Legal Reformation: Main Challenge for Third Sector in Islamic Republic of Iran

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I. ABSTRACT

This paper reviews legal framework concerning civil society organizations (CSOs) in Islamic Republic of Iran to explore linkage between lack of civic participation, freedom of association and legal statues of Iranian civil society. It also examines role of International human right politics as a paradigm to open up more opportunities for the Third Sector in Iran. Accordingly, this paper aims at proclaiming that recognition of the need for legal reformation as a main challenge for Iranian civil society will contribute towards driving civic participation and building local human rights discourse by the Third Sector.

II. AREA OF RESEARCH

In this paper, I will demonstrate that civic participation can be used as conceptual linkage between the right to association and legal statues of civil society organizations in Islamic Republic of Iran. In my understanding, legal obstacles and restrictions concerning civil society organizations’ operation are based on the fact that concept of citizenship is not been institutionalized within the Iranian legal framework. The linkage between citizenship and civic participation has been claimed by numerous scholars including Marshall (1950) who as civic liberal thinker argued that people (citizen) must have right to fulfill their minimal social and economic needs to act as an active citizen. He did introduce rights to resources including right to education, right to social security and right to health without considering citizen situation in the market. These rights enable citizens to practice their political and civil rights. As said by Lister (1997) the main concept which has been introduced by Marshall is notion of social citizenship which supports “de-commoditization of labour by de-coupling the living standards of individual citizen from their market value, so that they are not totally dependent on selling their labour power in the market.” Cohen, J.L. (1999) claimed that there are three mechanisms of citizenship: a form of membership and political identity, a political principle of democracy, judicial statues of legal personhood. Ferguson claimed that for enjoyment of different social and economic rights, people should exercise democratic rights to participation in decision-making process. In her thought, citizenship participation within a rights-based approach will increase accountability of the governments and, as a result, the development indicators will be improved.

I may summarize my argument by recalling that the main challenge for the Third Sector in Iran is inadequate laws and inefficient legal institutions to fulfill freedom of association which is based on the lack of democratic legal framework concerning how citizenship can enable citizens to participate which I rather identify as civic participation. It also needs to be examined objectively what are the positive and negative consequences of practicing international human rights politics for Iranian civil society and if this paradigm can share any opportunity for asserting on legal reformation of the Third Sector in Iran.

III. RATIONALE OF THE STUDY

Iranian CSOs legal framework is more safeguarding the state-dominated surroundings than encouraging civil society and more specifically the protection of freedom of association. Although, the constitution of the Islamic Republic of Iran has recognized the freedom of association, sub-constitutional laws have functioned as obstacles for citizens’ participation. The main criticism regarding civil society organizations (CSOs) registration and operation regulations is how these laws are complicated and problematic. This is mainly because: ‘first, the legal structure involves multiple and uncoordinated decision-making canters. Second, the
process of registering and regulating NGOs often differs in practice from what is provided in the law, adding unnecessary burdens to the administration of permits and financial grants as well as the annual and periodic regulation of NGOs. Third, judicial review of administrative decisions pertaining to NGOs has been inadequate. vi

Hence, there is a need to present a clearer picture of what is meant by Iranian legal reformation concerning civil society. The examining the Third Sector legal framework, from a socio–legal perspective, will identify key dilemmas and facilitate proposing various strategies to increase civic participation through civil society in Iran.

IV. RESEARCH METHODOLOGY

This research relays on quantities, qualitative and descriptive data. The qualitative research includes in-depth interviews. And last but not least, the library/internet-based research reviews the related literature to give the study a contextual and conceptual framework.

ENDNOTES


1 Lister, R., 1997a, Citizenship: feminist perspectives, Basingstoke: Macmillan

1 Cohen, J.L., "Changing paradigms of citizenship and the exclusiveness of the demos", International Sociology, Vol 14 No 3: 245-68


1 Article 26 of the Constitution of the Islamic Republic of Iran stipulates that: "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or be compelled to participate in them."


ii Lister, R., 1997a, Citizenship: feminist perspectives, Basingstoke: Macmillan

iii Cohen, J.L., "Changing paradigms of citizenship and the exclusiveness of the demos", International Sociology, Vol 14 No 3: 245-68


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