

An Inquiry into Fundamental Human Rights and Freedoms in the Iranian Legal System with Emphasis on Constitutional Discussions

Anas. Abdul Khudhur Mohammed Al-Debis¹, Mahmood. Ashrafiy^{2*}, Maitham. Mohammad Abd Al Nomani³, Mohammad. sharif shahi⁴

¹ PhD Student, Department of public law, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran

² Assistant Professor, Department of Criminal Law and Criminology, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran

³ Assistant Professor, Department of Law, Faculty of Law, Al-Furat Al-Awsat technical University, Kufah, Iraq

⁴ Assistant Professor, Department of public and internasional law, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran

* Corresponding author email address: mahmood.ashrafiy2000@gmail.com

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Human rights and the establishment of fundamental conditions of freedom for individuals have always been central concerns of societies and remain a focal point of debate to this day. The main objective of this study was to examine the fundamental human rights and freedoms within the Iranian legal system. The findings revealed that the Constitution of the Islamic Republic of Iran regards freedom, human dignity, and public participation as its fundamental principles, while placing independence and territorial integrity on an equal footing with freedom. The right to form assemblies and political parties is recognized in Articles 26 and 27 of the Constitution as well as in the Charter of Citizens' Rights. These rights, however, are subject to the conditions of non-contradiction with Islamic principles and the prohibition of bearing arms. The implementation of Article 26 is carried out through the Law on Political Parties and under the supervision of the Article 10 Commission, which is responsible for issuing permits for the establishment of parties and for organizing demonstrations. The enforcement of Article 27 similarly requires notification to the Ministry of Interior and approval by the Article 10 Commission, a process characterized by strict legal restrictions that have effectively curtailed the freedom of assembly. Criticisms directed toward the Article 10 Commission include the lack of religious expertise among its members in determining conformity with Islamic principles and the unreasonable requirement of obtaining prior authorization for peaceful assemblies.

Keywords: human rights, fundamental freedoms, constitution, Iran

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1. Introduction

The significance of human rights regulations and their influence on global public opinion has been so profound that even Iran—after the 1979 Islamic Revolution, which initially adopted a policy of disregarding international human rights resolutions and

instruments—abandoned this stance after a decade. This shift occurred both due to the intrinsic importance of such rights and as a result of international pressure to adhere to international human rights standards (Mehrpour, 2021). Accordingly, Chapter III of the Constitution of the Islamic Republic of Iran (Articles 19–42) is devoted to “the Rights of the Nation,” which



outlines fundamental human rights and freedoms. Among these rights are equality before the law, immunity from all forms of intrusion, prohibition of inquisition into personal beliefs, privacy of correspondence, freedom of association and assembly, freedom of occupation, protection from arbitrary arrest or detention, the right to litigation and access to counsel, the presumption of innocence, and prohibition of torture. These are among the most significant rights and freedoms recognized by the Iranian Constitution, reflecting the influence of international human rights instruments on Iranian law (Ghari Seyyed Fatemi, 2022; Gorji Azandariyani, 2019; Hashemi, 2020).

2. Background of the Topic

1. Mousavi Bejnordi and Soleimanian (2006), in their article titled *"A Jurisprudential and Legal Examination of the Rights of the Nation in Chapter III of the Constitution of the Islamic Republic of Iran,"* stated that "Chapter III of the Constitution of the Islamic Republic of Iran, through 24 articles, emphasizes the rights of the nation."
2. Seraji (2009), in an article entitled *"The Rights of the Nation in the Constitution of the Islamic Republic of Iran (A Commentary on Chapter III of the Constitution),"* argued that "the rights of the nation constitute one of the central issues in political systems, a subject strongly emphasized in their constitutions. Nations around the world strive to make it the most prominent part of their constitutions. One of the main discussions in constitutional law is the rights of individuals and the limitation of rulers' power, referred to as 'human rights,' 'fundamental rights and freedoms,' or 'rights and duties of governments and individuals.' These rights are defined based on individual and collective perspectives. The Constitution of the Islamic Republic of Iran, avoiding both extremes, neither disregards the people's rights as Western regimes did before the Renaissance nor eliminates divine rights (*haqq Allah*) from social life as occurred afterward" (Hashemi, 2020; Katouzian, 2019).
3. Talebzadeh (2018), in his research titled *"Public Freedoms and the Rights of the Nation,"* pointed out that "the rights of the nation are, on one

hand, natural rights derived from the noble nature of human beings, which legislators are not entitled to revoke or restrict; and on the other hand, governments are obligated not to impede their exercise" (Aqaei, 2017; Ghari Seyyed Fatemi, 2020).

4. Shayanfar and Salarzayi (2014), in their comparative study titled *"A Comparative Study of the Rights of the Nation in the Constitutions of the Islamic Republic of Iran and Pakistan,"* stated that "ensuring the rights and freedoms of the people is a fundamental and essential issue in any political system. Most of the world's political systems have dedicated a portion of their constitutions to these rights. The constitutions of Iran and Pakistan, both founded on the principles of the Islamic Republic and therefore influenced by the teachings of Islam, are no exception to this rule and have articulated the rights of their citizens accordingly" (Ghorban Nia, 2019; Islamic Consultative, 2015).

3. Methodology

The research method employed in this dissertation is descriptive-analytical. Data collection was conducted through a library-based approach, utilizing note-taking from books, articles, and theses (Madani, 2017).

4. The Concept of Freedom

The concept of *freedom* has been regarded since ancient times as one of the most esteemed human values. Throughout history, all human beings—whether powerful or weak, oppressor or oppressed—have pursued their aspirations under its banner. Even the most despotic rulers have exploited the notion of freedom to justify their aims, committing the most atrocious crimes in its name, as freedom has often been used as a sacred pretext for achieving objectives (MacIver, 2020).

With the progress of human civilization, freedom emerged as one of the defining ideals of human history. Ancient philosophers, particularly those of classical Greece, introduced new interpretations of freedom that broadened its meaning beyond the traditional understanding. However, this expansion sometimes reached such extremes that even the most immoral acts

were justified as expressions of freedom—a notion echoed in the writings of certain Western thinkers such as Freud. A deeper analysis reveals that perceptions of freedom are largely shaped by a society's worldview, such that each school of thought defines freedom according to its underlying ideals. Consequently, freedom is a relative concept, deeply influenced by social, cultural, historical, and religious contexts (Vakil, 2020). Some authors have identified over two hundred distinct definitions of freedom (Aqaei, 2017).

Therefore, each group of thinkers has defined freedom according to its own intellectual orientation, and even within a single discipline, multiple definitions have emerged. Most of these definitions are *descriptive* rather than *essential*, and thus not subject to critique, as objections arise only against essential definitions. In essence, freedom is a relational term whose meaning depends on the complement that follows it—such as freedom of expression, freedom of the press, or freedom of prisoners. Across these definitions, a common element is evident: freedom signifies release from constraint or bondage (Ghari Seyyed Fatemi, 2017; Katouzian, 2018).

5. Classification of Types of Freedom

5.1. Positive and Negative Freedom

Some scholars argue that freedom can be understood in two senses: *positive* and *negative*. Although this classification is often attributed to Isaiah Berlin, he never explicitly used these exact terms in his writings. *Negative freedom* refers to the realm within which individuals or groups are, or should be, free to act without interference from others. In other words, it represents freedom *from*—freedom from obstacles, coercion, or restrictions (Eslami & Kamalvand, 2020).

Negative freedom concerns the sphere in which a person can act without hindrance from others. Thus, realizing this form of freedom requires the absence of limitations and restrictive interventions against individuals' will. Berlin's notion of negative freedom in civil and political contexts implies the absence of prohibitions obstructing the exercise of will. When such prohibitions exceed certain limits, they lead to the total deprivation of freedom, culminating in coercion or even servitude (Hashemi, 2020).

Positive freedom, by contrast, seeks to answer the question: who governs or controls my actions, and how?

It is often described as *freedom to*—that is, autonomy or self-mastery. Berlin expressed this idea as follows:

"What I wish for is that the life I live and the decisions I make be under my own control, dependent on no external force. I want to be the instrument of my own acts, not of others'. I want to be the subject, not the object; to determine my own reasons and ends, and not to be influenced by alien forces."

Lewis defines positive freedom as the enjoyment of rights that serve the interest of their holders. This interpretation has a distinctly modern tone, as contemporary discussions of positive freedom often relate it to the concept of *citizenship*, encompassing a wide range of civil, political, and social rights. Accordingly, the growth of freedom is equated with the expansion of citizenship. For freedom to be substantive and not merely abstract, individuals must have the means to exercise it and achieve self-realization and self-determination to their fullest potential (Ghari Seyyed Fatemi, 2020; Vakil, 2020).

Debates over positive and negative freedom have long divided liberals and their critics. Liberals advocate minimal state interference in personal decisions, while socialists defend the state's supportive intervention to actualize individuals' conscious free will. Proponents of negative freedom speak of a *minimal state*, whereas advocates of positive freedom promote a *welfare-oriented maximal state* (Ghari Seyyed Fatemi, 2022; MacIver, 2020).

5.2. Gardiner's View on Freedom

According to Gardiner, there are at least six distinct types of freedom. The first and most important is *inner freedom*. Even if an individual is physically imprisoned, they remain a choosing being—capable of selecting their values, ways of thinking, and lifestyle. This type of freedom, inherent to human nature, cannot be taken away.

The second type is *freedom from carnal desires*. Many religious and philosophical traditions emphasize the importance of learning methods to liberate oneself from the bondage of the ego.

The third is *external freedom*, the most tangible type experienced in daily life across societies. It often corresponds to the notion of "freedom from"—that is, immunity from interference by others, especially by authorities such as the state (Fouladvand, 2015).

The fourth type is *political freedom*, which entails the establishment of a predictable and stable structure of rights and the limitation of state power to ensure those rights. Examples include freedom of expression and association, the right to own property, freedom of religion, freedom of movement, and participation in elections (Ghorban Nia, 2019; Hashemi, 2020).

The fifth, *collective freedom* or *higher freedom*, refers to the collective will to achieve shared goals and common interests. This form of freedom is based on an ideology of collective unity prescribing certain moral and social values for society as a whole. Advocates of collective freedom argue that protecting individuals from their own government is illogical since governments derive legitimacy from the people's consent (Arkoun, 2017). However, totalitarian regimes have frequently exploited this notion, committing grave atrocities in its name.

Finally, *spiritual freedom* represents the sixth type. In its purest form, it arises from the pursuit of divine understanding and the acceptance of the will of the Almighty. At this stage, the soul attains peace and detachment from material turmoil, transcending bodily needs and desires. Through ascetic practices and renunciation of material attachments, individuals achieve various degrees of spiritual liberation (Gharavi, 2004; Ghari Seyyed Fatemi, 2017).

6. The Place of Freedom in the Constitution of Iran

Every living being requires the interaction of three major and fundamental factors to achieve growth, elevation, and perfection: the educational process, security, and freedom. Taken together, these factors form an unparalleled cycle for the perfection of living beings, and any defect or obstacle in any of these causes introduces deficiency, deviation, or cessation into the processes of growth and perfection. Freedom is humankind's twin and pure essence. A human being is born free and must live freely, choose his or her own way of life, cherish this endowment, avoid excess and negligence, and—through continuous diagnosis of vulnerabilities, monitoring, and searching—strive to preserve freedom, subjecting it to inquiry and meticulous examination. As a volitional being, the human person bears both rights and duties, values the endowment of freedom more than other living beings, and will knowingly risk even life itself to attain it—so much so that the path to freedom renders the

hardship of giving one's life bearable. (Ghari Seyyed Fatemi, 2022; Katouzian, 2019)

Like other terms, the word "freedom" has been subjected to various and sometimes contradictory interpretations and definitions; political currents and intellectual schools have each approached this pure gem from the confines of their own perspective. In reality, given freedom's value and place in individual, social, national, and international relations, the concept has not been addressed in a fully comprehensive and delimiting manner—a point that, to some extent, was noted in the prior discussion on conceptual definitions. (Aqaei, 2017; MacIver, 2020)

One of the primary signs of the progressive character of a country's constitutional order is the value it accords to freedom: freedom of belief and religion, freedom of expression, freedom to choose an occupation, freedom of residence and movement, and other aspects of liberty. At the same time, a country's constitution is among the most important—indeed, the most important—sources of its constitutional law. It consists of a set of provisions and general principles that define the form of government, the supreme organization of the three branches of state and their interrelations, and the rights and freedoms of individuals vis-à-vis the state. It is therefore natural, and even necessary, to consider the constitution as the most important and, in practice, the authoritative reference for identifying the freedoms of the people in any given country. (Ghazi Shariat Panahi, 2020; Hashemi, 2020)

The earliest signs of recognition of freedom of assembly in Iran should be sought in the Supplementary Fundamental Laws of the Constitutional Revolution, enacted in 1907, specifically Article 21. That provision stated: associations and assemblies that are not a source of religious or worldly sedition and are not disruptive of order are free throughout the realm; however, participants must not carry arms, and the arrangements stipulated by law in this regard must be followed. Assemblies held in streets and public squares must likewise abide by police regulations. (Ansari, 2020; Ghazi Shariat Panahi, 2014)

Furthermore, the Law on the Establishment of the National Intelligence and Security Organization (SAVAK), enacted on March 14, 1957, provided more explicit regulations for controlling unlawful gatherings.

Under Article 2 of this law, the duties of the organization related to control of unlawful gatherings included:

- a) obtaining and collecting the information necessary to protect national security;
- b) preventing the activities of associations whose formation and administration had been or would be declared unlawful, as well as preventing the formation of associations whose ideology or practice contravened the Constitution;
- c) preventing conspiracies and contrivances against national security; and
- d) addressing misdemeanors and felonies set forth in Chapter One of Book Two of the General Penal Code enacted in 1926, i.e., crimes against the internal and external security of the country. (Ansari, 2020; Madani, 2017)

Following the glorious Iranian Revolution, freedom was among the essential pillars and one of the principal ideals and objectives of the Islamic Revolution. Embodied in the slogan “Independence, Freedom, Islamic Republic,” this aim found concrete expression in the Constitution after the victory of the Revolution. Indeed, the great uprising and revolution of the Iranian people can be analyzed in terms of the pursuit of freedom, the rejection of all forms of domination and submission, and the establishment of independence and the Islamic Republic under Article 2, paragraph (6). (Hashemi, 2020; Islamic Consultative, 2015)

The Preamble to the Constitution states: “The form of government in Islam is not based on class position or the domination of an individual or group; rather, it is the manifestation of the political ideals of a nation united in faith and thought, which organizes itself in order to open the way toward the final goal—movement toward God—within the process of intellectual and doctrinal transformation.” It continues: “The Constitution guarantees the negation of all forms of intellectual and social despotism and economic monopoly, and, by severing ties with despotism, strives to place the people’s destiny in their own hands, ‘and He relieves them of their burden and the fetters that were upon them.’” In the Islamic Republic of Iran, the people constitute both the source and the purpose of the system’s establishment; the Islamic Republic derives from the people’s will and exists for the people. The people’s place and role are not merely instrumental; the aims of the Islamic Republic, as defined in the

Constitution, contemplate nothing other than the salvation and well-being of the people in this world and the next. (Ghazi Shariat Panahi, 2020; Gorji Azandariyani, 2019)

The most important arenas and highest manifestations of the people’s influence and role in the Constitution of the Islamic Republic of Iran may be summarized as follows: the formation and victory of the Revolution (Article 1), national sovereignty (Article 56), determination of the form of government (Article 1), approval of the Constitution and its amendments (Article 177), the indirect election of the Leader (Article 107), the direct election of the President (Articles 114, 122, and 113), the direct election of members of the Islamic Consultative Assembly (Articles 62 and 82), councils (Articles 100 and 104), referenda (Articles 59 and 110), and public oversight (Article 8). (Ghazi Shariat Panahi, 2014; Hashemi, 2020)

With respect to the relationship between freedom and democracy (popular sovereignty), freedom may be seen as a precondition that has, throughout history, inspired people’s active participation in determining their political destiny. The Constitution of the Islamic Republic of Iran explicitly affirms human dignity and the high value of the human being, alongside freedom coupled with responsibility before God (paragraph 6 of Article 2), and provides for the protection of political and social freedoms within the bounds of the law (paragraph 7 of Article 3). Moreover, in a progressive formulation, Article 9 of the Constitution treats freedom, independence, and national unity and territorial integrity as inseparable elements of a single whole, placing freedom on a par with such a supreme value as safeguarding territorial integrity—one of the primary elements in the formation of the state. Article 9 provides: “In the Islamic Republic of Iran, freedom, independence, and the unity and territorial integrity of the country are inseparable, and safeguarding them is the duty of the government and all individuals of the nation. No individual, group, or authority has the right, under the pretext of exercising freedom, to cause the slightest harm to the political, cultural, economic, or military independence, or to the territorial integrity of Iran; nor does any authority have the right, under the pretext of preserving the independence and territorial integrity of the country, to abrogate legitimate freedoms, even by

enacting laws and regulations.” (Ghazi Shariat Panahi, 2020; Hashemi, 2020)

In addition, Chapter III of the Constitution, under the heading “Rights of the Nation,” sets forth—across 24 essential and fundamental articles—the basic rights of the people in the Islamic society and enumerates part of the government’s and the state’s duties to secure and guarantee those rights. The spirit of these principles, and their underlying worldview, are articulated in the Preamble: the people are not only the efficient cause of the establishment of the Islamic order, but their well-being is also the final cause of the system’s continuity. (Ghari Seyyed Fatemi, 2020; Katouzian, 2017)

Accordingly, all capacities, planning, and policy-making in the Islamic Republic of Iran must be devoted to ensuring the people’s welfare, security, well-being, and moral good. Among the freedoms provided in the Constitution—particularly in Chapter III—are the following:

- personal liberty (paragraph 6 of Article 2 and paragraph 4 of Article 43);
- freedom of thought, belief, religion, and denomination (paragraph 4 of Article 3 and Articles 12, 13, and 23 of Chapter V);
- freedom of publications and the press (Article 24);
- civil and social freedoms, including freedom to choose one’s residence (Article 31);
- freedom to engage in trade and to choose one’s occupation (Articles 22 and 28);
- freedom to own movable and immovable property (Articles 42 and 47);
- freedom of parties, associations, political and professional societies, and Islamic associations, with recognized religious minorities (Article 26);
- freedom of assembly (Article 27), which is the subject of this study. (Eslami & Kamalvand, 2020; Ghazi Shariat Panahi, 2020; Hashemi, 2020)

Islam is the official religion of Iran, and the Twelver Ja’fari school is the official doctrine; this principle is immutable forever. However, other Islamic schools—Hanafi, Shafi’i, Maliki, Hanbali, and Zaydi—enjoy full respect, and their adherents are free to perform religious rites in accordance with their own jurisprudence. In religious education and matters of personal status (marriage, divorce, inheritance, and wills), and disputes related thereto, their doctrines are officially recognized in courts. Moreover, in any region where the followers of

one of these schools form a majority, local regulations—within the scope of the councils’ authority—will be in accordance with that school, while safeguarding the rights of adherents of other schools (Article 13). (Hashemi, 2020)

Zoroastrians, Jews, and Christians are the only recognized religious minorities in Iran. Within the limits of the law, they are free to perform their religious ceremonies and conduct their personal status and religious education in accordance with their own traditions. (Hashemi, 2020)

Pursuant to Article 23, inquisition into beliefs is prohibited, and no one may be molested or prosecuted merely for holding a belief. This Article underscores that (1) inquisition is forbidden, and (2) no one may be harmed solely for having a belief. Spying and prying into others’ personal and private affairs—especially matters of the inner life and conscience—are impermissible. The Noble Qur’an explicitly states: “O you who believe, avoid much suspicion. Indeed, some suspicions are sins; and do not spy on one another....” (al-Hujurāt 49:12)

(Arkoun, 2017)

Furthermore, the first condition for the existence of freedom is the establishment of security and tranquility in society; without security, freedom devolves into anarchy. To ensure the proper use of freedom, the Constitution has contemplated safeguards for the preservation, guarantee, and expansion of freedoms. Under paragraphs 6 and 7 of Article 3, the Islamic Republic is obligated—toward fulfilling the objectives of Article 2, including belief in human dignity and the high value of the human being alongside freedom coupled with responsibility before God—to eliminate all forms of despotism, autocracy, and monopoly, and to secure political and social freedoms within the bounds of the law. (Ghari Seyyed Fatemi, 2020; Hashemi, 2020)

In addition, the President swears an oath to safeguard the official religion, the system of the Islamic Republic, and the Constitution; to avoid all forms of despotism; and to protect individual liberty, personal dignity, and the rights recognized by the Constitution for the nation (Article 21). The Judiciary, as the protector of individual and social rights and the authority responsible for realizing justice, is charged with reviving public rights and promoting justice and legitimate freedoms (paragraph 2 of Article 156). Members of the Islamic Consultative Assembly, as guardians of Islam’s sanctity

and the achievements of the Islamic Revolution, undertake in their oath to consider the country's independence, the people's freedom, and the securing of their interests in their statements, writings, and opinions (Article 67). (Ghazi Shariat Panahi, 2014; Hashemi, 2020)

Islam never permits the disclosure of people's private secrets. In other words, Islam seeks to ensure that people are secure in their private lives in every respect; for if individuals were allowed to pry into one another's affairs, the honor and reputation of the people would be ruined. (Ghari Seyyed Fatemi, 2017)

7. Freedom in the Constitutional Law of the Islamic Republic of Iran

The right to freedom of assembly is guaranteed to citizens under the Constitution, ordinary laws, and the Charter of Citizens' Rights. This right is affirmed in the following instruments:

1. Articles 26 and 27 of the Constitution of the Islamic Republic of Iran (1979);
2. The Law on Political Parties, Associations, and Islamic Societies or Recognized Religious Minorities (enacted September 7, 1981);
3. The Regulation on Securing the Safety of Legal Assemblies and Demonstrations (enacted September 22, 2002);
4. The National Guild System Act (enacted March 14, 2004, with later amendments);
5. The Law on Publication and Free Access to Information (enacted January 26, 2009, and confirmed August 22, 2009);
6. Article 66 of the Code of Criminal Procedure (2013);
7. The Regulation on Non-Governmental Organizations (enacted September 3, 2016).

Additionally, Articles 43 through 46 of the Charter of Citizens' Rights elaborate on the rights to association, assembly, and demonstration. Article 43 states: "Citizens shall have the right to form, join, and participate in political parties, associations, social, cultural, scientific, political, and professional organizations, and non-governmental organizations in accordance with the law. No one shall be prevented from participation in or compelled to join them. Membership or non-membership shall not result in deprivation or limitation

of citizenship rights, nor cause any unjust discrimination."

Article 44 of the Charter recognizes citizens' right to effective participation through unions, associations, and professional organizations in policymaking, decision-making, and implementation processes. Furthermore, Article 45 provides that civil activities in the field of citizens' rights are the right of every citizen and that non-governmental organizations must have access to information and competent courts for redress in cases of violation of citizens' rights (Islamic Consultative, 2015). Article 46 of the Charter also addresses compliance with the law in the formation of assemblies and demonstrations, stipulating that "citizens have the right, freely and in accordance with the law, to form and participate in assemblies and demonstrations, and to benefit from the impartiality of responsible authorities and the protection of the security of assemblies."

8. Constitutional Capacity for Exercising the Right to Freedom of Political Activity

One of the most important constitutional principles regarding political and civil freedoms is Article 27, which concerns the formation of assemblies and demonstrations and the conditions governing them. Article 27 provides that "public gatherings and marches may be freely held, provided that participants are unarmed and that such gatherings are not detrimental to the fundamental principles of Islam." (Ghari Seyyed Fatemi, 2022; Hashemi, 2020)

Although the text of this article does not directly mention political parties or their role in organizing assemblies, the Law on Political Parties confines the right to request permission for demonstrations and gatherings to registered political parties. Article 26 of the Constitution provides that "political parties, societies, political and professional associations, and Islamic associations or recognized religious minorities are free, provided that they do not violate the principles of independence, freedom, national unity, Islamic criteria, and the foundations of the Islamic Republic. No one may be prevented from participating in them or compelled to join any of them." (Eslami & Kamalvand, 2020; Hashemi, 2020)

9. The Law on Political Parties

Under current laws, the implementation of Article 27 proceeds through Article 26 and political party mechanisms. To give effect to Article 26 of the Constitution, the *Law on Political Parties, Associations, and Islamic or Recognized Religious Minority Societies* was enacted on April 27, 1981. Its executive bylaw further established detailed regulations for the functioning of parties and associations. This law contains no explicit provision depriving any group of the right to organize; however, the *Article 10 Commission on Political Parties* exercises supervisory powers that may limit this right in practice (Hashemi, 2020).

Under this law, parties are categorized according to their founding principles and purposes—political, religious, or otherwise—and each association must specify its domain of activity. The process of forming a party begins with a registration request. Legal personality is obtained only upon formal acknowledgment by the competent administrative authority, a responsibility assigned to the Ministry of Interior. Article 1 of the law stipulates that all groups must submit their charters, bylaws, and the identities of their leadership boards, as well as any subsequent changes, to the Ministry of Interior.

The law also establishes special conditions for obtaining an activity license, including adherence to the Constitution, a clean political and criminal record among founders, and the absence of prior executive positions under the Pahlavi regime. Individuals deprived of social rights by judicial order are ineligible to apply for a party license. Upon compliance with these requirements, the Ministry of Interior—after review by the Article 10 Commission and the Minister's signature—issues the license. (Gorji Azandariyani, 2019; Madani, 2017)

Supervision of political parties is carried out in accordance with Article 9 of the Constitution and Article 16 of the Political Parties Law, which prescribe legal boundaries for party activities. Accordingly, political parties must respect independence, freedom, national unity, Islamic principles, and the foundations of the Islamic Republic in all their operations (Ghazi Shariat Panahi, 2020).

Party-related offenses may result in the suspension of a license and a dissolution request by the Article 10 Commission or, when of a political nature, are adjudicated under Article 168 of the Constitution in

public courts with the presence of a jury. (Hashemi, 2020)

As discussed, in Iran, the right to freedom of assembly is protected under the Constitution, ordinary legislation, and the Citizens' Rights Charter. According to Article 27, gatherings and demonstrations may be held freely, provided participants are unarmed and the event does not contravene Islamic principles. Likewise, Article 24 of the Charter regards public participation through unions and associations as an inherent right of citizens (Eslami & Kamalvand, 2020).

The most fundamental duty of governments is to safeguard the basic human rights and freedoms of their citizens. States are obligated not only to refrain from interfering with individuals' enjoyment of human rights but also to take the necessary measures to facilitate and promote the exercise of these rights (Ghari Seyyed Fatemi, 2020; Vakil, 2020).

Across the legal systems of the Islamic Republic of Iran, the United States, and international human rights instruments, freedom of assembly is recognized as a right of great significance. Nevertheless, it is clear that freedom of assembly is not an absolute right; to maintain order and security, every legal system imposes certain limitations consistent with public interest and morality (Ghorban Nia, 2019; Mehrpour, 2021).

10. Conditions and Limitations Prescribed in the Constitution

No legal system leaves the exercise of freedoms wholly unrestricted; rather, every liberty is subject to certain limitations that ensure the protection and proper realization of rights. Restrictions such as the preservation of public and national order and security, respect for the rights of others, public morality, and good ethics are among those imposed to safeguard the structure and stability of society. These limitations apply equally to freedoms, including the right to freedom of assembly (Hashemi, 2020; Vakil, 2020).

Public assemblies and demonstrations may also be regarded as an expression of the Islamic duty of *enjoining good and forbidding evil* (*amr bi'l-ma'ruf wa nahy 'an al-munkar*), a collective religious obligation. Through this social right and religious duty, society possesses a moral and institutional mechanism to restrain the state's tendency toward despotism and to ensure the integrity of governance. In Shi'ite public jurisprudence, *amr bi'l-*

ma'rūf wa nahy 'an al-munkar is one of the central concepts linked to the idea of governance and political accountability (Arkoun, 2017; Ghari Seyyed Fatemi, 2022).

Nevertheless, determining the boundaries and obligations governing such assemblies is both logical and necessary. Assemblies that are social in nature or organized for social, political, or professional purposes logically require closer oversight by security and law enforcement authorities. Police officers may, at times, prohibit assemblies where there is a risk of clashes, disorder, or disruption of public order (Ansari, 2020).

The clearest form of public assembly is the street demonstration. Democratic legal systems generally recognize such demonstrations as lawful; however, they often occur in the context of acute social or political tensions and therefore carry potential risks to public order, including riots, violent confrontations, or attacks on public or private institutions. Observing all legal requirements—such as prior notification and obtaining authorization from competent authorities—serves as a precautionary measure to prevent adverse incidents. For instance, in France since 1935, organizers must notify municipal authorities at least one day before a demonstration. Municipalities or police may prohibit gatherings that threaten public order or may provoke violent counterreactions by other groups, with appeals from such decisions heard by the French Council of State (MacIver, 2020).

Article 27 of the Constitution of the Islamic Republic of Iran provides:

“Public gatherings and marches may be freely held, provided that participants are unarmed and that such gatherings are not detrimental to the fundamental principles of Islam.”

This article establishes two legal conditions for exercising the right to freedom of assembly:

1. Assemblies must be held without the carrying of weapons;
2. Assemblies must not be contrary to the principles of Islam.

Given the significance of these two conditions, each is discussed in detail below.

1. The Condition of Not Carrying Weapons

One of the essential constraints inseparable from the concept of “peacefulness” in the freedom of assembly is the prohibition on carrying weapons. The principal

rationale is that the presence of arms transforms a gathering from peaceful to potentially violent, posing a threat to public security and individual life, and contradicting the needs of a democratic society. When gatherings involve weapons, public safety and the right to life are jeopardized, not only for participants but also for other citizens (Eslami & Kamalvand, 2020; Hashemi, 2020).

Article 27 of the Iranian Constitution explicitly conditions the right to freedom of assembly upon the absence of weapons, thereby affirming the requirement of peacefulness. Despite this constitutional stipulation, ordinary legislation in Iran provides no clear definition of “weapon” or its instances in the context of public assemblies. Consequently, reference must be made to other statutes to interpret this term. The concept and definition of “weapon” are crucial for law enforcement authorities in identifying non-peaceful assemblies and determining appropriate responses. Judicial institutions also rely on this interpretation in determining whether an assembly is lawful or unlawful (Gorji Azandariyani, 2019).

The first interpretive principle here is that the term “without carrying weapons” must be construed narrowly. The Constitution uses the singular term *silāḥ* (weapon) rather than the plural *asliḥa* (arms), suggesting a deliberate emphasis on specific and tangible instances of weaponry rather than a broad metaphorical reading. This indicates that only actual weapons capable of causing harm fall within the scope of this restriction (Ghari Seyyed Fatemi, 2017).

2. The Condition of Non-Contradiction with Islamic Principles

In addition to Article 24—concerning freedom of the press and publications, which is conditional upon respect for Islamic principles and public rights—Article 27 also refers to the “principles of Islam” as a limitation on certain freedoms. Other constitutional provisions similarly invoke Islamic law. For example, Article 91 establishes the Guardian Council “to safeguard the provisions of Islam and the Constitution and to ensure that laws passed by the Islamic Consultative Assembly are not inconsistent therewith.” Article 96 assigns to the Islamic jurists (*fuqahā*) of the Guardian Council the responsibility for determining whether legislation conforms to Islamic rulings (Ghazi Shariat Panahi, 2020; Hashemi, 2020).

Article 9 of the Constitution, in its concluding clause, states:

“No authority has the right, under the pretext of preserving the independence and territorial integrity of the country, to abrogate legitimate freedoms, even by enacting laws and regulations.”

It is clear that the insertion of the term “Islamic rulings” (*aḥkām-e eslāmī*) in Article 6 of the Press Law introduced an additional restriction on public freedoms—one that extends beyond “Islamic principles” and “public rights.” This expansion has subjected the press to broad and sometimes arbitrary constraints. From a legal standpoint, such legislative practice contradicts the express prohibition in Article 9 of the Constitution, which forbids any authority from using statutory means to curtail legitimate freedoms (Katouzian, 2018; Vakil, 2020).

Under Articles 24 and 27 of the Constitution, apart from what is encompassed by “Islamic principles” and “public rights,” all other conceivable areas remain within the sphere of legitimate public freedom. Yet, the sixth article of the Press Law appears to have eroded these legitimate freedoms through overbroad legislative restrictions. Despite the clear guidance of the founder of the Islamic Republic and the principles of the Constitution, the institution charged with safeguarding the Sharia and the Constitution—the Guardian Council—has not objected to this legislative overreach (Ghari Seyyed Fatemi, 2020; Ghorban Nia, 2019).

11. Conclusion

In the constitutional system of the Islamic Republic of Iran, the people are both the purpose and the foundation of the state’s establishment. The Islamic Republic derives its legitimacy from the will of the people and exists for their benefit. The role and position of the people are not unilateral; rather, the aims of the Islamic Republic, as defined in the Constitution, are oriented exclusively toward the salvation, prosperity, and well-being of the people in both worldly and spiritual dimensions. In the relationship between freedom and democracy, freedom can be regarded as a prerequisite that, throughout history, has inspired citizens’ active participation in determining their political destiny.

The Constitution of the Islamic Republic of Iran explicitly affirms human dignity, the high value of the human being, and freedom coupled with responsibility before

God (paragraph 6 of Article 2), as well as the safeguarding of political and social freedoms within the bounds of the law (paragraph 7 of Article 3). Moreover, Article 9 of the Constitution presents a progressive formulation by considering freedom, independence, unity, and territorial integrity as interdependent and indivisible components, placing freedom on an equal level with such a fundamental value as the preservation of territorial integrity, one of the essential elements of statehood.

In the Islamic Republic of Iran, as in other nations, the right to freedom of assembly is affirmed and protected under both constitutional and ordinary laws. The most important references to this right are found in Articles 26 and 27 of the Constitution. According to Article 27, gatherings and demonstrations may be held freely, provided that participants are unarmed and that the event does not contradict the principles of Islam. Furthermore, Article 43 of the Charter of Citizens’ Rights recognizes, within the framework of the law, the right of individuals to form and join social, cultural, and other associations and organizations.

Article 26 of the Constitution also declares the activities of political parties, associations, and professional organizations to be free, provided that they do not violate Islamic principles or the foundations of the Islamic Republic. To implement this constitutional provision, the Law on Political Parties was enacted by the Islamic Consultative Assembly. Although the law imposes no specific restriction on the formation of parties or groups, it grants the Article 10 Commission supervisory authority, which in practice functions as a restrictive mechanism.

Article 27 of the Constitution specifies two conditions for holding assemblies: the prohibition of carrying weapons and the requirement that gatherings not contradict Islamic principles. Regarding the prohibition on carrying weapons, when a gathering is demonstrably violent, initial intervention rests with law enforcement, while final adjudication is entrusted to competent judicial authorities.

To operationalize Article 27—which recognizes freedom of assembly—the Law on Political Parties was adopted in 1981. According to Article 6, Note 2 of this law, organizing marches and demonstrations is permissible with prior notification to the Ministry of Interior, provided that the Article 10 Commission determines that

the event does not contravene Islamic principles. Consequently, any request to hold a demonstration must be formally submitted to the Ministry of Interior and the Article 10 Commission. Similarly, Article 29 of the Regulation on Securing the Safety of Assemblies requires parties and organizations to inform the Commission of any planned gatherings.

The conditions outlined in the Political Parties Law and its implementing regulations indicate an excessive degree of rigidity by the responsible authorities in enforcing Article 27 of the Constitution. This rigidity has, in effect, restricted the intended scope of Article 27 and complicated its implementation.

Criticism has been directed at the powers vested in the Article 10 Commission. Under Article 10 of the Political Parties Law, the Commission's primary function is to review applications for establishing political and professional associations and to recommend their approval to the Ministry of Interior. This article defines the commission's supervisory nature concerning parties but grants it no authority over assemblies organized by ordinary citizens. In practice, however, individuals seeking to hold public gatherings are still required to go through this body, even though the commission often disregards such requests.

Another major criticism advanced by legal scholars and jurists concerns the commission's competence to determine whether gatherings contravene Islamic principles. The composition of the commission lacks any qualified religious authority capable of making such determinations, rendering the legislature's delegation of this function unjustifiable.

Given the inconsistency of mandatory authorization requirements for assemblies with several constitutional principles—particularly Article 27—and the failure to rely solely on prior notification procedures, it is proposed that the legal requirement to obtain a permit for peaceful assemblies be removed from Iran's legal system. Instead, the Article 10 Commission should be reconstituted as an independent and specialized institution responsible for monitoring and facilitating the conduct of peaceful public gatherings as an inherent and inalienable right of the people, integral to the very existence and identity of the nation.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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