

Right to personal security in the context of human rights The Case of the Islamic Republic's constitution

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Abstract: Sense of personal security, while ensuring that the human rights abuses of their individual Looking for land to improve their enjoyment of personal security to win increase. Some international instruments on the rights explicitly named for both the instances cited. With extensive analysis it is necessary to speak of thinkers in this area, as it was comprehensive enough to identify it as an individual right to seek justice in the right was crucial. Main content of this right is that it can provide protection and individual rights, is clearly based on human rights laws that have been observed. Main content of this right is that it can provide protection and individual rights, is clearly based on human rights laws that have been observed.

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1. Introduction

Since the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. And ignoring human rights has led to brutal acts of rebellion has led to the conscience of mankind. The advent of a world in which human beings shall enjoy freedom of speech and thought. To live free from fear has become the highest human aspirations, Since human rights should be protected by law as human being as a last resort, to rebellion against tyranny and oppression is not inevitable. Since the development of friendly relations between nations is essential Because of his loyalty to the organization of the UN Charter of fundamental human rights, human dignity and equal rights for men and women have expressed And also have the determination to strive for social progress Create more open space and better living conditions Since the United Nations Member States have pledged, along with respect for human rights and respect the rights and fundamental freedoms in the world to strive Since reaching a common understanding of these rights and freedoms is of utmost importance for the full realization of this pledge, Hereby the General Assembly of the United Nations, the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations of the world sees above Declares that all parties and all social institutions through which the provisions of this Declaration constantly in mind And try to respect the rights and freedoms of its teaching and encouraging And by taking measures at the national and international steps to identify and implement effective And respect the rights of the people of the territories of the Member States and

with the people of those countries to ensure that the function The right to personal security as a basic right of legal rights in each country is allocated to the highest position It is only right that the human rights of other people to make them easily demand Recommend this right, like other rights, it's only possible to identify This paper explores both personal and social life of man as well as the negative and positive states in order to secure deals The constitution of the Islamic Republic of Iran as a country that has historically claimed guard human rights The right to personal security is not explicitly speak to But trying to put all the right equipment and the right to identify this as a basic right, Guarantee good performance, both in terms of legislation and its implementation in the field provides Therefore, the right to security in the first human rights document was devoted to the prohibition on arbitrary detention, Or the relatively detailed legal text of the amendment by the 1982 Canadian International, They consist of the right to privacy, Guarantee the right to physical integrity, the right to health in serious injuries caused Barer government intervention was meant, In view of the constitution, took all dimensions of human existence. The purpose of this article, after the separation of civil society from the political dimension, As belonging to the security of human social life, the right to be examined Then, as examples of the factors threatening the rights and guarantees of insecurity and the threat of law enforcement to protect these rights and to prevent the creation of this factor is threatened. The last topic of this research, pathology constitutions of some countries, including Iran. It is essential to note that although the Present procedures require a complete

review of the subject, but text-based articles ahead of relying solely on written constitutions.

2. The concept of the right to security

In this section, first, the concept of "security" and then the "right to security" is checked:

Security concept The Oxford Reference Dictionary, «Security» mode and feel safe with, or something that creates this sense, is meaningless. The word in Webster's Dictionary, quality, condition, and circumstances in which freedom from danger, freedom from fear and freedom from fear and the threat of unemployment. In the Oxford dictionary, security practices, practices that protect a building or a person against attack, danger, and the like are involved. The word of the state of (state) and quality (quality) of the definition indicates that the human condition as he was in a protective layer of security threats that his protection. Elements as defined in the safety yellow line represents the element in the definition of security threats, And the lexical definition of security, freedom from anxiety and panic is incorporated, The rational mind is the following. Based on this, we mean that the security situation in the state without any threat or fear of it, live your life with peace of mind

3. Dimension Security

A) Negative and positive aspect of security: security traditionally has a negative aspect, The problem arises because often means security threats are driven and security threats must be eliminated to the minimum and on the acquisition of rights to increase security to reach perfection.

For negative actions, privacy and protection from the prohibition of torture and positive actions , social institutions and insurance companies, and the kinds of positive discrimination, for example.

B) The objective and subjective Security:

Both objective and subjective safety and security have both made it happen. Non-communicable diseases, low crime statistics and criminals and press releases and the like, the next objective is security.

Another aspect of security, it is thought that it may be because it is not a reliable criterion for which there is little mention. In this post, feel safe (Sense of security) forms due to differences in the psychological aspects of these feelings in different people, and different variables.

4. Right to Security

After understanding the meaning of this word and identify its dimensions should identify it as a human right with the question of what is right? Including how much and dimensions of the human being ? It seems that any analysis of the right, when it's safe to be right, it must be assumed that the airborne side is right, obligation, or duty, he is negative or positive.

A) The right to security in the international instruments: the Universal Declaration of Human Rights, Article III (1948) states that "Everyone has the right to life, liberty and security of person could have."

Article (9-1) ICCPR - Political (1966) prescribes "Everyone has the right to personal liberty and security. No one arbitrarily arrested, detained and imprisoned. No one can be deprived of his liberty except in accordance with legal procedures."

These two documents will be considered carefully in terms of the Universal Declaration of Human Rights states that the right content And the Covenant on Civil rights - general and vague sense more clearly the political Sense of security and prohibition of arbitrary arrest, detention and imprisonment has been considered.

Five of the European Convention on Human Rights (1950) states:

"Everyone has the right to liberty and security of person. Liberty and security of person as a hybrid concept and should not be taken as a separate issue to be interpreted by the courts."

"The European Commission of Human Rights, one of the judges commented that personal security in the sense that no one is without fear and the fear of the risks his liberty." (Assyrian and Bahmani Dynasty, 1378, 4).

The breadth and scope of this proposition can be found sense of personal security in those documents. Perhaps the definition of security in the seventh amendment to the Canadian constitution in 1982, more descriptive and paired it is clear that "everyone has the right to life, liberty and personal security. This does not deny the right of anyone, except in accordance with fundamental principles of justice. "The right to privacy includes the right to security in the area, to ensure the physical integrity of a person. The right of the individual, especially in the face of arrests, arbitrary definition of injury, with the origin of government support" In summing up the sense of security can be considered to assure that the harm to the rights and freedoms of the individual, the underlying rationale in the space provided to the right of continuous improvement. This conclusion coincides with the definition of the content of the documents is that some scholars have proposed this concept:

"You kind of security, comfort and protection against risks that could threaten the rights of the individual" (Amid Znjanyf 1384, 147). Or written: «It is security assurances under which people live in a society to protect the lives, dignity and rights reserved to not panic" (Hashemi, 276, 1384) The result of all these discussions is that personal security as a fundamental right, the state and the state where

the person is able to enjoy the benefits and blessings of life. In this way, the totality of existence, he is safe from any harm and benefit worthy of individual rights, the promotion of it's being provided. So, personal safety is the safety and security due to the adoption of the constitution in the proceedings relating to the rights of people with a detailed discussion of the individual rights of people, any mention of personal security is not an issue and it is telling that the legislature meant to provide the security of individual rights and its implementation. No need to plan and sees it as a sovereign right (if the proceedings constitution Assembly of Experts, 25, 1364-53) The rights of the nation, the set of legal documents and principles of the constitution, which is regarded as the basic religious rights of people. Based on individual rights in the constitution is designed as right to personal security is addressed separately (Varaee, 1386, 206)

2- Reserved the right to security in the constitution of the Islamic Republic of Iran

5. Human nature

At this stage of the discussion, one must consider what parts of Human that security should be provided? Under the constitution of the Islamic Republic of Iran Islamic thought, the man and the constructs analyzed in this area.

According to some Muslim philosophers on the nature of the soul, the soul from the body, there is inventory "The view that philosophical explanations of famous Muslim Hakim Mullasadra initiatives, the primacy of the rational soul that body. According to this theory, the soul, and a single substance is immaterial, but rose materiality bed.

Ink that grow during their time with the other's material. Thus man is one truth that is far different. Thus man is one truth that is far different. It is much truth in some of his material and some more singles. (Office of Science Collaborative, 32, 1377) Thus, the body and spirit of Islam, the two times that of the human body and the pre-existence of the soul and spirit, and self-serving as a platform for the complex. But the spirit of holiness is the value in the universe is both ecstatic and has a separate function. According to the theory of substantial motion, the soul of the object is created. It's physical, but spiritual life and survival. Verses of the Holy Quran may be watching the same thing.

Based on this analysis, its people, and every time a legal system is far from being the truth or the law requires.

Since it was found that the creation of indigenous rights perspective and the purpose, The perfection of human talent lies in being lead. "The talent base is a natural right and natural for it to count as a document" (Kowsar, 1420 AH, 158)

This view of the constitution of man, has tried to identify these values as possible and threats and remove them from the field for the development and improvement they provide. In a split, regarding normal human ace tabular they are divided into absolute and ace tabular dependent.

"Absolute right" is granted to the person as a person, and "related rights" is the right to be considered human beings as members of society. (Black's Law Dictionary, 1990)

Following the same criterion civil rights division to get the right person. Dignity of the human person, the image of his personality that is completely private and does not belong to anyone. The image with the same characteristics are also studied. The dignity of the human being is both.

First, the material is so comprehensive that it is sensuality. Part of the right to security of the person belongs. Such as securing the rights to life, health, hygiene, nutrition, clothing, shelter and freedom from all physical constraints such as detention and deportation of these is freedom.

Next, the spiritual is that "dignity" is how the community. It naturally followed suit with its own rights, such as freedom of movement, travel, housing and residence, freedom and social rights such as the right job, Religiosity and worship, equality, the prohibition of the inquisition, torture and abuse of rights political. The other image is of a social nature. Acetabular related to this image can be separated into two main groups. Civil rights, human rights are part of human society without the state. Such as the right to private property, the right to work, freedom of occupation. Another set of rights, political freedoms, such as the various political parties, freedom of speech and freedom of assembly and rights such as the right to self-determination and the right to participate in elections in a political community with the true meaning and "political rights" is called.

With the introduction of personal rights to the material and spiritual spheres of civil and political rights and social rights in the constitution, is studied. Individual rights, individual rights without regard to society's watchdog. The law covers both material and human. Physical Privacy: protection of life and the right to life (Article 22), providing the basic necessities of life such as housing, food, clothing, health care as a fundamental right accessories on the right to life (Article 43), prohibition of torture (Article 38)

It must be understood that the protection of human life, absolutely all situations that may arise. Based on religious teachings, the protection period begins before birth and continues until the end of natural life. Unless the law as a punishment, he decreed otherwise. Prohibition of torture, prohibition

of aggression against life, physical security, and denial of basic human needs such as housing, food, clothing and health care after security is positive. Privacy spiritual and moral growth moral virtues; (9/3- principle 19). Privacy: a) the convenience of the family, to protect the sanctity and dignity of the firm; (Article 10). B) immunity letters, telephone calls and correspondence, the prohibition of censorship, surveillance and eavesdropping; (Article 25) Respect for the Muslim religion and other religions; (Principles 12 and 13). Human rights of those who are not devout in any religion; (Article 14) Immunity dignity; (Article 22). Ban Inquisition; (Article 23). Prohibition of torture and desecration; (Principles 38 and 39). Citizenship and the right to ban the denial of the request unless the individual (Article 41). Prohibition of foreign domination; (Article 153)

-It looks particularly at the Islamic constitution and strengthen the spiritual dimension of human excellence, our mission is to give specific and the proliferation of various aspects of the numerous instances in which he considered the argument that human rights are interpreted.

-Although some of these rights may be other groups of rights such as health rights, civil and political will, But some of the rights to human dignity caused by the physical and political rights, are considered part of this category.

Inequalities and unfair discrimination, torture, elimination of colonialism, dictatorship and accessories materially from those that it works, but because they are incompatible with human dignity is in this group. Respect to religion, ritual and religion, freedom of thought and ban the Inquisition is the most prominent intellectual property rights of any person. The negative aspects of spiritual security are: the elimination of colonialism and dictatorship and monopoly, and unfair discrimination, dignity violation of the prohibition of the inquisition, the ban violated the prohibition of censorship, banning and prohibiting interception and surveillance of foreign domination, all the prohibitions should be the person's immunity to be granted.

In contrast, some other actions should be realized that the recovery of the moral virtues, equality, family protection and privacy of correspondence as to respect their faith and religion, protection of dignity, freedom of thought, Respect for human rights, non-official religions believe in the positive aspects of security is that security agents can provide these funds. Social and Human Rights: second set of human rights that are awarded to the social aspect of his life and are divided into two categories: Assigned to him, irrespective of their political power, civil rights and political that is

dedicated to community policy making and political action.

Civil Rights - Civil and education to promote public awareness; (Fundamentals 3/3 and 2/3). Undue discrimination; (originally 9/3). Command and forbid evil; (Article 8). Language and cultural rights of national and ethnic lines; (Article 5). Property protection and the prohibition against it; (Principles 22 to 28). Private property and ownership of business assets; (Article 47). Housing and its related rights, freedom of residence and movement; (Principles 31 and 33). Environmental health; (Article 50). Justice; (Article 34). Department of Local Affairs; (Article 100)

Social rights - political: the elimination of colonialism, dictatorship, tyranny and monopoly; (Article 6/3). Provision of social and political freedoms; (Article 7/3). Public participation in the determination of political, economic, social and cultural affairs of the country; (Principles 8/3- 6). Command and forbid evil; (Article 8). Freedom of the press and media; (Article 24). And the fate of political parties; (Article 56). Through participation in parliamentary elections; (Article 62) and the Assembly of Experts elections; (Article 108) and presidential elections; (Article 114) and the revision and amendment of the constitution, (article 177)

Here is a comprehensive list of individual rights and the constitution intended, expressed. Naturally, all the rights belong to human security in various fields can be So from this perspective, human security; secure these rights, including the avoidance of the prohibitions of aggression as they grow and develop immunities to respect means to them.

Subsequent discussion of threats to these rights and the constitution is addressed.

6. Threats to the constitution

Clearly the establishment of individual rights in legislative texts that describe in detail the basis for the establishment of a favorable environment for the individual provides.

In between threats and insecurity can undermine the personal security of people will benefit from these rates. These threats are as follows:

Threats from the government and the state:

Threats in the legislative process, the first step that could endanger the safety of individuals. Note that one of the measures that the government could endanger the personal safety, rules that require limits to the legitimate rights and freedoms. It's usually a security is done. Constitution explicitly and categorically in Article IX legislation is incompatible with freedom of religion, not prohibit. Potential threat of the exercise of individual rights: the right of the principle of human rights is an issue of some sort of threat and insecurity has been proposed.

Principles 22 and 25 and some of these are the basics. The question is: Where is the source of this threat? Who makes and insecurity? The answer must be said that the word refers to the "threatening" the government must surely demand that the law be blocked? Torture and the indignity of individual dignity and the rule of law have been detained, By a person who is in possession of non-government and non-government officials. Also stripping the citizenship of the other things that only government can. All is the fact that the threat of a possible violation of law or May simply state Or at least one of the participants is threatened. The adequacy of the government as a source of threat and insecurity by the legislature know. Jurisdiction of the state government may abuse its jurisdiction, subject to various securities. By removing the issue from the agenda of the regular put it on the agenda of an extraordinary and emergency, to justify the use of unusual instruments (Abdullah Khani, 151, 1383) and the device is in its goals. It must be understood that "the militarization of society, loss of civil liberties and lack of social balance is the most important and most urgent works" (Frks, 2008, 9). So, create any unjustified considered unsafe by the government, because they represent the collective will of the people is the law, but the ban is not permitted to limit legitimate freedom, The first is through the courts cannot issue court orders that do not comply with their legal freedoms.

Threats from individuals and other entities: other threats that can cause a person to provide security, threats that arise from the actions of others. It can be applied in two ways: Criminal acts: acts that the law put their name on the crime; the punishment is the same for them. In this case, there is insecurity caused by criminal acts of individuals.

It is the responsibility of the government on behalf of society, punishable by indictment, to realize the offender to cause reform and relief charge against or descendants, the main purpose of punishment, general deterrence would, "Based on these predictions come true that will impact on others and the punishment for a crime that they will not commit the same offense" (Fletcher, 1384, 67).

Non-criminal acts: sometimes criminal act or omission as the others, but because it is inconsistent with the rights of others and that it violated the act would violate their personal safety. Article 40 refers to the case of the constitution states: "No one can exercise his rights violated by others or the public interest would not". For example, the right to freedom of movement and traffic in the city and may be associated with life-threatening for others. Accordingly, the exercise of the right acetabular

should be similar to the risk of insecurity and not for others.

Achieving this level of security, knowledge, and enlightenment is the duty of legislators to demand that legal rules designed to enforce individual rights; individual rights most widely associated with violating the rights of others are not. It is noteworthy that the constitution of the individual acetabular community extremely seriously as a general rule is given. Article 40 is the hallmark on these considerations. Accordingly, "What about the others' interests and social interests is stronger, more social aspects of the law and they must be respected. It is normal in these cases, if the violation of the right to social ends, not realizing that the social order" (Bahrami Ahmday, 1370, 210) and thus the right will be impose additional restrictions.

7. Guarantees the safety of the constitution

The most widely accepted in the legal way. Since the idea of the rule of law, all branches of government including the legislative, judiciary and executive should be subject to law and legal norms, Talk about personal security rights guaranteed in the constitution, the rule of law in the legislative and judicial actions, and it is the executive branch does not matter because basically improvisational. The rule of law to guarantee personal security: individual rights in the constitution stating that all those people in the realm of individual and social life, it should have under the law and freedom of expression. According to the principles of the constitution indicates that it is related to this topic Constitution and the rule of having them as to what was needed, it is explicitly mentioned as an exception.

Thus, the laws on civil and political constraints within acetabular have more secret constitution, the constitution gave inconsistent with the face. For this reason, Article IX of the constitution even though the legislature has avoided legislation against them.

To ensure the security of individual rights and the rule of law in the judgment:

"In light of the constitution, civil procedure, criminal procedure, criminal justice and other legal duty and uniform law judging process to achieve formal equality for all" (Tavassoli, 1385, 93)

Enforcement of the most important in the theory of law, judicial supervision, the constitution guarantees the implementation of this type of control as a theory of law, judicial oversight, Constitution of this kind of regulation as the most important guarantee for the security of person is accepted as the expression of a relatively detailed individual rights in Article 34 the right to petition and referred 9 to courts competent prohibition against court law suggests. One of the most important steps constitution guaranteeing individual rights, justice and the law

supplies it. Rule of law, judiciary, law enforcement demands that the power structure (hence the 159), and in judgments and judicial process (in accordance with the principles 166 and 167) is required.

8. Pathology constitution about personal safety

So much has been said about personal safety in the constitution, constitution arrangements for securing and removing the threat of individual and social rights of individuals, But in this part of the constitution has created areas that can lead to insecurity and threats to individual rights, are considered: Verbal problems in constitution: In some cases, words and phrases constitution so that it provides the opportunity for abuse and threats to personal safety. Unfortunately, most of these terms or not or still interpret laws and regulations; the concept has not been defined. Words and phrases Sharia: "Islam" in principle, 175, 171, 96, 46, 4, "against Islam and the Islamic Republic" in Article 4, "The Islamic Republic" in Article 26, "the foundations of the Islamic Republic" in Article 115 "Islam" in principles 27 to 24, "Islam" in Article 28, "Islam" in principles 91 to 99, "good" in Article 112, "authentic sources of Islamic and Legal Decisions" in Article 67, "range Islamic law "in Article 44 and" codified penal provisions of Islam "in Article 156, ambiguous meanings. Legal lexicon - political, "lawful rights" in Principles 9 to 56, "Human Rights," Article 14, "Public Law" Article 24, "public interest" Article 28, "public interest" Article 40, "except for the harms" Article 40 "the focus and common wealth," Article 43, "public interest" Article 45, "the problem" Article 110, "Building the" Article 110, "national interest" rule 176, "public law" Article 156, "public interest" principle 164, "internal and external threats" Article 176, "individual and Social rights," Article 156, "protected" independence of Article 143, "the protection of the Islamic Republic" Article 143, "protect the revolution" Article 150, "The Spirit of laws" Article 38. These are the basic set of words and can be found in its conceptual ambiguity range, to narrow the field of personal safety.

Specific legal institutions - political, no prediction in regard to securing the necessary personal safety: Article 108 of the Constitution, the Legislative Assembly of Experts, concerning the number and qualifications of Experts, chosen for their quality and have internal regulations. Unfortunately, the very important qualification that the enforcement of its leadership and oversight, the legislation does not have any institutional oversight and the question of the constitutionality of legislation passed by the Assembly of Experts and the freedom of self-incompatible, what institutions and regulatory authorities, the response was not favorable.

According to Article 138 of the constitution, the consent and approval of the Cabinet has separate regulations. The regulations make it clear that people have the right and duty.

This type of resolution is uncertain supervised by the supposed violation of the provisions of the constitution and legal freedoms, which seems plausible assumption Constitution has opened the opportunity for abuse and supervise Administrative Justice is late. Judge threatens the independence of the justice of the strongest guarantees for personal safety, in order to ensure the independence of the judiciary and judges, is mentioned twice in the constitution. Moreover, the removal of non-original and immutable principles of the independence of the judiciary is one of the judges.

The National Security Council is the most powerful institutions in government and important goals such as the protection of the Islamic Revolution, territorial integrity and national sovereignty of the constitution, it is considered, The constitution is considered the most important institutions. The decisions on the macro level in terms of precision and ensures the security of individual rights, such as moving the edge of the sword, Because these decisions are easily influenced people's personal safety and their rights can spoil. In addition, certain institutions will oversee the operation of the council. According to Article 176 of the constitution, the council confirmed the decisions of the Supreme Leader applicable.

Although internal monitoring to ensure its leadership position in a tenuous position, but it is apparent that the internal governance (justice and righteousness to lead a Muslim nation) to compensate for any unintentional errors and other functions will not innocent.

9. Conclusions

Constitution of the Islamic Republic of Iran, in principle, the right to security of the person has expressed and with the establishment of individual rights while, in fact, try to eliminate the threat and set the stage for improving their personal safety to legally secure and guaranteed. The study of the principles of the constitution, the law seems to be lavishly tried to explain in detail the rights and freedoms. In addition, the limited exceptions to the red line and the right to justice and legal justice, their guarantee. Thus we can conclude, the personal safety and security is guaranteed with all its dimensions. However, it cannot hurt to let some of the terms the constitution, which provides personal safety, ignored Common law has still not explained, nor is the interpretation of the constitution of clarification. As mentioned in the introduction, the subject of

discussion in the constitution is the right to security of person who obviously thoroughly review the text is centered. Even in discussing the pathology of organs derived from purely theoretical and analytical discussion of the constitution. Obviously, the implementation of the constitution and functions of the institutions and practices that originated in individual security needs another chance.

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