

The Responsibility of Islamic Government for Protecting the Rights of the Handicapped

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Abstract: The handicapped are considered some part of the main human capitals of the society and experience and researches have shown that sometimes some people of this group have made basic changes in science, art and politics. Therefore studying their conditions and their undisputed rights is not only a religious duty but also a legal and moral task which makes us to observe it. The constitutional law and Universal Declaration of Human Rights explicitly stated their rights that this itself shows the principle for the equality of the handicapped with normal human beings. The governments also obliged to provide the welfare facilities for them so that they can live with more hope and the issues such as security, the right of selection, the right of employment and etc. are fully observed so that their physical handicap is not considered as finishing their right to live. Both Islam and substantive law of Iran have paid specific attention to the rights of the handicapped and physically disabled people and both of them have reprehended disorganization for not providing specific rights for the handicapped.

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1. Introduction

In societies in which the rights of healthy human beings are forgotten and are not fully returned to them, the rights of the handicapped and weak people are paid less attention and this shows this group are oppressed in the society that even though they sometimes see themselves deprived from even the trivial social rights that this being deprived are against the religious teachings and are against the laws originated from Islamic Jurisprudence. The rereading of the verses, and traditions and the existed laws in this case can be a fillip for managers and policy makers and even for the people of the society who are following the social justice and entitle themselves to enjoy this social justice but in facing the rights of others who are not able to vindicate their rights maybe they don't show even a little sensitivity and even are silent against it or are indifferent against it. Human being is not only the creature of God, but also the most noblest creature of God. This priority is due to the kindness of the Almighty God and the perception and rationality of human being that the God said: "we have honored the children of Adam and carried them on both land and sea. we have provided them with good things and greatly preferred them above much of our creation. (Isra, 70); otherwise if human being doesn't enjoy this endowment of God and cover his intellect, wisdom and thought with neglectfulness curtains so (s)he is like quadrupedal but even lower than that. On the other hand nobody should consider oneself prior to others since the criteria has been specified by the creator and

originator who said: " " people, we have created you from a male and a female, and made you into nations and tribes that you might know one another. the noblest of you before Allah is the most righteous of you. Allah is the knower, the aware. (Hujrrat, 13)". Yes, the only criteria for priority is searching the virtue of God and enjoyment the humane ranks and degrees and other privileges and indexes such as sex, color, race, religion, appearance, beauty and nationality ant etc. are not considered as reasons for priority and all human beings are equal.

When God creates human being, due to factors such as genetic disorders, accidents, wars, natural events and etc. some people tolerate some defect in some parts of the body organs and can't live like other people. The holy legislator and the lawgiver have considered rights for these people so that in addition to observe the principle for equality of human beings, they face less anxiety and shortage. So, this group of people who are called deficient, disabled and handicapped need help and exchanging ideas in all social and economic domains, public service and civil liability. The honorable lawgiver and its executor should try more in this case and remove the obstacles of an ordinary life from their way.

In this paper it is tried to pay more attention to the rights of the handicapped regarding the attentions paid to the in Islamic Law and Constitutional Law of Iran and the importance given to them in the verses and traditions together with mentioning some of the civil laws and other laws of municipality, social

welfare, social security and civil employment.

Definition of the Concept of Right

A- Right in Vocabulary:

The dictionaries have mentioned the right to mean privilege and they state that privilege is the crystallization of an element or elements from the personal or cumulative ability to benefit from the thing that is worthy. (Dehkhoda, Dictionary, P.352)

B- Right as defined by Jurists

This word has several meanings. << such as correspondence, agreement, constant being, truth, opposite of deserving and void. It can be said that the comprehensive meaning among these meanings considering the infinitive meanings is the word "Sobout" that means real existence and considering their adjective meanings is the word "Sabet" that means real entity.>> (Gorji, The Relation between Religious Jurisprudence and Law, Vol.1, p. 279) the word Right in Persian literature means correct, true, just deserts, deserving and justice. (Katozian, Principles of General Law, P. 370)

The word "Right" is generally used as the personal or private right comparing to the word "Laws" which means judgments, whether originated from law or custom or judicial precedent. Personal right (a credit given to an individual or social personality to perform some activities) and also has relation with government and sovereignty.>> (Ibid. P. 74) right is a privilege and benefit belonging to somebody, that the law of the country defends it as the authority for execution of justice (Jafari Langroudi, Law Terminology, P.216) so, it is an option known by the law for a person so that s/he can perform or leave an action. (Imami, Civil Law, Vol. 2, P. 2) the application of the word right in this sense has been previously recorded in Islamic Law as it is said right of ownership, right of possession and etc.

The Concept of Disability and Unable Person

Disability is any kind of limitation or absence considering the ability to perform the activities that are expected from anybody at natural level. Any kind of limitation in performing activities during the natural activities of the normal people is regarded as disability. (Mirkhani, the principles of Rehabilitation (1), P.45) so disability shows defect and failure in handicapped, that causes the handicapped to be unable to naturally perform economic, social, cultural and other activities comparing to other normal people.

The word "Maloul" [handicapped] is the past participle of the word "Ellat" [cause]. The person whose organ or organs of the body has fault or defect is called diseased. (Ibid. P.973)

Handicap is a defect for a person and issues from a disorder or it is a kind of disability which creates a limitation for that person or prevents that person to perform an ordinary function or action (dependent and

relevant to age, sex and social and cultural factors). United Nations General Assembly believes that handicap is the absence or reduction of opportunities for sharing in social life, at a level comparing to others. (United Nations, International Group of Economic and Social Affairs, translated by Javad Salehi, P.3).

Up to the half of the 18th century there was no educational facilities for the handicapped and from Romans and Greeks point of view three types of handicaps needed attention: deafness, blindness and mental illness. In the present century due to the occurrence of different events the incidence of handicap changed in terms of quantity and then on the effect of medical advances it changed in terms of quality.

Sporadic wars between European and Asian Countries, natural phenomena and other factors have made noticeable function in quantity increase of the handicapped. The occurrence of the first world war is another important factor in increasing the handicapped and is the turning point in changing their conditions. Because the increase of the number of the handicapped caused the sensitivity of the society to the handicapped, allocating budget and benefiting from advanced technology for curing them. (Mirkhani, the principles of Rehabilitation (1), P.6-7).

As we come to the recent century the protection from the handicapped and paying special attention to this group of human forces have been increased. In fact in recent half century the handicapped can live in the society and have the opportunity for social interaction and playing effective role and at last these people have been welcomed by the society at a favorite level.

The Necessity for Protecting the Handicapped

A- Verses: disability from Islam point of view is under the influence of the concept of evolution in Islam. Due to biologic limiting factors, human being can't achieve the absolute perfection and absolute perfection is just the God Almighty. Perfection for human being is when a person achieved and completed the entire spiritual and selfness stages s/he can achieve an upper stage and the other stages upper than that. In other words the perfection of human being is stated in longitudinal direction and it is a relational concept. This means that when somebody says "somebody's knowledge has been fulfilled" i.e. s/he has previously had knowledge and used it but not his knowledge has achieved a degree of perfection and is more than the previous one. Some people are physically afflicted with defect and disability like blindness, deafness or amputation. These defects and disabilities are relevant to physical body of human being and don't affect virtue, personality and humane and achieving the stages of perfection. In other words human being has "person"

and "Personality". In Islam the nature of all human beings are good and all people are created innocent.

It has been mentioned in Koran "indeed, we created the human with the fairest stature" (Tin, 4) and continues "and we shall return him to the lowest of the low, except the believers who do good works, for theirs shall be an unfailing recompense." (Ibid, 5-6). Based on these verses wickedness and badness is not innate from the point view of Islam and every human being can develop in positive direction. The point view of Islam in the case of all human beings can be understood from this verse: " people, we have created you from a male and a female, and made you into nations and tribes that you might know one another. the noblest of you before Allah is the most righteous of you. Allah is the knower, the aware. (Hujrat, 13)". The case that all human beings belong to one family and to single parents means that this equality has a biologic origin and is a reason for the equality of the humane status. Based on this verse the noblest people before the God are the most righteous of them and the God assess ones value not through his/her physical characteristics or material successfulness but based on spiritual perfection and moral highness i.e. the action and the behavior which causes virtue makes one prior to others not other appearances on the creation such as skin color, sex, race and or being handicapped. So, all human beings are equal in terms of rights and the right of each human being in the Holy Koran, is creating the fields of growth in oneself. The following happening at the early Islam shows this fact. At the beginning verses of Abasa Sura the God says: "he frowned and turned away; when the blind came to him." (Abasa, 1-2). These verses were revealed to the Holy Prophet about a man from Baniomayeh who was sitting before the Prophet at the same time Abdolah-ebn Maktoom came there, as the man saw him he tired to sit far from him since he afraid that he may be contaminated and turned his face, in the above mentioned verses the God has mentioned his action and blamed this action. This cause of revelation has been quoted in a tradition from Imam Sadegh (Peace be upon him), (Tafsir Nomooneh, Vol. 26, P.123). Theses verses denote this meaning that the disabled peopled should be treated with full reverence like healthy people and the first right of each citizen is paying attention to his/her status and generosity. "we have honored the children of Adam and carried them on both land and sea. we have provided them with good things and greatly preferred them above much of our creation. (Isra, 70).

In other verses from the Holy Koran we read: "it shall be no fault for the blind, the lame, the ...". (Noor, 61). There is no fault for the blind and crippled not to go to Jihad or the healthy people to associate or go to travel with them. In this verse it is referred to crippled together with the blind and the sick and removes any

superstition that makes them to be isolated from society and contrary to many traditional beliefs it emphasizes their participation in society.

The Koranic protections in this case is through making it obligatory for the followers of the religion to pay taxes like poor rate, the fifth of the net income that each Muslim is required to donate for charity, tribute, ransom and financial fines (atonements) or through allocating the ownership of natural capitals to public (donation) and making it obligatory for the authorities of the society to exploit them and spend the incomes for social justice.

As the God says: " the spoils of war taken from the villagers and given by allah to his messenger belong to allah, his messenger and the near kinsmen, the orphans, the needy and the destitute traveler, so that it is not something taken in turns by the rich among you. whatever the messenger gives you, accept it; and whatever he forbids you, abstain. and fear allah; surely, allah is stern in retribution." (Hashr, 7).

Another Koranic direct protection are nonobligatory strategies that their extension and inclusion are more than obligatory strategies and more than 100 verses of the Holy Koran refers to this case. Spending money, goodness and generosity (donation) are of this type. The following Holy verse denotes this meaning: " those who spend their wealth by day and by night, in private and in public, their wage is with their lord, and no fear shall be on them, neither shall they sorrow." (Baqara, 274).

Of the other protective strategies of the Koran in pecuniary basis is "Cash Interest Free Loan". " who is he that will lend allah a good loan! he will multiply it many multiples! allah grasps and outspreads and to him you shall be returned." (Baqara, 245). This method has a psychological positive effective and is considered even better than donation and alms. Since the psychological pressure (feeling lowliness and contemptibility) of taking alms which is seen in some people is not occur in interest-free loan. But the positive effect of "ability and obligation for repayment" makes him/her to try more and will be safe from the effect of laziness and indolence which threat the recipients of free and without recompense helps. In another place the Holy Koran says: " give to the near of kin, the needy and the destitute traveler their rights and do not squander". (Isra, 26).

Anyway, the protective strategies of the Holy Koran are applicable in2 domains of "incomes" and "Expenditures". The taxes and fines and even the public ownership of natural capitals are considered in incomes domain. Donation and alms and some other methods are also regarded as incomes that provide some current expenses of services and social helps.

B- Traditions:

In the life of the Immaculates (Peace be upon

them) we see many cases of their treat with the physical handicapped. Those magnanimous people don't consider a person as full disabled if he/she had handicap in some part of the body and they encouraged him/her to benefit other capabilities. Also they encouraged that person to use an instrument to compensate that disability. For example many centuries before it is thought about white cane for the blind the Holy Prophet (Mohammad Peace be upon him) guided a blind man who didn't attend at prayer in congregation for the handicap in his eyes as follows regarding the smallness of the towns and shortness of the distance at that time:

A blind man went near the Holy Prophet and said "Oh, the Prophet. I can see and many times I hear call to prayer from the mosque but I there is nobody to bring me to mosque for participating prayer in congregation with you. The Holy Prophet said: fasten a rope the distance from your house to the mosque and come to mosque by help of it and taken part prayer in congregation. (Toyserkani, Laliliakhbar valasar, Vol. 2, P. 205).

Even in the cases that the handicap was in a form that there was no possibility for taking part in a specific activity for the handicapped like attending Jihad, when the handicapped announced their readiness to take part, the Holy Prophet told them that serving Islam in this specific form is not their duty and they can help the religion of God in another ways. The sample is Abdolah-ebn Maktoom who was one of the Holy Prophet's helpmate and he was blind. The Holy Prophet substituted him as his substitution several time when the Holy Prophet went out of Medina. Of course despite the exemption of Abdollah from war he was not pleased with staying at home and through his insistence he could take part in several wars and finally he was martyred.

Also among the companions and students of the Immaculates (Peace be upon them) there were people who were handicapped (like Ababasir, the student of Imam Mohammad Bager Peace be upon him) but that handicap didn't prevent them to effectively and usefully attend open society. The generosity of their behavior and their encouragements and guides for preventing solitariness and regarding the handicapped as inefficient and trying to activate their other abilities and capabilities and using a suitable instrument to compensate that fault in a specific handicap show the importance of this issue. The Holy Prophet says: "A blind person is one whose eyes can't see but the real blind is a person who has lost his/her internal discretion" (Motaghi Hendi, Kanzolomal, Vol.1, P.243).

It has been narrated from Imam Ali (Peace be upon him) that: "Seeing is not just through eyes; since sometimes eyes tell a lie to their owners, but wisdom

doesn't defraud one who demand benevolence from wisdom. (Nahjolbalagheh, Translated and described by Feizolislam, P.1223; aphorism 273). There are many traditions about helping the handicapped and its high value that we mention some of them: Imam Kazem (Peace be upon him) says: "Your help to disabled people is the best alms". (Alharani, Tohofol Oghool, P. 437). Also Imam Reza (Peace be upon him) says: "God has allocated a high position for the handicapped and for those who suffer pain" (Sections of Kafī, Vol.1, P.228).

The Holy Prophet says about the handicapped: "Anybody who helps a blind to walk 40 steps, all his/her sins up to now will be forgiven" (Najolfasaheh, No.2916). Imam Ali's (Peace be upon him) letter to Malekashtar the governor-general of Egypt has written: Consider God, Consider God about the class of the poor and the disabled persons. Remember disabled unlucky people since satisfied people are among these class and they are people who are helpful to others. You should fulfill the right that God has place to the benefit of them and has given a mission to you. And continues among them there are people who are scorned and for this they don't come to public and their problems are not discussed with you. You should exactly study this class for this purpose appoint some God-fearing and humble people to report their affairs to you, then perform their affairs so that you can have excuse on resurrection day since this group are more necessitous to justice and fairness than the other people. (Alharani, Tohofol Oghool, P. 437).

C- Laws:

The Constitutional Law of Iran enacted in 1979 in its 3rd Article states that the Islamic Republic of Iran obliged propose and plan all the needs and aims of people and system from personal and social, domestic and foreign, economic, and cultural aspects for fulfilling its aims. For example we read in Note 9 that "removing unjust discriminations and creating just facilities for all people in all material and spiritual fields."

In fact it can be understood from this text that applying the word "All" can conclude the handicapped as well. So, considering this description the handicapped can be included in this Note and benefit its privileges.

In addition to that it says in Note 14 of the same Article: "all out supply of the rights of all people including men and women and creating just judicial security for all and the equality of all before the law."

The Article 19 states that: the people of Iran from any tribe or ethnoses have equal rights and color, race, language and things like theses don't create privilege. Also it has been mentioned in Article 20: All people of the nation including men and women are equally protected by the law and the benefit all humane,

political, economic, social and cultural rights observing the Islamic Standards.

Different Rights of the Handicapped

1. Security Right: Islam regards this right not only for all the citizens of Islamic Government but also for the other creatures and human beings. It is in this safe and calm environment that human being can think for growth and perfection of oneself. So the Holy Koran states in this case that: " the recompense of those who make war against Allah and his messenger and spread corruption in the land is that they are to be killed or crucified, or have their hand and a foot cut off on opposite sides, or be expelled from the land- the discerning of the entitled punishment is stated by the lawgiver- for them is shame in this world and a great punishment in the everlasting life." (Maeda, 33).

Imam Ali (peace be upon him) states in this case that: "People need statesman so that the road will be safe and secure during his/her ruling, the right of the weak is take from the unreasonable people, righteous people live in welfare and people be in safe from the wicked. (Imami, Ashtiani, the explanation of Nahjolbalagheh, Letter31).

Persons with disabilities should take part in peaceful societies and associations like the other people of the society that these societies include general societies that all other people take part in it and also the associations and gatherings specific for the persons with disabilities. Article 3 of Universal Declaration of Human Rights also recognizes life, freedom and security to be the right of each person.

2. Traffic Freedom (easy accessibility): The only allocating right to the persons with disabilities is not enough but also the guarantee for accessing and enjoyment of people from what has considered in this right is necessary and without accessing the right is nothing more than a theory. The society must be the supplier and accessible to things like roads, public transportation system, public facilities (schools, hospitals, clinics, homes, work environment) and communications and information for the persons with disabilities. The government's duty for easy accessibility of the persons with disabilities (and not just the old people, little children, pregnant women, ...) taking necessary actions for complete removal of the obstacles for the physical presence of the persons with disabilities in the environment. These measures include: compiling standards and guidelines and study making of rules for guaranteeing easy accessibility of the persons with disabilities to the streets and other open spaces. This point is important that the conditions relevant to the easy accessibility of the persons with disabilities should be inserted in designing and contraction of physical environments from the begging of designing stage.

3. Freedom of Speech: "this right is of the rights which seems can be mostly fulfilled through the interference of government, but again the specific condition of the persons with disabilities is in a way that this noninterference can result in a high level to the deprivation of the persons with disabilities from this right. Freedom of speech has a physical relation to the right of accessibility to information, education and traffic possibility. The person who can speak and has not been taught sign language and is illiterate, how can express his ideas? In fact the purpose is that the government should not only consider the right of expressing ideas and thought for these people but also pay attention to its presentation method in a way that it can be presentable to others." (Eftekhar, A review of the Principles of Convention of Rights of persons with disabilities, No.24, P.11).

4. Political and Civil Law: "We have a right if it is given to us we are free; otherwise we are on the back of camels like captives even though a long time passes in this way." (Imami, Ashtiani, the explanation of Nahjolbalagheh, Imam's Wise Saying). This is an eloquent saying of Imam Ali (peace be upon him) and it means that if the right is not given to us we will be like despicable and low level people. "the civil and political rights are manifestations of suffrage. Suffrage or the right to determine ones fate is translation of human rights, moral idea, individual independence or individual self-directing. The ordinary wise grownups in ordinary situations can both make reasonable decisions and have freedom to execute their decisions. But in the case of the retarded persons both their ability for reasonable making decisions and their ability to execute decisions are seriously questionable. Accordingly the theoretical-moral basis of the rights of the persons with disabilities differs from the theoretical basis of the rights of ordinary people." (Seyed Fatemi, Discourse Changes: Rights and The Freedoms of the handicapped in Human Rights Refelction, P.388).

5. Family Life and Personal Prestige: "Family is the first and the most important social foundation. The foundation that mostly has security and protection with itself and family life is one of the definite rights of every individual that includes the family life that one belongs to it or making a new family. The life of the persons with disabilities like other people are protected by the law and the governments have duty to guarantee their family life and don't discriminate in relation to sex, marriage, being parent and instruct them in the case of precautionary measures against sexual abuse and other abuses. The persons with disabilities should have the ability to live with their family and the government should remove all unnecessary obstacles on the way of the people who want to train a persons with disabilities child or grownup or accept that person as a ones child and should support the change of negative attitude to

marriage and forming family in the societies.” (Jannat, the Rights of the Persons with disabilities and equality of Opportunities. P. 57)

6. Religion: “The freedom of belief and religion are included among the Articles mentioned in Universal Declaration of Human Rights. Everyone has right to have belief and religion performing religious actions, instructing and popularizing belief and religion are the outcomes of this right. The persons with disabilities have right to believe any religion and they should have right to perform their religious actions and or they should have right to be aware of the beliefs and religion of the other people. On the other hand the government should encourage the religious authorities to include the information about making policies relevant to the persons with disabilities in education for religious professions and also in religious instruction programs.” (Ibid)

7. Education: The developments of the concepts of citizenship rights have caused them to be applicable in other domains. Educational right is one of the rights that has been recognized from the beginning and included in Universal Declaration of Human Rights that is one of the efforts for recognizing the minimum rights for human beings. Article 26 of the Declaration, recognizes primary education to be obligatory that denotes the importance of education. Benefiting education is the right of everybody and it should be free at least that is relevant to primary education and basics. So the government has duty to supply free education for all children including the persons with disabilities children. The Article 8 of the executive bylaw of the Comprehensive Act for Protection of the handicapped states that education for the persons with disabilities and handicapped is not only their right but also in some cases they can benefit from free education in educational units dependent to the Ministry of Education, Ministry of Science, Research and Technology, Ministry of Medical Education, Islamic Azad university and other governmental systems. “The aim this action is preparing the persons with disabilities students for education in public schools. The quality of this instruction should reflect the standards and purposes of public education. The aim of the countries should be the gradual combination of specific and ordinary educational services. For performing this approach the government should guarantee that the teachers have been educated to educate the persons with disabilities students in ordinary schools and the necessary equipments and supports are provided so that they can promote the persons with disabilities persons to the educational level of their ordinary homogenous.” (Bastenegar, Human Rights from the Intelligentsia point of view, P.32).

8. Protection against Law and Accessibility to Judicial System: The thought and the ideality of

equality, in its primary diagram, the human beings equality is before the law, the law that has the spirit of justice in itself and it is one of the most important necessities for the fulfillment of the people’s rights. In this case also the specific particulars of the persons with disabilities can demand more care. Since the people who are mentally retarded, their specific conditions mostly can abate their responsibility but in the case of the persons with disabilities especially in the case of those who suffer several kinds of disabilities the issue is somehow complex. How can the Law treat with the person who has committed an illegal act and who is blind and deaf comparing the observing of execution of justice between this person to a healthy person who is aware of the laws. Even if many of these issues are case by case and rarely occurs but the nature of human rights are a kind that all these specific conditions should be recovered.

Some recognize the accessibility to protection of law one of the basic principles for other rights, since in the case of unfulfillment of a right or preventing a right to somebody that person should have the right to refer to legal system and take action for justicing. (Jannat, the Rights of the Persons with disabilities and equality of Opportunities, P. 47).

9. Accessibility to Information: It is not a long time that digital revolution has been occurred but during this short period a full change has occurred in human life and different aspects of life has been changed.

Regarding that the persons with disabilities are one of the groups that live on the fringes of the cities, providing the facilities for their accessibilities to digital technology can have considerable help for the persons with disabilities in natural life of the society. One of the privileges of digital life is the lessening of the importance of physical accessibility issue for attending and participating of the persons with disabilities in social life. “In Article 21 of the Convention in addition to referring and emphasizing on freedom of speech and idea and accessibility to information, efficient strategies have been presented in this case. The member governments should provide all the necessary measures to ensure that the persons with disabilities can optionally obtain the right to freedom of speech and the right to express their opinion including search, receive and exchange of information and comments equal as the other people through sign language, Braille, reinforced and substituted communications and accessible ways and methods and different kinds of communications.” (Yousefian, A Meditation on Comprehensive Act for Protection of the handicapped under the emanation of the regulations of convention of the rights of the handicapped, P.211)

10. Employment: "Equality of opportunity requires confronting the discrimination that deprives the persons with disabilities from the domains of their daily life. And this confrontation needs laws with simple method and enforceable against discrimination that covers the social, economic, public service and civil liability domains that should be accessible to the persons with disabilities together with help. Since economic independence is more important for full and effective enjoyment from most of the rights many of the antidiscrimination laws pay attention to discrimination in the case of employment." (Zarneshan, The strategies for supporting the employment rights of the handicapped in Iran Law and International Documents of Human Rights, P.237)

"Up to the time that suitable and appropriate space and conditions created for the persons with disabilities the structural progresses and high quality education can't create a real change and economic independence. In principle there is a direct relation between social welfare and the quality of the life of the people and their employment and unemployment and poverty that follows it will have social challenges for this reason the employment of people is inseparable part of their life. And there aren't equal benefiting facilities and employment opportunities for the persons with disabilities due to their physical or psychological disabilities. So it is necessary that more specific protections should be done." (Ibid, P.240)

For removing or reducing obstacles that prevent employment of the persons with disabilities manufacturing workshops specialized for the persons with disabilities, the protective centers of the persons with disabilities, quota plans, payment of subsidy to cooperatives and the employers that instruct the persons with disabilities and employ them or the cooperatives that are made for the persons with disabilities can be recommended as the alternatives.

The Laws Supporting Employment of the Handicapped

For fulfillment of the aims predicted in Article 29 of the Constitutional Law of the I.R. of Iran, presently some laws have been passed in the form of budget law, municipality law, civil employment etc. that the most important of them are as follows:

Sub-clause 74 of state budget law of the year 1983: "the Social Welfare Organization is permitted to give the purchased equipments required for the handicapped and disabled Revolution veterans no gratuitously to the handicapped and the Martyr's Foundation. (The collection of Laws and regulations for disabled war veterans, martyrs and prisoners of war, Vol.2, P.427)

The Unit Article of the Law for making it obligatory to the government to employ 10% of its required personnel from those disabled I.R. of Iran

Revolution veterans enacted in 1985: "All the ministries, Islamic Revolution Foundations, governmental institutions, companies and factories and banks and municipalities and all the organizations that benefit public governmental budget in anyway are obliged to supply at least 10% of their required personnel from those disabled I.R. of Iran Revolution veterans, the children of martyrs and the prisoners of war, the untraceable and superannuate disabled war veterans observing the other relevant regulations and coordinating with Martyr's Foundation of the I.R. of Iran if the qualified persons are among them." (Ibid, Vol.4, P.596)

In the mentioned Unit Article the quota is 10% it is mentionable that in the year 1985 the Foundation for the Oppressed and Disabled War Veterans had not been formed so these affairs were assigned to the Martyr's Foundation. In the case of ordinary handicapped the 1st sub-clause of the law is as follows:"the organizations described in Unit Article are obliged to supply 3% of their required personnel from the ordinary handicapped in appropriate professions observing all the relevant regulations and coordinating with the State Welfare Organization." (Ibid)

Of course it is mentionable that 3% was just included the governmental organizations so employers and companies in private sector are not obliged to observe it and are not subject to it. On the whole it can be understood from these definitions that the cause of disability and handicaps are not important regarding their specific conditions but the important thing is that how these people can be directed to employment. In fact, today it should be acknowledged that the disabled people can't have full share in professions like the healthy persons and they lose the opportunities of employment due to their disability and weakness. Unfortunately most of the employers are also unaware of their ability to perform the affairs and this case and several other obstacles prevents the handicapped to access the appropriate profession.

Researches show that "Innovations and the methods considered in domestic law for promotion in profession and employment of the disabled people have not mostly been enough for helping the handicapped." (Farzamfar, Employment of Disabled People Principles of Selective Employment, P.52)

Therefore, here we mention the methods and ways of expanding employment opportunities:

A- Creating Employment Facilities through Independent Professions: for disabled persons who live in areas with limited employment opportunities and or those face difficulties in traffic to work place, having an independent profession maybe the best form of activity. Unfortunately most of the handicapped who apply for an independent profession don't have enough

experience in that profession or lack enough capitals. Of course the necessities of these affairs are preparing educational programs facilities for the handicapped.

In Sub-clause 2 of the Article 43 of the Constitutional Law of the I.R. of Iran it is stated that: "Providing conditions and facilities of work for all people for achieving full employment and supplying with work tools all those that are able to work but don't have tools in the form of cooperative, through loan without interest or any other canonical way that neither results in centralizing and using capitals at the hands of specific individuals and groups nor makes the government as the definite big employer. This action should be done through observing the necessity dominated state economics general planning in any stages of growth." The constitutional law with the predicting the supplying work instruments for those who are ready to work has taken a valuable and useful step in achieving social justice. If this issue is followed with precise and calculated planning it will bring favorite effects.

In addition to that in Sub-clause 1 of Article 119 of Labor Law it has been stated that: "the employment services centers in the center of each province obliged to establish an office titled Office for planning and supporting employment of the handicapped and all the institutions mentioned in this Article are obliged to cooperate with these offices."

B- Creating employment facilities through forming cooperatives specific for the disabled and the handicapped: in constitutional law of the I.R. of Iran based on Note 2 of the Article 43 some discussions and explanations were given about cooperative which was discussed. But in Sub-clause 2 of Article 119 of Labor Law it has been stated that: "the government is obliged take actions to support the handicapped to create cooperatives (productive, agricultural, industrial and distributional) through giving them long term interest-free loans and necessary instructions and establishing the facilities for performing the profession and supporting production or services and remove the architectural obstacles in all the centers that are subject to this Article and its sub-clauses that the handicapped attend those centers".

"Of course it is better that the handicapped be the member of the general cooperatives but since this seems not to be practical so the facilities for forming cooperatives specific for the disabled people should be studied." (Alavi, Employment of the handicapped, selection strategies and employment of the handicapped, P.56)

In sub-clause 1 of Article 6 of the Executive Bylaw of the Sub-clause 3 of State Budget Law of the Year 1993 dated Mar. 17, 1993 it has been stated that: "the general offices of cooperative in the provinces are obliged to take actions for preparing the plans

relevant to cooperatives of sacrificers with the cooperation of other executive organizations when it is necessary and all the relevant executive organizations will cooperate in preparing the plans issuing principle agreement and other permits and other actions that are necessary for presenting and performing the plan." (The collection of Laws and regulations for disabled war veterans, martyrs and prisoners of war, Vol.3, P.78) also in Article 109 and its Note "H" of the Act for the third Economic, Social and Cultural Development Program of the I.R. of Iran in the case of forming agricultural cooperatives the priority has been given to the cooperatives of the sacrificers.

The Study of the Results of Some National and Universal Researches for the Welfare of the Handicapped

"with the announcement of the year 2002 as the International Year of the Handicapped the decade 1983 to 1993 was called the decade of United Nations for the Handicapped and in the same direction some promising essentials and actions have been fulfilled by the developing countries with the cooperation of the United Nations and International Nonprofit Organization in the case of preventing handicap, rehabilitation and equality of the opportunities." (Program for Universal Actions for the Handicapped, Translated by Mahdi Babaei Ahari, P.98)

"The necessity for adapting urban environment for the disabled and persons with disabilities in all the final acts, laws, bylaws and the instructions shows that benefiting equal opportunities in the society are the right of all people and the people of the society should have equal share from the economic and social development and surely paving the necessary way for this important affair is undertaken by the governments, i.e. the governments should draw the attention of all people to the uses and privileges of this action and prepare them to participate in the economic, political and cultural development through making their people be aware of it. Since making all the social strata in supplying material and financial resources will cause the extension of social services and improving the economic facilities and this affair is specifically important for the handicapped." (Mostafa, International Actions for Supporting the Right of the Handicapped, P.24).

"The assessment of the performance of the law and regulations relevant to the handicapped shows that the general instruction and information sections have been facing with basic challenges and the result of many researches in this case are the witnesses to this claim; such as the valuable research titled "The case analysis of the performance of the standard and regulations of urbanization and architecture for the handicapped" that was performed by the technical structure office of the ministry of interior in the year

1994 with the following 3 aims:

1. The study of the amount of successfulness of the approval enacted May 29, 1989 for the handicapped. 2. Recognizing the reasons of "unsuccessfulness" through direct reference to the factors of designing and manufacturing. 3. Summation and recommendation of poor performance of instructional section including general and or specialized sections in this domain." (National and Universal Programs for the Welfare of the handicapped, P. 5-6)

"So in revising the approval enacted May 29, 1989 by the Committee for reviewing the standards and regulations of urbanization and architecture for the physical handicapped a subcommittee was formed titled Education Committee and defined its aims and duties in compiling new bylaw as follows:

- Making strategies and preparing for making aware the different social strata in the case of architectural and urbanization rights of the handicapped.

- Predicting and recommending educational programs and following up their execution based on the laws and regulations of Housing and Construction Research Center using the abilities of the other relevant organizations.

- Studying and recommending methods for making the handicapped aware of their relevant laws and rights in the case of architectural and urbanization issues.

- Summation the experiences of the members of the committee in the case of dissemination of the result of the researches and advertise it for making sensitivity and for using the planning and construction and residential and urban environment implementers. (Ibid, P.13-15).

Discussion

It is clear that the rights of the handicapped is an extended expression of the rights of human beings and includes all the specialized rights for being equal or paying more attentions to this group of people who have practically physical defects but can't enjoy the facilities and welfare instruments of ordinary people for their necessary daily life affairs.

In Islamic culture and religion regarding the encourages and persuades that are stated in verses and traditions and the life of the Holy Prophet and the Immaculate Imams with regard to observe the rights of the handicapped it can be clearly understood that Islam wants a society and environment in which human being can comfortably live and also the constitutional law and Universal Declaration of Human Rights explicitly stated their rights that this itself shows the principle for the equality of the handicapped with normal human beings. The governments also obliged

to provide the welfare facilities for them so that they can live with more hope and the issues such as security, the right of selection, the right of employment and etc. are fully observed so that their physical handicap is not considered as finishing their right to live.

Both Islam and substantive law of Iran have paid specific attention to the rights of the handicapped and physically disabled people and both of them have reprehended disorganization for not providing specific rights for the handicapped.

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