

## A LOOK AT JUSTICE CONDITIONS ON DIFFERENT IRANIAN ETHNICS IN ISLAMIC REPUBLIC OF IRAN'S CONSTITUTION (BASED ON DISTRIBUTIVE JUSTICE)

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### ABSTRACT

Iran is a multiethnic country including various ethnic, linguistic, and religious groups. Persians, Azeris, Turkomans, Kurds, Lors, Baluchis, and Arabs as the well-known ethnics of Iran are scattered throughout geography of Iran. Constitution as a supreme law with a main purpose of providing justice illustrates distributive justice in different articles including the articles 15, 19, 20, 28, 29, 30, 31, and 43 and regards all the Iranians equal share for possession of economic and social rights. Distributive justice esteemed as social-economic justice is a concept whose background refers to the old history and in a modern concept; it seeks the government guarantee for distribution of country's wealth throughout the whole community in a manner that all the citizens hold a certain value of worldly facilities concerning their rights. The current descriptive-analytic study having been performed in the context of library research is performable in terms of purpose, because its findings could be effective in the decision and policy making. This research seeks to answer the significant question that whether the distributive justice of Iran's ethnics is of any importance to the constitution of Islamic Republic of Iran or not. According to the results of this work, despite the stipulation of equality principle by constitution, distributive justice of Iran's ethnics is not performed except for some cases. Besides, the constitution lacks the required explicitness and includes some ambiguities.

**Keywords:** General law, Constitution, Justice, Distributive justice, Iranian ethnics.

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### INTRODUCTION

Iran is a country with a glorious civilization and vicissitudinous history and has been experiencing a wide range of language and ethnic diversity from the old to now due to the political, geographical, military, scientific, and cultural causes. Therefore, one could define it a diverse society with individual specifications, as Aghajanian said (1983, p. 24). Inequality and its causes throughout the various levels of society and among ethnics have been evaluated. Among the studies of this field, one could mention the below cases: Ali Yousefi and Ahmad Reza Asghar Pour Masouleh in the article "Ethnocentrism and its effects on interethnic relationships in Iran" came to the conclusion that ethnocentrism is a kind of cultural perception that according to this, an ethnic's members see their values, norms and lifestyle superior to those of other ethnics. Data from the study on eight Iranian ethnicities including Turk, Kurd, Lor, Arab, Baluchi, Turkoman, and Talesh indicate that ethnocentrism is highly prevalent in all the Iranian ethnics. Meanwhile, the highest and lowest ethnocentrism, respectively, belongs to Baluchis and Arabs. Ethnocentrism, on the one hand, weakens the social, cultural and economic aspects of the coexistence relationships, and on the other hand, intensifies the relational conflicts among ethnics. Ezzat-ullah Ezzati and Jamal Ahmadi Silveh in an article titled "Regional analysis of ethnicity crisis in the Middle East highlighting the Kurd ethnic" dealt with ethnocentrism and ethnic crises resulted from centralization system and developmental system and inequality of developmental opportunities in the ethnic areas of the country, and Central government functions from the beginning to the formation of Islamic Republic of Iran. They studied the effects of this inequality on the Kurd ethnic. As a result, they found that the central governments functions facing protests and riots in the Kurdish region were unacceptable and devoid of any appropriate resolution to fill the existing gap that was along the protection of sovereignty and reinforcement of ethnocentrism. Their paper named "Study of relationship between national and ethnic identity emphasizing on feeling of deprivation and ethnic sociability, case study of Azeri, Kurd, and Arab students" pointed out that one of the feeling of partial deprivation manifestations is feeling of discrimination, and three social, cultural, and economic discriminations lead to

feeling of deprivation. The major assumption is that feeling of relative deprivation is the prerequisite of violent civil tensions. When the feeling of deprivation in an ethnic is intensified, and the ethnic members think that their language, culture, and values are about to be targeted and transformed, their tendency to protect the ethnic culture and traditions is heightened. This manner is appeared in the ethnocentrism form in a normal state, according to Kohneh Poushi (2014, p. 8). In the paper "Ethnic discrimination in Iran's Kurdistan after Islamic Republic of Iran" analyzed the ethnic discrimination that after 1979 revolution was enforced on the Kurdish regions. In this article, ethnic discrimination imposed by central government is considered the major reason of deprivation and backwardness of Kurds. Along this, distinctiveness and differences are effective in the ethnic discrimination intensity, this means that when the ethnic groups in terms of cultural and social features including language, religion, and suchlike, differ greatly from the central government, the discriminative policies are enhanced as well. The discriminative policies of central government in the various fields and evaluation of their intensity among Kurds, on the one hand, contributed to a growth of wealth and social class for Persians and to some degree for Azeris; on the other hand, for other ethnic groups (Kurds, Baluchis, and Turkomans), this ominous social phenomenon entailed poverty, seclusion and poor social prestige, obeying, weakened language, and lowered political and economic powers. This research faces three key concepts that are reported before proceeding to the main discussion.

### Constitution

Constitution is defined as a series of total regulations and rules that specifies the government configuration, the formation of triple powers of government and the relationships among them, also people's freedom and rights relative to the government, as Nazarpour (2011, p. 9) asserted. Of course, there are other definitions on constitution as well. Among them, one definition says that constitution in its general sense is applicable to all the positive or common statutory or non-statutory regulations and rules that pertain to its power, transmittance and performance. According to this, the dominant principles and standards over people's political interactions in relation to the government and

the country's political institutions and the way of their adjustment in addition to quality of power distribution among governors are among the regulations of constitution. By Mattias (2016, p. 914) statement, this constitution, on the one hand, determines the boundaries of an individual freedom against power actions, and on the other hand, delimits the general powers enforcement encountering the domain of individual rights. Given the mentioned definition, one could find no community-country or government-country lacking a constitution.

Creation of constitutions in the non-Iranian world that is also known as constitutional revolution is resulted from the French revolution in which lower class people rioted against tyrant and autocratic aristocracy and arrogant monarch and gradually made a statutory law dominant over the ruling and obeying structure. This belief that the only way to rescue from lawlessness and despotism is moving on to democracy and freedom made the revolutionists striver and believer in drafting a constitution more than before, in accordance with Khalili (1969, p. 102) and Whatmore (2008, p. 29). Constitution of Islamic Republic of Iran is a law integrated with the religious instructions, particularly twelver shi'ism and is extracted from the votes of Muslim people. Integration of this law with Islam (Shia) and democracy is understood as the most significant features and its difference with other constitutional law.

In the 1979 winter and before the victory of Islamic Republic of Iran, the thought and idea of drafting a constitution were suggested by Ayatollah Khomeini while Pahlavi monarchy was likely to be toppled each moment. On January of 1979, for the 1<sup>st</sup> time, Ayatollah Khomeini spoke clearly his mind about drafting a constitution of Islamic Republic of Iran.

It is said that when Ayatollah Khomeini had been living in exile in Paris, the primary draft of constitution was prepared at his command and under the management of Dr. Hassan Habibi. After victory of Islamic Republic of Iran, this draft was scrutinizing evaluated and criticized by some of the wise jurists and specifically the lawyers. Following that, the secondary draft was provided in the presence of the lawyers including Naser Katouzian, Naser Minachi, Seyyed Mohammad Khamene'i, Hassan Habibi, and others. On February 4, 1979, the provisional government of Mehdi Bazarghan was assigned to establish constituent assembly elected by people to write the constitution, Beheshti Seresht and Saber (2014, p. 31) stated.

On August 3, 1379, assembly of experts' election was held and the picked people started to draft the constitution from August 19, 1379. After about 3 months, ultimately, on November 19 of the same year, drafting of the constitution was finished and published by Kayhan newspaper after 2 days namely November 21. On December 2 and 3, constitution referendum was held and the constitution was ratified following the approval votes of the supermajority of people (98.2%). The constitution ratified in 1979 consists of 175 articles and 14 chapters mentioned below:

1. First chapter: General principles
2. Second chapter: Official language, script, calendar, and flag of the country
3. Third chapter: The rights of the people
4. Forth chapter: Economy and financial affairs
5. Fifth chapter: The right of national sovereignty and the powers deriving therefrom
6. Sixth chapter: The Islamic consultative assembly (the legislative power)
7. Seventh chapter: Public councils
8. Eighth chapter: The leader of leadership council
9. Ninth chapter: The executive power
10. Tenth chapter: Foreign policy
11. Eleventh chapter: Judiciary
12. Twelfth chapter: Radio and television
13. Thirteenth chapter: Supreme council for national security
14. Fourteenth chapter: Revision of the constitution, by Mansour (2014, p. 5).

A decade after the constitution ratifying, due to the reasons like unclear authority domain of executive power and necessity of resolving the assembly conflicts with guardian council, on April 24, 1989, Ayatollah Khomeini determined the members of revision council for constitution and on July 28, 1989, 45 articles of constitution articles ratified in 1979 were revised and published into a reformation's appendix, alterations and complement of the constitution. Subsequently, this revision was put on a referendum simultaneous with the presidential election and was confirmed by the majority of the voters. Some cases as removal of the marja'yyat qualification from the leadership position, an increase in the leader's authorities, converting the guardianship of the Islamic jurist into the absolute guardianship, guardian council authorities increase, the national consultative assembly changing to the Islamic consultative assembly, and eliminating the prime minister position were the reformed affairs.

Constitution as a superlative legal document of the country is the preparation, adjustment, and writing base for other laws, it determines the political, cultural, economic, foreign policy principles, and structure and boundaries of the political power in addition to guaranteeing the people's rights. Therefore, along the accomplishment of this affair, it is bound to justice establishment throughout the society members of any language and ethnic.

### Justice and distributive justice

The concept of justice is regarded as one of the main humanity values over which there is a relative agreement among humans and communities. The public acceptance of justice leads this concept to possess specific epistemological property, so that one could find its effects in the fields of knowledge and sciences such as jurisprudence and legal affairs, economy, social psychology, anthropology, politics, philosophy, sociology, and literature. Philosophers like Plato had been regarded the society stable not only on the justice fundamentals but also on the internal discipline. Justice in its literal meaning is equality and opposite to tyranny and cruelty. Dr. Motahhari defined the word "justice" in his book "Divine Justice" in four meanings:

1. To be concordant: It means coordination and concordance among the members of a collection; here justice in economy means moderation and observing the moderate manner
2. Equality and removal of discrimination: This means observing equity among people when they hold equal talents and competencies
3. Observing the people's rights, and rewarding and privileging them based on their participation (social justice)
4. Observing the qualifications or the very meritocracy, based on Motahhari (2007, p. 56) statement. Justice includes two general and special meanings. In general sense, it means social piety and in special meaning, it sees people and things equal and its purpose is not always providing the mathematical equity. Observing moderation between advantages and disadvantages of individuals' duties and rights is of great importance. Resting on Katouzian (2014, p. 37) saying, accordingly, one could say in definition of justice that "justice is a virtue based on which everyone who merits something, should be given." This definition and a word said by Imam Ali (P.B.U.H) on justice have a lot in common. When Imam Ali (P.B.U.H) was asked about superiority of justice, generosity and munificence, he answered: «العقل يَضَعُ الْأُمُورَ مَوَاضِعَهَا وَ الْجُودُ يُخْرِجُهَا مِنْ جِهَتِهَا وَ الْعَتَلُ سَائِسُ عَالَمٍ» "justice is superior to generosity, because justice returns everything to the place where it belongs" (It is reasonable that many ulema interpreted justice as «وَضَعُ الشَّيْءِ فِي مَكَانِهِ»: "to set everything in its place") and generosity and munificence mislead it and justice is a general and comprehensive law.

If moral justice is meant to be the moderation of all the powers of self and doing the specified duties by each of them and obeying the wise power by the sensual and wrath powers, if political justice means that each of the social classes does their specific assignments; if economic justice is dividing the wealth and facilities among people in accordance with their qualifications devoid of extremity, and if social justice is applicable to the people enjoyment of their rights, all

these meanings conform with the mentioned definition, Atrak (2013, p. 117) claimed.

Aristotle tried to realize the justice concept relying on logical principles through scientific analysis. From the Aristotle's point of view, in a common sense, justice means moderation of all things including all the virtues and middle behaviors. Because, everyone who commits a misdeed is a cruel, and in a special sense, it observes the equity and is a virtue based on which everyone who deserves something, should be given, according to Katouzian (2010, p. 65). This definition is accepted by the earlier Roman jurists including Ulpian and Digeste, and Cicero added a clause to this definition to the effect that "everyone should be given what he or she deserves provided it does no harm to the public profits. Moreover, some scholars see justice as a system in which with two opposite interests, the more valued interest is preferred. On the other hand, justice is nothing but the equity, and advantages and disadvantages coordination caused by transactions, and government does not partake in wealth distribution and qualifications or competencies but rather the people themselves prove their qualifications and this is in accord with commutative justice definition. In Aristotle's opinion, by a fair distribution, people receive rewards and values as much as they deserve. In fact, based on Aristotle's belief, distributive justice means that equality of people in the eyes of society is not absolute but rather matches people's shares in serving the community, resting on John Rawls (2006, p. 4) opinion.

The American philosopher believed that every person possesses an invulnerable aspect that will not be hurt even because of the public profits. According to Rawls, justice is removing the uncaused privileges and creating the real balance among different desires of people in the structure of a social institution. Rawls pointed out in his book that justice is reckoned as the fundamental virtue of the social institutions like truth is the fundamental virtue of intellectual systems. This situation should be evaluated or revised. Moreover, the laws and social institutions should be reformed or moderated apart from that to what extent they are functional and well-organized, in accordance with Lovett (2017, p. 48). Against liberal theories, pluralism, or socialistic theories govern in favor of equity and avoid what justifies inequality. Thomas More, Louis Blanc, Saint Simon, Fourier, and Owen are among those who thought over the topic of injustice before Marx. The major pluralism theorist, Karl Marx, considered justice in socialistic community on this basis that everyone benefits from the facilities according to his/her requirements. He regarded a distribution as a fair issue that is based on true requirements of people not on the talent-based qualifications. From Marx's point of view, capital system has changed human nature by its inhuman laws and made him/her a slave. This is understood the uppermost injustice, because it leads production to profit not to the true requirements of human being.

Distributive justice is a system in which the government on the basis of principles should get involved in rights and duties determination, suitable distribution and division of social profits and wealth as a beneficiary. The most significant kind of justice is social-economic justice that is interpreted as distributive justice. Lashkari, (2020, p. 226) and McKee (1981, p. 1) claim that importance of justice and its situation is so high that providing social-economic justice is the major philosophy in formation of government in Islam.

Purpose of fair distribution is balanced allocation and division of natural wealth and economic incomes among people in community, in a manner that everyone obtains his/her true share and receives the results of his/her economic activities. Indeed, there are other definitions, too. For example: Distribution is applicable to an income allocation that is conducted following the agreed transactions with all parties in the market. Or it is said that: Distribution consists in products division among those who are the participants in the production process. Consequently, by Hadavi Nia (2019, p. 4), one could state that fair distribution theory is about to answer this question that how to perform the balanced allocation, and division of natural wealth and

economic incomes among the community members? Distributive justice in its modern sense demands that the government guarantees that distribution of wealth throughout the community is done in such a way that all the people receive a certain value of worldly facilities. The current discussions on distributive justice focuses on the topic that to what extent the facilities should be warranted and to distribute these facilities, to what extent the government should participate in. These two issues are correlated.

Nowadays, distributive justice most of the time consists in distribution of wealth, incomes and opportunities. Distributive justice is a principle and standard that dominates the wealth and social assignments distribution, based on Arabi (2015, p. 2). About the theories of distributive justice, Badini (2014, p. 501) stated that much effort is needed on fair distribution of advantages and disadvantages throughout community members through appropriate social and legal institutions.

In general, three foundations are assigned as follows:

1. Whatever that is distributed
2. Those people who are given the distributed things
3. The pattern and standard through which the distribution is performed.

In addition to the aforementioned elements, participation of government could be added to these foundations.

#### Iranian ethnics

Although there are some disagreements over ethnicity definition, by comparing the known definitions, a relative constant definition of this concept could be achieved. Many believe an ethnicity or an ethnic group is a collection within a greater community possessing a real or imaginary common race, memories of the common past, cultural emphases on a couple of symbolic elements such as language and religion based on which identity of the group is defined, according to Ahmadi (2003, p. 37).

Iran has a combination of various ethnics in its historical context due to being a pathway of historical migrations. The land of Iran in terms of language and ethnic diversity with a 26 % similarity stands on the 16<sup>th</sup> status across the world, Eftekhari (1998, p. 43) suggested. Although a high percentage of Iran's population belongs to Persians, existence of six main ethnicities of Turks including Azeris, Qashghaies and Turkomans, Kurds with Soranis and Kurmanjis, big and small Lors, Arabs, Gilaks and Mazanderanis within this national unity and their amazing effects on the historical evolutions flow are undeniable realities.

#### RESULTS

##### A look at the distributive justice of Iranian ethnics in constitution of Islamic republic of Iran

As mentioned before, distributive justice includes social justice and economic justice. Provision of educational fields such as schools, universities and educational centers construction, health services such as construction of health clinics, hospitals and generally medical centers and health houses, fair distribution of wealth and welfare services, the just distribution of governmental posts, safety provision, providing or support of providing a suitable house, non-obstructing for education and development of ethnic language, non-offering of excuses for religious activities are among the most significant elements and indicators of distributive justice. Mousavi and Modiri esteemed the most remarkable elements and indicators of social justice as mentioned below:

1. Equal opportunities for social activities
2. Equal access to social opportunities and positions
3. Governing law for all the people
4. Equal access to health, medical, welfare and entertainment facilities
5. Equal enjoyment of safety against physical, spiritual and mental threats
6. Equal access to cultural services and facilities like education, based on Mousavi and Modiri (2014, p. 23).

Social justice is one of the implications of justice concept. Social justice concept relies upon the principles of equity, solidarity and understanding the human rights values to recognize officially the status and dignity of humans. In view of Mousavi and Modiri, the most important indicators of economic justice are four items represented below:

1. Access to equal opportunities for use of facilities and resources
2. Equal access to economic posts and positions
3. Fair distribution of wealth and incomes by creating of welfare and urban facilities, etc.
4. Suitable amount of working for all the people and equality of them for having favorable working conditions.

Equality of economic conditions does not mean that the government deals with people in a same manner, hence, impact of government on people could seem completely unequal and at the same time justifiable. Creation of conditions based on which the community members could have an active role requires embarking on different strategies and policies for different groups of people. For instance, it is necessary to deal differently with those who possess a huge amount of productive assets. Shafiei Far (2005, p. 58) proposed that some perceptive people of this arena suggest that a procedure should be taken to both removal of bad conditions of the weak and limitation of power domain of the powerful. That nowadays political and legal leader have come to conclusion that, for example, subsidy payment to higher deciles and astronomical incomes holders is not fairly justifiable but rather is a cruel to lower deciles and that the government requests the middle deciles to withdraw from subsidy in favor of the poor, are in the same line with the distributive justice. Some of the rights which are considered along the distributive justice by the constitution are mentioned below:

#### **The right to regional dialect speaking and education**

It seems incorrect to call Iran's various ethnics minority, because all they are from Iran and could use their dialect and ethnic language in publications and mass media and teach the related literature in the schools of their region, although Persian is the official language and script of all the Iran's ethnics. 15<sup>th</sup> article of Iran's constitution says: "Persian is the official and conventional language and script of all the Iranians. Documents, correspondence, official texts and textbooks should be written in Persian, however, usage of regional and ethnic languages in publications and mass media and teaching of them along with Persian language in schools is authorized." The right of Iranian ethnics to use the dialects and regional languages is recognized.

About regional languages, it seems that Arabic language as the spoken language by Khouzestan Arabs and some cities of the Persian Gulf beaches does not face specific limitation and sensitivity. In addition, publications, magazines and books in the Arab regions also in religious cities like Mashhad and Qom and even in Tehran (such as Kayhan Al-Arabi and Al-Vefaq newspapers, and Al-Tahirah and Al-Wahdah magazines) are published into Arabic language. However, other regional languages have no such a good fortune and chance, and although based on constitution, teaching and learning them are legal and authorized, in some regions there are difficulties on this issue. Two Turki and Kurdi languages are strictly limited. It appears that Turki language (particularly strong and pure Turki that is similar to dialect of Azerbaijan Republic) is under control more than Kurdi language.

#### **The right to housing**

Having a house is among the most important rights and the 31<sup>th</sup> article of the constitution is allocated to this topic. This article declares: having a suitable house matching the needs is a right of every Iranian person or family. The government is responsible for paving the way for this article performance giving priority to the needy such as villagers and workers. This term "every Iranian person or family" itself is somewhat vague. The term "every person" is not clearly illustrated. Does this mean every Iranian adult including a man or a woman? Or does it mean only a married man and a head of household? At first sight, it seems that it means every Iranian single man or woman. If so, the constitution

has declared that every Iranian single man or woman has a right to have a house, too. But in practice, the government does not esteem itself responsible for providing a single man or woman with a house. Simultaneous with writing this work, the 13<sup>th</sup> government legislated a project named "National House Plan" and registered the houseless people. In this national plan, only single men will enjoy this privilege provided that they get married after registration or before the time of the house delivery. The question is that are not the Iranian single men for example the 40-year-old men considered as Iranian persons? Does the term "Iranian family" deprive the single men of having a house? If so, according to the letter of the constitution, having a house is the indisputable right of any Iranian married person or basically any Iranian family.

#### **The right to education**

The 30<sup>th</sup> article of the constitution asserts that "the government is duty-bound to provide the free educational tools for all the people until the end of high-school period, and develop the educational tools for higher education for free to the extent of the country self-sufficiency." The constitution in this article appoints the government to provide the students with the educational tools until the end of high-school course. The terms "educational tools" and "higher education tools" in this article are unclear and ambiguous to be meant. Do they mean educational equipment, places, spaces or teachers, and instructors? Does the constitution assign the government to provide, for example, the stationery, textbooks, and uniforms for students of schools and universities for free? This is while in some deprived regions of country where the ethnics such as Kurds and Baluchis mainly reside in, there is no any suitable and standard educational place or space, and the students are educated in an outdoor area sitting on the ground. In some schools of deprived regions, cooling systems in summer and heating systems in winter are severely faulty and the news of the loss of students is every so often heard by people and displayed in national media. Establishment of non-profit and more privileged schools contrasts with the equal education article, Resh and Sabbagh (2016, p. 349) pointed. How are the schools with teaching by faculty members of universities and teachers holding PhD quantitatively and qualitatively equal to the schools of deprived regions with teaching by education corps? This issue even applies to the public exemplary schools, and in accordance with our understanding of the constitution clauses, equity and lack of educational discrimination, establishment of the non-profit schools itself is somewhat undeniable educational discrimination. However, existing of private and non-profit schools (that are nominally non-profit but practically profit) and public exemplary schools are clearly an expressive of discrimination that has been interiorized. Two following states result in discrimination: When education of children is undertaken by the poor parents who can't afford their children expenditures and this is predictable. Therefore, "it is accepted that some of children have no right to education"; and whenever the education is entrusted to the rich parents, discrimination dilemma in enjoyment of education is still existed. In fact, the rich parents try to choose the best and high-priced educational centers.

In first clause of 43<sup>th</sup> article of constitution, after house, food, clothing, health, and curing, education is regarded as a basic need and the government is duty-bound to provide it. According to article 3, Islamic Republic of Iran government is responsible for reaching all the purposes of article 2 by usage of all the facilities for the issues like the below:

Education is mentioned explicitly in the clause 3 from article 3 and implicitly in the clause 4 from article 3 of the constitution. Based on the 3<sup>rd</sup> clause of article 3 "free education and physical education for all the people of all classes and facilitation and generalization of higher education," and according to the clause 4 of the same article "empowering the investigation, research and creativity spirit in the whole scientific, technical, cultural and Islamic fields through establishing the study and encouragement centers for researchers" have drawn a lot of attention. Some governments -rightly- esteem public education as one of the general goods, and in view of the Islamic

government, public education is the most important general goods. On the other hand, education is of great importance, because of its direct proportion to poverty decrease. Education can hold more efficiency capacity, promising future, correct balance and also more effectiveness on coordination of people toward employment conditions in some levels of economic and social conditions. In this manner, by acquisition of more knowledge and education, expertise and skill, people with low income can access to the better jobs and more income, and social justice becomes stronger in the society, Lashkari (2020, p. 209) said. On the basis of a table which represents the indicators and grades of Iranian provinces on educational development in 2011, Kurdistan Province with index 72.2% is in grade 29, Sistan and Baluchistan Province with index 63.0% stands on 30<sup>th</sup> grade, Loristan Province with index 77.1% holds the grade 26, Khouzistan Province with index 72.9% has the 16<sup>th</sup> grade, and east Azerbaijan with index 78.8% owns the grade 18, Gaffari and Shariati (2019, p. 14) suggested.

### The right to health and curing

Healthiness and well-being are reckoned as agents for happiness, welfare, felicity, and a great neglected divine blessing. Governments see healthiness as fine goods, in addition to this, healthiness prevent notable social expenditures. Healthiness and hygiene are among the rights and "accessibility of all the community members to hygienic facilities is known as one aspect of social justice," based on Muennig *et al.* (2005, p. 64), and healthiness and public hygiene, as mentioned, are considered as rights -human rights- besides being effective on poverty lessening, Nunes (2016, p. 1) stated.

Different articles of the constitution recognize the public right to health, curing services, and medical care. The responsibility for taking care of people's health is reflected in the Islamic Republic of Iran's 20-year vision plan. This plan in addition to describing the features of the Iranian healthy community specifies the items pertained to healthiness. The 29<sup>th</sup> article of the constitution is regarded as the most important protective article of the community health and attaches the enjoyment right to hygienic, public health, curing, and medical care services for all the people. With this article "enjoyment of social security for retirement, unemployment, agedness, disability, neglected persons, needy travelers, medical and health services, and medical care with insurance or suchlike, is a public right." Based on the laws, government is obligated to provide the mentioned services and financial support for every Iranian person from general incomes and the resultant incomes of people participation. It is noteworthy that according to this article:

1. Enjoyment of "hygienic and curing services and medical care" is understood as a right
2. Every Iranian person enjoys this right regardless of ethnicity, race, religion, and faith
3. Presentation of hygienic and curing services and medical care is conducted in the form of insurance
4. Being gratis of these services is not mentioned, also through the term "financial support" one could realize that these services are not completely for free and the government only supports financially
5. The term "social security" does not supervise social security insurance and is a general term and in the related article, the kind of insurance and payment of its expenses are not mentioned. This is while the health status and existence of medical clinics, hospitals, and doctors are not uniform in all the regions, and in some areas of the country that ethnics such as Kurds and Baluchis live in, there is no suitable structure even for health houses -although health houses have no remarkable effect on curing and children health is just included in their planning. The number of hospitals and hygienic centers, and social harms and welfare states in Kurdistan is relatively less than other areas. As field research by Shahid University suggested, provinces of Kurdistan (Kurds), Loristan

(Lors) and Sistan and Baluchistan (Baluchis) are numbered in the complete underprivileged provinces, in accordance with Torabi (2014, p. 26).

In the first clause of the article 43 that states: "Providing basic needs including housing, food, clothing, hygiene, curing, education, and required facilities to start a family for all the people," hygiene and curing are understood among the criteria based on which economy of Islamic Republic of Iran should be established. As it is obvious, in this article healthiness of people is considered as one base of the country economy. It is not surprising, because, economic and industrial developments of a country are only realized in the shadow of healthiness of people including children, adolescents, adults and the elderly. People should be capable of having longevity and physical health by making optimal policies, and generation after generation, both live on welfare and share the construction of a powerful and advanced country with a strong economy. The government as the society representative makes efforts to close the gaps between the health levels among the people from various classes and different regions, and allows access to preventive services for all the people. Likewise, 12<sup>th</sup> clause of 3<sup>rd</sup> article of the constitution assigns the government to create correct and fair economy and generalized insurance. As this article offers, in order to achieve the mentioned goals in article 2, the government is duty-bound to apply all the facilities to structure a safe and just economy according to the Islamic criteria to create welfare and remove the poverty and any deprivation in the fields of food, housing, job, hygiene and insurance generalization. This clause of article 3 only discusses the hygiene topic not curing. Although hygiene is one base of health, what imposes an excessive expenditure on people is curing process not hygiene. The provision that the government emphasizes on is ambiguous and its value, degree and recourses are not exactly specified, even if the provision is accomplished by ministry of health, treatment, and medical training. The insurance that is referred as "insurance generalization" is vague. These days, a percent of people personally pays all the curing expenses and even receive no governmental financial support. First, all the people do not have social security insurance (or other kind of medical insurances), second, "Iranians Health" insurance (as the public curing insurance) costs, too, as much as very poor people can't afford it. In this article and other articles, -at least- provision of public hygiene is entrusted to the government. Hence, the legislator emphasizes: the government is obligated., the government is duty-bound., these obligation and duty bear "ought" concept and surpass the low financial support.

Since the article 29 and clause 1 of article 43 in addition to clause 12 of the article 3 obligate the government in this field, the government allocates some articles of development plan to the hygiene and curing services and dedicates a line in annual budget to this issue. Along this, the articles 31 and 32 of the fifth development plan are appropriated to the health issue that preparation of curing system program of the country by ministry of health, treatment, and medical training is among them. Regarding the vision plan, health, treatment, and medical training ministry is responsible for making efforts in the direction of social justice fulfillment and creating equal opportunities for the entire community. Education of preventive matters, paving the way for curing, elevating of the society members' healthiness, reform of the health system structure of the community, establishment of a responsive system to the providing of fair health services for the entire community, comprehensive and necessary coverage of health insurance, all are among the responsibilities of ministry of health, treatment, and medical training; off course the mentioned responsibilities are performed incompletely. As a result, all the community groups apart from any faith, religion, and ethnicity should be covered by basic services of public insurance, and boundaries and inclusions of this insurance should be obviously introduced.

### The right to working and having a job

As Holloway (1993, p. 41) proposed, the citizens of every country are free to choose a job or occupation in agreement with their taste. As mentioned in the 28<sup>th</sup> article of the constitution: "everyone has the right to choose a job to which he/she tends provided that it matches Islam, public profits, and others' rights. The government is obligated to provide the possibilities of employment and equal conditions for having a job considering the need of society to different jobs for all the people." Based on article 46, everyone owns the income of his/her legal business. In accordance with the article 28, the word "everyone" is general and could be interpreted to "every Iranian person." Concept of "a job to which he/she tends" is ambiguous and unscientific, for, here tendency and desire of the people are esteemed prior to specialty and skill. This raises a question that regardless of faith and religion, can every Iranian person choose a job of interest to him/herself and in agreement with Islam, public profits and others' rights? Of course, no. In this article, concept of job is basically unclear. Are the governmental posts like the management occupation in a ministry or command of armed forces in higher levels numbered in jobs? If so, an Iranian person mainly Sunni (Sunni Kurds, Baluchis, or Turkomans) despite the tendency, desire and even specialty is not authorized to have some of jobs and posts.

This article also confirms that Islam does not object to the jobs people choose. Accordingly, by virtue of this article, no Iranian person has the right to establish a whore house, liquor store, and production of drugs or narcotics in the Islamic society, Movahhedi *et al.* (2019, p. 254) declared. In the 2<sup>nd</sup> clause of the 43<sup>th</sup> article of the constitution, preparation of the conditions and working possibilities for all the people to achieve a perfect employment, and providing the working tools for whom that are qualified to work but lacking the tools are one of the basic principles and economic criteria of Islamic Republic of Iran. This article proposes some recourse such as establishing cooperatives and making interest-free loans.

It seems that what is clearly specified in the constitution is somewhat ideal and unworkable, in actual practice.

Nowadays, the government interferes in the working contracts and consumption in different regions, specifically in the areas where some ethnics inhabit. However, these "novel and growing interferences by the government in contracts, particularly in working contracts and consumption and establishing plan of these interferences in distributive justice instead of corrective justice and hereby achieving the distributive justice through the contracts and the ruling laws over them that were traditionally performed through other ways such as tax system, face severe challenges, and oppositions, as Lotfi (2018, p. 565) and Martin (1992, p. 117) expressed.

### CONCLUSION

Although constitution of Islamic Republic of Iran keeps a stance of equity, lacking in discrimination and opposition to any ethnic partition or disintegration, the reactions - at least about the governments that were elected after the victory of Islamic Republic of Iran - are practically different. Based on policies of the central government, the high-level political positions and posts are rarely appropriated to the ethnics such as Kurds, Turkomans, and Baluchis who mostly believe in Sunni branch of Islam. In contrast, an ethnic such as Turk occupies the highest-level governmental posts. Therefore, one could conclude that the religion matter has a great deal of influence on this issue. Considering the central government structure and emphasis on centralization policy, all the governmental powers belong to central government and the ethnic groups - specifically the Sunni ethnics - are marginalized and this entails economic and cultural under development and backward. Ignoring the ethnics and their rights leads to an ethnic gap. The ethnic gap is the inequality and distance following the granting privileges and rights,

and brings about unbalanced relationships in the political, economic, social and cultural fields, in a way that some ethnics are removed or marginalized at the various levels of society. To preserve the safety, freedom, justice and peace in the relationships among humans and nations, and also for more convergence among the governments in the universalism procedure of penal code, it is essential to reform the regulations of the constitution or Islamic penal code, other laws and regulations that are against innate dignity of humans and legislated based on classic and traditional approach to human being dignity. This goal will not be achieved, unless the constitution, other laws and regulations are revised and it is viable by the juristic reasoning (Ijtihad) for anthropology and Islamology (macro-scale Ijtihad) principles and bases. With respect to this issue that the existent conflict in constitution is directly proportional to the disagreement among different juridical rulings, as long as the conflicts of different juridical rulings are not resolved through making the fundamental Islamic values as bases including justice, freedom, human being dignity, and the historical reinterpretation of the rulings opposite to these principles and values, the conflicts between inside and outside of the constitution remain in force.

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