



The Review on Rights of Nation in IRI Constitution

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Abstract: *The rights of nation are deemed as one of the pivotal topics in political systems on which it has been emphasized in constitutions of regimes. On the one hand, rights of nation are considered as natural rights originate from higher characteristic of human and legislators are not allowed to waive or restrict them in legislation of laws and the governments are not permitted to bar them. On the other hand, they are a group of statutory rights for which the government has guaranteed enforcement of them for their nationalities as per domestic laws and the content of those rights is different from one country to another. Identifying and determination of rights for the nation is included as the major parts in the constitution. However, this does not require for recognizing rights and freedoms absolutely, some of examples of rights of nation are legally enforceable within certain limit in the constitution all the times. The IRI Constitution has been concerned with the rights of nation in the third chapter and from nineteenth to forty second articles. There are some principles of course that cover rights of nation but they have not been mentioned under chapter of rights of nation e.g. Article 8 (assumed as the public task of enjoining the good and prohibition from the evil on the onus of people versus each other, by the government versus people and people versus government), Article 9 (proposing it as a task for the government or nation) and Article 10 (regarding equality of all members of nation and even equality of leader to the people) and the similar principles.*

Keywords: *Nation, Constitution, Civil- Political Rights, Social- Economic Rights, Judicial Rights.*

INTRODUCTION

'Nation' is a sociopolitical term which dated back to more than two millennia ago and its root originated from Hebrew-Arabic language (Babaei Zarch, 2004). This historical- political phenomenon was revealed more at a phase when it was conveyed by political concept by emergence of human. Lexically, term 'nation' (Arabic: *Mellat*) primarily stands for path, conduct, religion and belief and it includes concepts of modern, birth, people and the like. In terminology, nation is the group of individuals who have been linked together because of commonality in all or most of following cases i.e. race, land, language, culture and history, paradigms and ideology with the common sense of attachment and joint identity (Sheikh Shoaie, 2007). Of course, presence of all above-said elements is not necessary for creation of a nation, some these element may form the nation separately such as language, religion, race and the like.

There is general definition about nation as a modern concept i.e. if a population coexists peacefully to each other even despite difference in habits, language and religious beliefs within known and certain geographic framework and they try for excellence of their community, they have formed a nation according to perspective of international law (Babaei Zarch, 2004).

Some rights belong to members of community are basically important. Their basic importance requires for the basic supports from them. The first aspect which denotes both their basic nature and necessity for essential support from them includes reflecting in the constitution as the parent rights and foremost rights hierarchically. The terminological dimension of these rights as the basics lies in this fact that the public life may be subject to

anxiety and concerns regardless of these laws. Some of them are so fundamental if infringed it is synonymous to overlooking the human's existence. Deprivation of life is one case of this kind. Although some of them are not as important as the first type activities, they are too important and if violated they are the same as gradual divesting of life. This class of rights is important because the life is not only restricted to physical dimension, but the continuity of life lacks value if physical life is not followed by mental tranquility and calmness and it is accompanied to torture so it does not endure. These rights include various types. Some of them are directly related to physical totality while some others are ascribed to intellectual entirety.

As it mentioned, the importance of the latter group is not less than of the former ones. Not only could one put them into the latter group what related to intellectual totality of human's physics, but also one can consider what is typically related to human's character. Infringement of the rights relating to housing and properties is included in this type; we will review the rights of nation in this paper including civil-political rights, socioeconomic rights, and judicial rights in the constitution.

1. Civil- political rights

Civil- political rights may be defined as a group of basic rights and freedoms concerning type of paradigm and belief and freedom of expression in their private and sociopolitical life that is usually interpreted as individual rights and freedoms.

1.1. Immunity of individual rights against violence

Article 22 of IIR Constitution holds: *'The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in cases sanctioned by law.'* (Jahangir, 2012) Therefore, any violence or exertion of willful restriction by any person and official to life, property, repute, housing and occupation of individuals is forbidden, especially either of citizens. Of course, the fatwa issued by founder of Iranian Islamic Revolution is also marvelous in this regard. Giving answer to a question that was raised by the former Supreme Judicial Council in 1983 about way of interaction with Holders of Scripture and groups otherwise and inclusion of regulations of Islamic Punishment Act in them e.g. Muslims or necessity for taking other measure, he replied: *'The aforesaid atheists are protected by Islamic government and Islamic injunctions apply to them similar to other Muslims and their blood and properties are protected and respected.'* (Mehrpour, 2012)

Also, Article 25 of IRI Constitution that is concerned with reservation of private and personal information issues and secrets may stipulate: *'Except as provided by law, the inspection and interception of letters, recording and disclosure of telephone conversations, disclosure of telegraphic and telex communications, censorship, or willful failure to transmit them, eavesdropping, and all forms of covert investigation are forbidden.'* (Jahangir, 2012)

1.2. Freedom of idea and prohibition of scrutinizing ideas

The concept of freedom of idea comprises of any type of religious, scientific, philosophical, political and moral belief and the like and at the same it includes belief in religions and clerical domination as well. Article eighteen of Universal Declaration of Human Rights (UN) explicitly notifies: *'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.'* (Khani Arani & Barzegar, 2010)

The changing and selection of a religion means the individual has right to adopt freely any religion and belief or give up his/ her current belief or select other belief and or basically live without any religion and belief and no one and no power may divest this freedom of him/ her and or compel individual to accept or reject a certain belief and religion. Of course, freedom of idea has not been accepted in Islam to the same extent agreed in the west (Shariati, 2005).

It has not been asserted explicitly in IRI Constitution on freedom of idea and religion but based on what interpreted from Article 23 the same concept has been expressed. The Article 23 of IRI Constitution holds: *'The investigation of the beliefs of persons is forbidden, and no one may be molested or prosecuted for holding a belief.'* Although it has not been explicitly to right of freedom of ideas in article, two impressions can be implicitly extracted from this article:

- 1) Scrutinizing of ideas is prohibited and the people should not be investigated to determine their idea;
- 2) No one may be inspected only for holding a certain belief

It should be noted that of course it is acknowledged in Article 12 of IRI Constitution as follows: *'The official religion of Iran is Islam and the madhhab (school of law) is the Twelver Ja'fari school, and this article will remain forever unalterable. Other legal schools (madhāhib) including the Hanafi, Shāfi'i, Mālikī, Hanbalī, and Zaydī, are accorded full respect, and their followers are free to perform their religious rites in accordance with their own fiqh.*

These schools are officially recognized by the courts in matters pertaining to religious education and training and personal status (marriage, divorce, inheritance, and will) and the related litigation. In any region where the followers of any of these schools constitute a majority, the local regulations will be in accordance with that school within the jurisdiction of the local councils, with due observance of the rights of the adherents of other schools'

At the same time, Article 13 acknowledges: *'Zoroastrians, Jews, and Christians among Iranians are the only recognized religious minorities and they are free to perform their religious rites and ceremonies within the framework of law and to act in accordance with their own canon in matters of personal law and religious education'* Thus, it seems that freedom of belief and idea is restricted in IRI Constitution, especially in religious field and it has not been permitted for manifestation of ideas and even propagation for all religions and sects, except what mentioned in law. More precisely, it can be implied in IRI Constitution, the freedom of belief is conditional and prohibition of scrutinizing ideas is absolute. Thus, as long as the individuals do not express and promote their beliefs and ideas no one is allowed to intervene in their activities. It can be claimed in more extensive dimension that of course IRI Constitution has restricted freedom of religious beliefs to a few divine religions and it is silent versus other philosophical and scientific and moral ideas etc. Although inference of this article seems to be correct from the general spirit governing over IRI Constitution as well, all beliefs (philosophical, scientific and moral etc.) are free provided they do not oppose to Islam.

1.3. Freedom of expression and press

The right of freedom of expression and opinion has been included in basic rights and freedoms in texts of human rights and most of constitutions while freedom of press has been asserted and confirmed as one of the distinct examples for freedom of expression and opinion. It has been implied in Clause 2 of Article 19 from Universal Declaration of Human Rights (UN) that *'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, either orally or in written or printing or otherwise by own choice.'* No specific article has been devoted to right of freedom of expression in general in IRI Constitution similar to what is found the constitutions of many countries, but this right has been mentioned occasionally in various articles and regarding freedom of press to which Article 24 of IRI Constitution was concerned specifically (Mehrpour, 2012). Article 24 of IRI Constitution explicitly declares: *'Publications and the press have freedom of expression, except when it is detrimental to the fundamental principles of Islam or the rights of the public, and the details will be specified by law'* Therefore, with respect to prominent role of press in freedom of expression, IRI Constitution has assumed publishing of contents by press as permissible but determined two basic constraints for it: The former they should not be in conflict with Islamic bases and the latter they should not be contradictory to public law.

1.4. Freedom of parties and communities

Recognition of the right of freedom for individuals in establishment and organizing coeval groups with the same tastes is considered as one of the distinct examples and symbols of democracy and public participation in administration of country and governance thereby and through agreement over a series of specific principles and rules and definition of certain sociopolitical objectives and adaption of specific methods and communal activities such as charter or statute they act to take power and participate in government and or achieving specific socioeconomic goals. Formation of such groups and factions namely parties should be free and anyone

should be entitled to join them and no one should be impelled for membership and participation in specific group or party. Typically, these groups and factions should accept national sovereignty and their activities should not contradict to and or disrupt public order (Mehrpour, 2012). Thus, IRI Constitution has declared as permissible the formation of a party, society political and guild and religious association to the extent they do not violate the principles of independence and freedom and Islamic rules and it assumed free membership as allowed for individual in them. Article 26 of IRI Constitution holds: *'The formation of parties, societies, political or professional guilds, as well as religious associations, Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, and national unity, Islamic criteria and the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or compelled to participate therein'*

Except formation of parties and communities, sometimes in some cases and occasionally, the individual may hold rallies for their protest and or set up street demonstrations. IRI Constitution has also assumed it as permissible and as a right for individuals. In this regard, Article 27 of IRI Constitution holds, *'Public gatherings and marches, held without carrying arms, are allowed, provided they are not injurious to the fundamentals of Islam.'*

1.5. Right of nationality

Lexically, nationality denotes belonging something to something else and in legal terminology it includes a political, legal and intellectual relation that attributes a person to a certain government (Arfania, 1991). In fact, nationality manifests identity of an individual and without nationality a person is assumed without identity. Article 41 of IRI Constitution holds in this regard as follows: *'Iranian citizenship is the indisputable right of every Iranian, and the government cannot withdraw citizenship from any Iranian unless he himself requests it or acquires the citizenship of another country'* Of course, acquiring of nationality has been seen and considered in IRI Constitution. Concerning this issue, Article forty-two of IRI Constitution declares: *'Foreign nationals may acquire Iranian citizenship within the framework of law. Citizenship may be withdrawn from such persons if another State accepts them as citizens or if they request it.'* Thus, it can be claimed that the nationality has been recognized as a human right for all in IRI Constitution and no one is entitled to waive the nationality of individuals unless by their own request and or their nationalities are accepted by other state (Pirouzfard et al., 2016).

2. Economic, social and cultural rights

The economic, social and cultural rights include that group of rights which are officially recognized for all the people regarding economic, social and cultural affairs.

2.1. Right and freedom for job choice

Right of working and free selection of job and enjoyment of equal wage versus equal work and avoidance from discrimination based race, gender, language and religion in job reference and proving employment ground are assumed as the basic rights for members of a society and what is related to preparation of ground and facilities, removal of discrimination, prohibition from impelling individuals for employing in specific jobs that are related to equal wage versus equal work may be assumed as the tasks for the governments (Mehrpour, 2012).

Based on personal freedom, a citizen may choose any job s/he wishes. Surely, such a freedom also covers both independent business and working for others. This freedom was a reaction to a period when certain jobs belonged to social class of individuals and some of social groups were prohibited from employment in some jobs without plausible excuse. In addition, this freedom was also considered as a reaction to various example of compulsory work in which the human was unfairly exploited with no freedom of choice. At the same time, we should emphasize that no one is allowed to compel any citizen to employ for certain job. It requires noting of course that the given job should not contradict to rules and regulations, public order and well morality (Vizheh, 2015). In fact, this expensive right aimed to monopoly as Dahl implied it was assumed as risks of democracy (Seifzadeh, 2012).

In this regard, IRI Constitution has formally recognized right of employment and freedom of related choice and governmental task to pave the way for all people with no discrimination. Article 28 of IRI Constitution declares: 'Everyone has the right to choose any occupation he wishes provided it does not infringe on the rights of others and is not contrary to Islam and public interests.

It is the government's duty to provide all citizens with employment opportunity, and to create equal conditions for obtaining employment, with consideration of society's need for different professions'

Therefore, the Constitution has recognized formally two rights as follows:

- 1) Everyone has right to choose any occupation not contrary to Islam and public interests.
- 2) It is the government's duty to provide all citizens with employment opportunity.

Of course, there are also some constraints in this section e.g. ascertainment of competency for some occupations such as judging is in accordance with Act of Election of Judges approved in 1982 as specified to the males and accordingly the females are prohibited for employment in position as judge (Mehrpour, 2012).

2.2. Free education and training for all

The training and education is also as one of activities which have been seriously and deeply addressed in international texts of human rights. Educational freedom means any citizen can establish and administer educational institutes within framework of rules and regulations at first place provided ascertainment for the stipulated conditions. Secondly, the parents shall be able to select the location of study and education of their own children (Vizheh, 2015).

In this course, IRI Constitution has also paid due attention to training and education and asserted to extension and public and free nature of education not only at primary level but at high school level. One of basic tasks of government has been also assumed as '*Free education and physical training for everyone at all levels and facilitation and expansion of higher education*' in Clause 3 of IRI Constitution. Also, Article 30 of the Constitution has explicitly asserted: '*The government must provide all citizens with free education up to secondary school, and must expand free higher education to the extent required by the country for attaining self-sufficiency*'

2.3. Right of enjoyment of social security and commensurate housing

It is acknowledged in Article 29 of IRI Constitution that '*It is universal right to benefit from social security in respect of retirement, unemployment, old age, disability, being stranded, absence of a guardian, accidents, and from health and medical services and care provided through insurance or other means.*

The government must provide the afore-mentioned services and financial support for every individual citizen by drawing, in accordance with law, on national revenues and funds obtained through public contributions' Similarly, concerning housing for individuals, Article 31 of Constitution declares: '*It is the right of every Iranian individual and family to possess housing commensurate with his needs. The government must make facilitate the implementation of this article by giving priority to those whose needs are greater, in particular the rural population and the workers'*

3. Judicial rights

Rather than the articles expressed in the chapter concerning the Judiciary for implication of judiciary system, IRI Constitution has mentioned some of basic regulations and criteria required for observance in human rights in the chapter regarding rights of nation, including prohibition of willful detention, right of litigation, access to attorney, presumption of innocence, prohibition of torture and *nulla crimen sine lege* and *nulla poena sine lege* principles (Mehrpour, 2012) we will refer to either of them hereto as follows:

3.1. Prohibition of willful detention

In this regard, Article 32 of IRI Constitution holds: 'No one may be arrested except by the order of and in accordance with the procedure laid down by law. In case of arrest, the charges along with the grounds for accusation must be communicated without delay and explained in writing to the accused, and a provisional dossier must be forwarded to the competent judicial authorities within a maximum of twenty-four hours so that

the preliminaries of the trial can be completed as soon as possible. Violation of this article will be liable to penal action in accordance with law.' Thus no one may be arrested unless:

- 1) Except by the order of and in accordance with the procedure laid down by law;
- 2) The case of accusation with the grounds for accusation must be communicated without delay and explained in writing to the accused;
- 3) The provisional dossier must be forwarded to the competent judicial authorities within a maximum of twenty-four hours;
- 4) The preliminaries of the trial should be provided by judicial courts as soon as possible.

3.2. Right of litigation

The right of litigation and recognition of this right for anyone and either of members of the people has been recognized as human rights in international system of human rights, regardless of any racial, gender, ethnic, tribal and religious characteristics thereby the subject can refer to the competent court if necessary so that his/her action is addressed and noticed (Mehrpour, 2012).

IRI Constitution has officially recognized this right for all members of nation and stipulated it in Articles 34 as follows: *'It is the indisputable right of every citizen to seek justice by recourse to competent courts. All citizens have right of access to such courts, and no one may be barred from courts to which he has a lawful right of recourse'*

3.3. Right of access to attorney

Right of access to attorney is one of legal defensive guarantees for the culprit it has been explicitly emphasized in documents of human rights. For example, it has been emphasized in Universal Declaration of Human Rights (UN) and Both Conventions of Civil and Political Rights and Economic and Cultural and Social Rights on this absolute right for the culprit (Salimian et al., 2013). Therefore, the culprit has right to defend from oneself personally and or benefits from the attorney. The presence of attorney is essential in all criminal proceeding processes (right) that can contribute to guarantee for observance of legal procedure. This right has been guaranteed in several international documents. The Part-B of Clause 3 of Article 14 in International Convention on Civil and Political Rights, Part-C of Article 3 of European Convention on Human Rights, Part-C of Clause 1, Article 7 of (Banjul Charter), and Part-D of Clause 1 of Article 8 of American Convention on Human Rights and also Part-C of Clause 2 of Article 50 of International Criminal Court as well as Part-D of Clause 1 of Article 67 of the latter reference are some of international documents in which right of access to attorney has been guaranteed. In this course, International Committee of Human Rights has declared (Fazayeli, 2008): 'The right of access to attorney listed in Article 8 of American Convention shall be enforced at the first interrogation and also the culprit shall immediately exercise the right of access to attorney and not later than 48 hours after detention or arrest.'

Overall, one can propose forms of using from attorney's services or legal advisor's as follows:

- 1) The potential for choosing and or appointment of attorney by the accused subject (culprit) since the beginning formation of criminal case;
- 2) If the culprit is financially insolvent to take attorney in cases of important crimes, the appointed advocate may be elected for the subject and in the cases of trivial crimes if the insolvent culprit requests and if necessary, the assistant advocate will be appointed for the subject and or the culprit is provided by benefiting from legal counseling free of charge.
- 3) The advocate including appointed, elected and chosen one is provided by potential for reading and copying the contents of case albeit the file is at the phase of primary investigations.
- 4) If the arrested culprit requests for visiting of oneself and the advocate secretly and out of others' sight and control, this request shall be met (Saber, 2009).

As a result, the guarantees which are anticipated for protecting from rights of culprit in criminal proceedings include presence and attendance of attorney in the phase of addressing case in the court. In this event, the justice lawyer defends from the accused subject based on his/ her familiarity with the relevant rules. If this fact

is revealed under some conditions that there is some balance established among prosecutor and justice lawyer and the court address the case according to justice, then justice lawyer defends from the accused subject based on his/ her familiarity with the relevant rules. Execution of a just criminal proceeding requires giving right to the culprit to defend from oneself against the attributed accusations (Rashid, just proceeding for right of access to advocate).

Whereas taking actions in the courts and judicial references as well as defending from the pleas and against accusations requires for familiarity with the relevant laws while most of people are not aware of them and illiterate toward these regulations thus the right of access to an attorney at bar is assumed as a basic right. In this sense, Article 35 of IRI Constitution declares: '*Both parties to a lawsuit have the right to select an attorney in all courts of law. If they are unable to do so, arrangements must be made to provide them with an attorney*' Therefore, not only all subject have right to appoint an attorney, but also government shall provide the potential for all to appoint the advocate.

3.4. Presumption of innocence

The innocence lexically means purification from defect and insult, acquittal, getting rid of liability and debt, redemption of leasing, transfer, releasing, rescue, taking away, being clean and pure (Moein, 2008). And presumption of innocence in law denotes that it should be assumed that all subjects are innocent until it is proved their crime within proper and just proceeding by a legal competent reference. (Vakil & Askari, 2008) The presumption of innocence or assuming innocence for the culprit is deemed as one of the most fundamental general principles which govern over just and fair proceeding in modern criminal proceeding systems. By virtue of this principle, any action if is noticed by a subject it may lead him/ her to a type of injury or loss or deprivation of freedom or creating constraint provided subject's notice is doubtful toward the given issue, the subject should be presumed as innocent from the given loss or injury because it is not duly to impose injury and loss to individuals without certain referable cause (Jafari Langeroudi, 1993).

The presumption of innocence is a practical principle that refers to assuming lack of investigation of crime. According to this principle, whenever perpetration of crime by a culprit or accused persons is doubtful or suspicious case, it is duly assumed as non-committing (Fakhar Tousi, 2012). The presumption of innocence or assuming innocence for culprit is a basic principle in fair proceeding. This principle which has been often mentioned in important international documents of human rights along with other rights of culprit in criminal proceeding and sometimes in a separate clause is considered as one of cornerstones for modern criminal proceeding (Fazayeli, 2008).

The presumption of innocence was proposed for the first time in French Declaration of Human Rights in 1789 where it is mentioned in Article 9 of this declaration as follows: 'The subjects are assumed as innocent until their conviction.' One can refer to some of valid documents that have been concerned with this principle, including Clause 2 of Article 6 of European Convention on Human Rights, Article 26 of American Convention on Human Rights and Tasks, Clause 2 of Article 8 of American Convention on Human Rights, Clause 1 of Article 7 of African Charter, Article 7 of Arabic Charter of Human rights, Part I of Part B in Clause 2 of Article 40 in Convention of Rights of Children all of them have been devoted to expressing this principle with more or less similar statements.

Accordingly, IRI Constitution has been also implied this right and expressed in Article 37 as follows: '*Innocence is to be presumed, and no one is to be held guilty of a charge unless his guilt has been proved in a competent court.*'

3.5. Nulla crimen sine lege and nulla poena sine lege principles

The presumption of innocence is considered (Vizheh, 2015) as the logical result of *Nulla crimen sine lege*. According to Article 36 of IRI Constitution, '*Only competent courts are entitled to pass a sentence and execute it in accordance with law.*' Also Article 166 declares: '*The verdicts of courts must be well-reasoned and documented with reference to the articles and clauses of law on which they are based.*' Thus, the subject may

be arrested and imprisoned if s/he perpetrated illegal action. As a result, no one can be arrested and incarcerated for an action which is not assumed as crime based on law.

3.6. Prohibition of torture

Torturing culprit during interrogation and criminal investigation by giving third degree to extract information is considered as anti-humanistic action. The Convention on prohibition of Torture and other Oppressive and Virtual or Inferior Behaviors defines torture in the first article as follows: Torture is called to any deliberative action by which severe physical or spiritual pain or injury exerted to a subject in order to extract information or compelling him/ her to confession and or third person. Similarly, personal punishment is assumed as torture and as an action done by him/ her and or third person and or probably committed by them or threat and coercion based on discrimination in whatsoever type when such a pain and injury is exerted them and or by stimulation and encouragement and or consent and dissatisfaction and lack of opposition of governmental officer and any other authority. According to principles of criminal proceedings and Islamic Declaration of Human Rights, Universal Declaration of Human Rights, International Convention on Civil and Political Rights and International Convention on Prohibition of Torture and constitutions of countries, the torture and other non-humanistic or insulting treatments have been strongly prohibited.

It is noteworthy that disclosure of truth is the objective for interrogation of culprit and not imposition of one's wishes to the accused subject. Thus, interrogator or judge should discover the fact by asking useful and clear question and avoid from resorting to irregular methods and outlaw in this regard (Hosseini, Bagheri, Right of defense for culprit in statute of International Criminal Court).

It has been implied in Shia jurisprudence and based on viewpoint of Islamic jurists concerning qualifications of confessor that s/he shall be sane with free will and intentional in action. Therefore, confession by unintentional insane subject by coercion to resolve the case is invalid legally and legitimately (Second Martyr, 2008). It has been recorded in Islamic Proceeding History about the judicial conduct and procedure of Imam Ali (PBUH) based on several judgments he was responsible for that it was never seen exertion of physical and spiritual annoyance to the accused subjects to coerce them for confession and extraction of information of them as an excuse for disclosure of fact. In addition, based on several narrations Imam has assumed invalid and ineffective any confession caused by torture. For instance, there is no Islamic Punishment (*Hadd*) if someone confesses to a crime by restriction or frightening or imprisonment and threatening and or Ishagh Ibn Ammar narrated from Jafar and he related from his father and subsequently from Imam Ali (PBUH): The hand of thief culprit shall not be cut if s/he was frightened typically of beating and also such a culprit may not be confined by fetters and or incarcerated and tortured (Moazenzadegan, 1998).

Nonetheless, some of Sunnite jurists have assume torture as permissible for the culprits to coerce them to confess by rulers and commanders of Islamic community but they barred this action for legal judgments; however, Shia jurists have absolutely considered torture including physical or spiritual as illegal to give third degree to the accused subject and they did not assumed legal credit for such confession (Montazeri, 1987).

By virtue of IRI Constitution, torture is prohibited and punishment has been designated for the perpetrators. Article 38 of IRI Constitution explicitly holds: *'All forms of torture for the purpose of extracting confessions or acquiring information are forbidden. It is not permissible to compel individuals to testify, confess, or take an oath. Any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with law'* Also Article 39 declares: *'Affronts, in whatever form, to the dignity and repute of persons arrested, detained, imprisoned, or banished, in accordance with law, are forbidden and liable to punishment'*

Conclusion

Whereas based on human rights for individual, his/ her prestige, self-esteem and freedom should not be injured because of poverty and need as well as dependence, it necessitates inversely for meeting material basic needs and acquiring independence in sustenance activities in order to provide rest of mind and intellectual and spiritual development of the individual. Expressing immunity against violence to properties of persons, Article 22 of IRI Constitution in fact recognizes private ownership unless some constraint and or deprivation of properties are prescribed by law for this purpose. Accordingly, of IRI Constitution has highly addressed freedom of expression and assumed it as one of the rights of nation and it has explicitly held it in Article 23 that the investigation of the beliefs of persons is forbidden, and no one may be molested or prosecuted for holding a belief. Moreover, immunity of correspondences, dialogues, telecommunication and private secrets (Art. 25), social security (Art. 29), housing security (Art. 31) and also judicial security with respect to the measures taken for legalization of grounds of crimes and punishment (Arts. 32 and 36), right of litigation and election of advocate (Arts. 34-35), forming of competent courts to judge for punishment and its enforcement (Art. 36), presumption of innocence (Art. 37), prohibition of torture for confession, taking coercive oath and testimony (Art. 38), forbidding affronts and injury to prestige of those who are arrested, imprisoned and or expelled by law (Art. 39) and prohibition of detriment to third party and violence to public interests (Art. 40) are some cases which have been designated to guarantee for security of individuals in third chapter of IRI Constitution.

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