



## Legal Restrictions on Democracy in the Islamic Republic of Iran

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### Abstract

*Democracy is one of the best practices in the governance of the world. Although this approach has met with some criticism of the ruling party in the world today but has not yet found a replacement for it. It seems that the legal system of the Islamic Republic of Iran has used a combination of democracy, that democracy and religious practices. In this way, it is believed that democracy does not conflict with religious principles can be established for a reconciliation between the two. However, this technique has been crystallizing in Iran today in the principles of the constitution. However, this mechanism is faced with a series of restrictions on the Iranian legal system. These limitations can be examined from both individual and collective. This paper has attempted to explain these limitations by an overview of some of Iran's constitution and statute.*

**Keywords:** Democracy, religious democracy, the legal system of Iran, restrictions.

### Introduction

**The concept of democracy:** Discourse today, such diets are said to be democratic or democratic. "The word itself is a democracy means government of the people, although the Greeks used the word demo basically means a needy multitudes<sup>1</sup>, but democracy is a term derived from the Greek word meaning CRATIA DEMOS means people power". Regimes are democratic or non-democratic versus non-democratic regimes because of the people<sup>2</sup>. However, if you have used the word democracy but democracy is about, it should be noted that for example, the modern concept of democracy is a literal account of democracy in ancient Greece and should be carried out words and concepts in their historical context and intellectual system of abstraction and judgment upon them. The most important component of democracy, human rights, the principle of representation, separation of powers, the powers of supervision and accountability parliamentarianism. As some believe, we're going a different meaning beyond its democracy while we have not defined it well. If we want to establish a relation between democracy or democracy and religion it should define its purpose of democracy and the meaning of their religion because religion is presented with different readings. Some believe that democracy is a heretical religion in political science. It seems that the general concepts we confuse or even reduced in comparison Survey on Religion and Democracy<sup>3</sup>. Symbols are the same as the chosen people of democracy, rule of law, individual rights secured, independent judiciary, free elections and public freedoms. These symbols are the most critical to advance important values such as freedom and prosperity of a citizen being him. When looked at in a positive way to democracy, it is a useful way of governance. Today, a series of criteria and indicators to measure the state is their democracy. When there is an open society and a democratic system, give and Take

Association is strongly in favor of the people and cheap and why is it a guarantee more rights for the lower layers of society or outside the circle of power.

### Material and Methods

**Islam and Liberal Democracy:** Political democracy and social democracy is a new way of life and is entirely different from what the current and reigned over ancient history. What has changed in this way makes it clearer explanation of political and social change. In other words, we will be forced to review developments related to the public's rights to democratic changes background to better assess the development of public law and democracy background changes<sup>4</sup>. According to one view, the issue goes back to understanding the concept of democracy in the West and its credit, a new phenomenon born in the land of the West. This concept is based on the true attitude of Western humanism and liberalism. Democracy has spent soon separated from its religious context and intellectually and philosophically. The approach is an Iranian Islamic world, it can be separated from democracy and liberal cosmological assumptions that and consider it as a method and content thing that comes to hand in all cultures or ideologies alien visitors<sup>5</sup>.

Acceptance of religious democracy as an ideology seems to be correct, but it should be added that cannot be met without these concepts and make them content and milk called mane and tail and tear so to speak. In this manner can lead to a lack of content words and their meaning to the term reduction remains the primary means nothing other than the name. Also, the collision happened oppressive concepts such as freedom, civil society participation and etc. But aside from the challenges, the concept of religious democracy can be interpreted as a way of combining and compatibility between religion and government. In 17th and 18th centuries, has been full of developments and

changes and innovations in various fields of science, technology, culture and politics in the West. But Iran also is not deprived of these developments, and has experienced a very big reform in the fields and in different areas so as to achieve democratic democracy. Religious democracy in Iran has been two waves. The first wave occurred in the constitutional era. Rich theoretical discussion of the period is marked frequency of which can be pointed to various treatises constitutionalists. Allamah Naeini has reviewed the jurisprudence approach to their conformity with Islam, and the late Sheikh Fazlullah Noori somehow rejecting the idea of parts compatibility.

The second wave of religious democracy began with the Islamic Revolution and the establishment of the Islamic Republic of Iran and it is located at approximately 30 years of trial and error<sup>6</sup>. Among the democratic experience, the first consideration is which party or group association and democracy in their Code of Conduct, in the year 1323 AH Social Democratic Committee, which was formed in Iran in the wind Kobe Caucasus so that in a short time their branches in different cities of Iran launched<sup>7</sup>. Diagram of growth and the development of democracy in Iran are in the economic field, founded and set up factories and industries, large and small, the cultural context of established and emerging translators and authors, and the emergence of new social classes, such as employees of various associations and organizations of civil society and all. Islamic Revolution in Iran was formed on February 22, 1357, relying on the three principles of Islamic values and leadership mimic the popular uprising of Shia Muslims and also, establishment of the Islamic Republic is based on three pillars that have created several debates in the field of thought and opinion, especially in the field of political subdivisions of governments around the world. Pundits have been some contradictions and contrasts on the one hand, given that the West's democracies theocratic regimes seen as the successor western thinkers, collects between theocracy and democracy that seemed impossible. On the other hand, considering a non-negligible role of religion and the simultaneous collapse of the Pahlavi regime and the establishment and perpetuation of the Islamic Republic, this phenomenon is considered unsustainable and eventually predicts that, eventually one will prevail over the other so that removing people from the scene will lead to the creation of a totalitarian system based on religion. Religious democracy in Iran is two-way. Some have tried to make peace between the two phenomena. They matched like two pillars of the Islamic Republic, and the two wings of a bird so that ruled out the possibility of movement and survival without any of them. Accordingly, said the Islamic Republic is comprised of two components: "Republic of achieving individual freedoms and social rights in Islam for surveillance and divine orders Islam. Republic is formed based on public participation, public and private freedoms majority decision. Tolerance, coexistence and mutual participation is one of the masters of opinions and ideas of the present day Republic of, respectively in order that all members of society through ideological pluralism, political pluralism are able to participate in their own destiny. Otherwise,

the issue is being resolved. With this arrangement, however, apparently chosen Islam as an ideology seems to be conflicting with the logic. On the other hand, in principle, be warned that the Muslim community with a public and social order of the compliance than any other way that causes the dispersion to be protected against intellectual differences<sup>8</sup>.

Some believe that the Islamic republic ahead of their emphasis on democracy and Islamic system were justified based on the will of the people and some, the Islamic Republic has overshadowed the fact it is thought to bring objectivity to the system. Today, some are seeking to undermine the Islamic Republic accuse the Islamic Republic of some are against the supreme leader of national sovereignty and this chapter will interpret it as if it is blatant tyranny. Globally, in the second half of the twentieth century, we have witnessed a significant rise in the world are welcome to democracy that, at this time, most competitors were out democracy as fascism, Nazism, communism world public opinion and democracy is seen as the best way to apply the rule however, it is not claimed that democracy in the world today because it is fully deployed democracies there is only less than half of the world less than half the world encompass any degree of democracy<sup>9</sup>.

## Results and Discussion

**Hierarchy and executive leadership role in the Islamic Republic:** Explicitly mentioned in the constitution of principles, leader of the Islamic Republic of Iran is located in the hierarchy. By studying the principles of the constitution, we know that it is superior in terms of personal status and its purpose is to lead a political figure, leader, though the character and location of the person deemed to be the more effective choice. Iranian constitution states that the basic principles there is no difference between people with different points of color, race, religion cannot be considered discrimination. Article XIX constitution: "The Iranian people should be enjoy equal rights of every ethnic and tribal color, race, language, and the like would not bestow any privilege". The twentieth constitution stipulates: "The people, both women and men have equal protection of the law of all human rights, political, economic, social and cultural rights, in conformity with Islamic criteria". This issue has been repeatedly recognized in various international instruments today, less than their government knows this context insensitive. Article 107 of Iran's constitution explicitly states that at the end: "The leader of the country is equal before the law with others".

Therefore, the constitution does not exclude even the leader of this article and put him against the law equally. This issue can be analyzed and evaluated in terms of the constitution and mentioned this to the otherwise, it would have been contrary to the rule of law were not any legislative act. But contrary to the principles of the Iranian legal system, some rules have been unresponsive to these categories have been excluded under the leadership of individuals and institutions, including the rule. For example, prohibits the employment of more than one

government job which can be explained by the different directions and reviews; For example, in a country that is developing or underdeveloped, having more than one job is unjustified because contrary to the principle of equality of men have denied government jobs and other privileges and benefits Multi-job person cannot handle all the things that they do well and setter etc; apart from addressing exceptions to the general principle that is taught in the University, membership in cooperatives and associations, charities and etc. Taking over a state law prohibiting employment law has exempted persons directly by the leader to serve in one of the governmental agencies that are working. It appears explicitly criticized the law for various reasons.

In common law countries is uncompromising revision of the constitution, they cannot be contrary to the constitution, because these countries in terms of hierarchy between the common law and the constitution are attached to separate unlike countries that revised the constitution and common both to a form Parliament's normal and no specific rituals are performed, the common law cannot be a violation of the constitution. In this case, if we accept the leadership of all persons equal before the law this privilege can be justified in terms of what to exclude. On the other hand, according to the rule of law as we mentioned previously, who are the equal protection of the law does not exempt any person or entity. So, contrary to the constitution, the administration is in clear conflict with the rule of law.

**The right to strike and protest:** Article 27 of the Iranian constitution provides: "Public gatherings and marches, no weapons are released on the condition that they do not violate the principles of Islam". Article 26 of the constitution provides: "The parties, societies, political or professional associations, Islamic or recognized minority religious freedom provided that the principles of independence, freedom, national unity, Islamic standards and does not violate the Constitution of the Islamic Republic. No one can be forced prohibited from attending or participating in one of them". Therefore, the constitution of the Islamic Republic of Iran has the freedom of parties, societies, political or professional associations, Islamic and non-Islamic or recognized minority religious also, note that prevent persons are prohibited from participating in such gatherings, or forced to participate in them. However, it should be consistent with the standards and principles, so it is ultimately the improvement of society and the public good but this freedom is bound by the shackles: i. Principles of independence, unity, freedom and etc not violated. ii. The march has been banned weapons. iii. The Muslim community should be discouraged from acts that violate the principles of Islam and the beliefs of the people.

That's right, expressly, albeit with some restrictions have been approved in the constitution of the Islamic Republic of Iran, certainly in the case of all classes and social groups have been used in the same manner. For example, the use of this right, the government has been consistently associated with restrictions in the case of many social groups, including women, students,

workers, etc. In fact, licensing and pro-government groups cannot be approved, there's an expression of freedom in the constitution. Unfortunately, this issue has always been with the look of worry and suspicion of being foreign agents in the stimulation group was the Iranian authorities. If it appears, had fewer protests and a general strike took to be truly free to express opposition to the status quo in Iran this is an issue of confounding people's right to criticize the government and the threat to freedom.

**Freedom of the Press:** One of the key aspects in the area of free speech is freedom of the press. Right thinking, the right to hold opinions and to express the natural right of all human beings and is an integral part of honor and dignity. Freedom of the Press is an integral part of the fundamental right of all men and women are entitled to have this right. The importance of Freedom of the Press as a necessary condition for a just ruler, a lever for development and expression platform for people who have no means to express the speech was all explained in a statement to mark World Press Freedom Day on 3 May 1999<sup>9</sup>.

Nowadays press freedom is the foundation of human rights and the guarantee of other freedoms. Press freedom advocates transparency and fair governance and ensures that society In addition, upon receiving the rules also has the fair rules. The Freedom of the Press also has clear procedures and rules conflict with each other. Press law and constitution, both the Freedom of the Press, unless the tenets of Islam and ethics are not the focus, but in practice have variety of reasons and excuses even the slightest opposition to the ideas and thoughts of self-government banned the press. From the perspective of international human rights organizations also Iran has always among the countries that are faced with problem of lack of access of citizens to free and independent press. The press is symbol and sign of civilization of a nation's growth and awakening them. Rate of growth and development of every nation of the press is expression of growth and knowledge. The press is considered one of the most effective means of monitoring public affairs and government and the ruling nation's eyes and ears<sup>10</sup>. No one is worn on the press Today plays an important role in social and political life of a country. Due to fuck that the press is to clarify ideas and guide them, government and administration of any country cannot ignore this important oversight. The Iranian constitution In Article 24 provides: "Publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or public rights. Its length is determined by law. The Iranian constitution does not press absolutely have freedom of expression. Indeed since the risk basics of Islam or public rights the press cannot freely express their contents. So although it freedom as a principle is accepted but not absolute.

It should not be assumed that people will think and decide what the law of life is and they freely determine their governance<sup>11</sup>. In other words, freedom of speech has not accepted these terms will excuse the public rights abusers to ensure the protection of

private interests at the expense of their irreverence and reputations of others or the loss or destruction of society and individuals. Therefore, publishing articles against the public interest and media world is prohibited in most constitutions<sup>12</sup>. In Iran, the Islamic vision of a press release is affected by the impact of country-specific cultural and historical considerations. Freedom of opinion and speech, freedom of the press has a basis in Islam as the basis of different religious interpretations and reflections. Although most agree that the promise of some form of restriction on the scope of freedom of the press is essential but there is disagreement about the nature and limits of this freedom. In general, the scope of the criminalization of the press<sup>13</sup> but the general principles of justice and the need for criminalization and observe two basic criteria should also be subject to certain elegance to be sacrificed under the pretext of maintaining a set of social values, press the functional key value<sup>14</sup>. Regulations governing the Iranian press law passed in 1364 and amended March 22, 07/02/1379 and regulations related to it is determined. Press Crimes Act 1379 is identified in the material to the 25 namely: i. Disclosure and publication of secret military orders and military secrets or castles and fortress map, ii. Encouraging people committing misdemeanors or crimes against internal or external security of the country's Islamic Penal Code states. iii. Insulting the Supreme Leader of Islamic Revolution of Iran or the Muslim authority's imitation. iv. Insulting Islam and its sanctities, or other official religions. v. Publication or slander or offensive content or contrary to fact and truth to the emulation. vi. Publish pictures and articles against public morals and publication of secret negotiations Court of Justice or the judicial investigation and the disclosure is authorized by law published closed talks Parliament. vii. Publish any news story or include accusations or slander or insults and vulgar or abusive relationships and so on and etc.

Article 27 of the Iranian constitution provides: "Public gatherings and marches, no weapons are released on the condition that they do not violate the principles of Islam". Article 26 of the constitution provides: "The parties, societies, political or professional associations, Islamic or recognized minority religious freedom, provided that not violate the principles of independence, freedom, national unity, the criteria of Islam and the Islamic Republic. No one can be barred from participation in or be compelled to participate in one of them". Therefore, the constitution of the Islamic Republic of Iran has freedom of parties, societies, political or professional associations, Islamic and non-Islamic or recognized minority religious also, note that it is forbidden to participate in such gatherings or prevent them from being forced to participate. However, it should be consistent with the standards and principles that would eventually grow to reform society and public opinion is correct but this freedom is bound by the shackles. i. Principles of independence, unity, freedom and etc does not violate, ii. The march has been banned weapons, iii. The Muslim community from acts that violate the principles of Islam is the belief of the people to prevent.

This right is explicitly limits the constitution of the Islamic Republic of Iran has been approved admittedly; it is not applied equally to all classes and social groups. For example, use this right about many social groups, including women, students, workers and etc has always been associated with government restrictions. Indeed, licensing and pro-government groups cannot be approved, there's an expression of freedom in the constitution. Unfortunately, at present this issue to the authorities in Iran has always been accompanied by concern and aroused suspicion of being foreign agents in the group. If it appears, little has been done to protests and a general strike to express opposition to the status quo in the form of a truly free and the issue of confounding people's right to criticize the government and is considered a serious threat to the freedom.

**Right to Work and Job immunity:** Right to Work and Job immunity is another individual freedom in the constitution. Employment of any person is taken into consideration in the Islamic Republic of Iran to the Article 28 of the constitution. First, it is open to everyone who wishes has the right to choose any profession provided that he is not opposed to Islam and the public interests and rights of others. Second, the government is required to provide to suit the needs of different kinds of jobs for everyone. Article 21 of the Universal Declaration of Human Rights provides: "Everyone has the right of equal access to public service in his country". Paragraph (c) of Article 7 of the International Covenant on Economic, Social and Cultural Rights has also recognized equal opportunity for everyone to be promoted in his employment levels and excellent fit regardless of any other considerations, except in the length of service and merit as the right of everyone to the enjoyment of just and favorable conditions of work. Therefore, everyone should have an equal opportunity to achieve public service and placing obstacles contrary to the principle by applying the criterion of gender, ethnic, racial, religious, political, and so on. However, many countries have ignored the citizenship requirement.

On the other hand, the realization of a worthy and efficient administrative system is achieved the principle of meritocracy in the selection and deployment of officials be observed and the loss of jobs to people based on ethnic affiliation, race, religion, politics and the like against the principle of meritocracy. When the government belongs to the people and citizens, government officials choose to run their businesses, the government should do something for them, does democratic systems of government the founding principles for the realization of such a government are elected based on the successful experience of two thousand years of human communities and societies. One of them is so engaging citizens in community affairs through the deployment and engages in various sectors<sup>15</sup>. One of the major issues confounding the democratic system in the Rights in Iran and inconsistent with the foregoing principles and looks, it is a distinct religion to enter the state system. This, indeed, is the question of a person for employment in governmental agencies in general; it is certainly one of the conditions of admission of persons and a sense of requirement. While it was recognized

explicitly in the constitution of 1787 America be performed before the Virginia Declaration of 1776. Article VI of America 1787 constitution, religious test for religious discrimination rejects the notion that the hiring official religion and politics away from the pack. Thus, this article is based: "Announced the suspension of any particular religion should never be set as a condition of eligibility for access to jobs and public responsibilities are as under statutory powers United States". Virginia Declaration of Rights already provides that: "Religion or Creed comes from the Creator, and the manner appropriate to the duties to be guided only by reason and conviction, not by force and violence is never, as a result, all people should enjoy freedom of belief and conscience and this freedom must also contribute to the spread of praying that every person counts obligatory upon him"<sup>16</sup>.

Other restrictions on Iran's democratic government to replace the machine rather than being permitted to accept personal relationships contrary to the principles of good governance and the so-called administrative corruption arises corruption in government to begin with the numerous species; Corrupt leaders, corruption, money laundering, bribery, favoritism, misappropriation of funds and corruption prevalent in the government of ignoring such laws and regulations. But the most important type of corruption, corruption that is formed due to the lack of clear structures in the system. The dark and dull office environment increases the possibility of distortions of official corruption and bloody behavior is facilitated. Perhaps, therefore, be claimed that the most effective and efficient ways to fight corruption is out of the dark house, transparency and clarify the environmental and administrative structure. Transparency is divided into various functional and practical. Functional cleared causes the citizens to be aware of how they can provide the services that organizations should and the opportunity to take advantage of them. In fact, people should have a picture of the service that is right and knowing the rules to prevent the spread of corruption. For example, people need to know what steps we should take to get a building permit to construct and finish the job and how long each step should be expected to draw. In addition to making functional, transparent, transparent practices must be seriously considered. Since the performance of functions, each device creates a performance report, Competition in improved service delivery<sup>17</sup>. Iran's system of employment rights, just transparent appear to be raised and handled. In fact, in many cases, winner's recruitment test, particularly in sensitive jobs have already been shown to be superior to a position of economic and is used solely to test the principles and rules of formal appearance.

## Conclusion

There were different interpretations of the concept of democracy. In this sense, today in two important areas of politics and economics has seen a particularly tangled. Each of the countries are facing challenges in specific areas. The challenge, for example, is more dominant in the area of

freedom, corruption, bureaucracy and office complex. In any case, the issue cannot be raised due to bugs and limitations of democracy in all countries to a type, accordingly, issues and problems related to democracy and its limitations will be on their way before any of them. But, what is needed first and foremost it can be talked about as a common element institutionalization of the rule of law in the country. It is essential to include in what circumstances the law in a society is governed. Overview of democratic societies suggests that the rule of law is a precondition for democratization. In a society where ordinary people, government officials and staff, and all individuals and do not obey the law it would be futile to expect democracy.

According to the article, the rule of law is an improvement in the international economic and political conditions, economic conditions are more important. Indeed, democratization is dependent communities to improve their economic conditions and then comes the threat of sovereign power. The structural framework of a democratic society, no government power beyond the law their action is justified only within the law. Law arising out of and beyond the power of the people will lead to tyranny. The democratic regime of the three Presidential, parliamentary and semi-parliamentary semi president and would not be possible. Today, the establishment of democracy, the rule of the people is dependent on their votes and comments but reductionism is true democracy of majority rule.

Perhaps, behavior and actions is quite true that the majority of community members but we can make it into the main objections to the implementation of human rights standards. This is true especially in direct democracy. So, should the governance and decision-making by voting and public opinion, but reducing democracy to vote and people will follow risk revival of totalitarian regimes like Nazi Germany and Mussolini's Italy.

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