxis of civil, legal, judicial, political, economic, and cultural aspects in a political society (Turner, 1993: 2-3). Hence, if a movement is not formed and expanded to gain citizenship rights inside the Iranian society, not only will the legal barriers for cultural citizenship in the IRI Constitution be eliminated but also the existing capacities cannot be used appropriately.

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شهروندی فرهنگی در قانون اساسی جمهوری اسلامی ایران

محمدعلی توانا^۱

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چکیده

جامعه ایران دارای گروه‌های قومی، زبانی، مذهبی، دینی، جنسی و اجتماعی متفاوت است. حال این پرسش طرح می‌شود که قانون اساسی جمهوری اسلامی ایران چه راه حلی برای سامان‌بخشی به این ساخت فرهنگی و اجتماعی متنوع ارائه داده است؟ مقاله حاضر از نظریه‌های شهروندی فرهنگی متاخر به عنوان چهارچوب نظری برای تحلیل راه حل قانون اساسی جمهوری اسلامی ایران بهره می‌برد. این مقاله از روش انطباق مورد با نظریه بهره می‌برد. مهمترین یافته این تحقیق را می‌توان چنین بیان کرد: قانون اساسی ج.ا.ا. برای مساله تنوع فرهنگی و اجتماعی راه حل دو لایه ارائه می‌کند؛ در لایه زیرین سیاست فرهنگی متمرکز حاکم است که خود حاصل غلبه فرهنگ اسلامی، شیعی، ملی (ایرانیت)، فارسی و مردسالارانه بر فرهنگ‌های دیگر است؛ در لایه روبنایی ترکیبی از سیاست شناسایی گسترده (به‌ویژه در حوزه قومی و زبانی) و سیاست شناسایی نحیف (به‌ویژه در حوزه دینی، مذهبی، زنان و گروه‌های اجتماعی آسیب پذیر) قابل شناسایی است. اگرچه راه حل قانون اساسی جمهورس اسلامی ایران شباهت‌هایی با شهروندی فرهنگی مدرن دارد، اما خودمختاری کامل را به برخی از شهروندان (از جمله اقلیت‌های قومی، مذهبی و جنسی) اعطا نمی‌کند.

واژه‌های کلیدی: شهروندی فرهنگی، تعدد فرهنگی و اجتماعی، سیاست فرهنگی، سیاست شناسایی.

۱. دانشیار علوم سیاسی، گروه حقوق و علوم سیاسی، دانشگاه یزد، یزد، ایران. tavana.mohammad@yahoo.com