



## Elements and Principles of Political and Civil Rights in Religious Jurisdiction

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### **Abstract**

**Objective:** Since the beginning of human social life, conflict about the position of political and civil rights has been of importance. Clarification of this position is so important that it has become a criterion for categorizing various types of governments. On the other hand, divine religions which are harbingers of prosperity emphasize that human is task-oriented. Therefore, the religious community wonders how an individual can be both task-oriented and rightful. This article aims to investigate the relationship between the principles of political and civil rights and religious tenets and teachings.

**Method:** This study is a descriptive-analytical and library research in which documents were extracted from religious texts and sources and then analyzed. **Results:** The findings of this study showed that some basic principles such as the principle of God's wisdom and divinity in creation, Man as the Caliph of God (God's substitute) on earth, Man as being responsible and obliged to build the society, the need to preserve human dignity, and the principle of tolerance and privacy are the source of political and civil rights in Islam.

**Conclusion:** According to these principles, religious rules are obligatory, and all believers are committed to the use of their full capacity to realize and achieve the citizens' political rights derived from these principles and mobilize the authority of the government to confront the threats and obstacles to the access of people to their civil and political rights.

**Keywords:** *Political-Civil Law; Caliph of God (God's Substitute) on Earth; Principle of Privacy; Citizenship Rights; Human Dignity*

## Introduction

Jurisdiction or law is the most essential element of social life. The more rational and humane the laws are, the greater the role they can play in protecting the interests and rights of individuals in the society. One of the most important issues in human life is protection of the citizens' rights in political and social relations. Accordingly, one of the concerns of social researchers and activists is trying to define and determine the limits of political rights of human in societies. Obviously, the social and political systems of each era of human civilization are dependent on the political philosophers and theorists' views on the political systems of those societies; they have designed frameworks and rules based on specific schools of thought and defended their legitimacy. They present their fundamentals based on these philosophical and intellectual infrastructures. There are two dominant theories in the Western world: the first one is concerned with the issue of benefit and it is known as the "Interest Theory" and the second one is based on the concept of choice (power to exercise the will). In the first theory, any moral right is denied and only law is valued. In the second theory, right means power and the right owner has moral or legal power to oblige others to do a task or otherwise. According to this traditional theory, a law that does not consider ethics has no value. However, in the new theory, the rightful person can control the performance of others and there is no obligation to function ethically.

Obviously, the most efficient way to prove the validity of a theory or school in defining concepts and determining examples of human political rights is to examine their principles, which are in three areas of recognition of ontology, anthropology, and values. Religious sovereignty, which in its own way is an alternative to political and social systems, defends the political rights of human and generates new concepts in political and civil rights. This study is an attempt to determine the position of rights and duties in religious governments. To this end, some basic principles are first examined and in accordance with each one, the rights and duties derived from it are examined.

## Literature Review

Although discourse of rights has been very important in Western societies and many studies have been conducted in this field, Muslim scholars have not properly addressed this issue. Muslim philosophers have been discussing metaphysics for centuries, except for a few of them, and social issues, especially the issue of rights and justice, have not been a serious concern for them. While Muslim scientists were expected to pay more attention to the issue of rights.

Ayatollah Javadi Amoli (2005) is one of those who has dealt with the issues of Knowledge of the philosophy of Rights. These opinions can be read in two books entitled "*philosophy of human right*" and "*rights and duties in Islam*".(1996) In these two works, the characteristics of right in terms of reason and narration in Islamic philosophy, theology, and jurisprudence fields are presented. He also deals with the issue of right with an ontological and semantic view. However, his approach is philosophical and his works are included in the collection of books on the philosophy of religion.

Other notable works in this field are books written by Ayatollah Mesbah Yazdi. In two books entitled "*The Legal Theory of Islam*" and "*Rights and Politics in the Qur'an*", he has dealt with issues such as rights, duties, religion, politics, ethics, law, and so on. Both books are based on the Quran. In general, Ayatollah Mesbah Yazdi considers the purpose of defining the right to be the security of human social interests and man's attainment of perfection and proximity to God. The second one is the main goal in Islam. Another work that can be mentioned is the book "*Fundamentals of Human Rights from the Perspective of Islam and Other School*" written by Sadegh Haghghat and Ali Mirmousavi (2009). This book is important because it reflects the principles of human rights both in Islam and in the Western intellectual approaches throughout history. However, it focuses more on modern thought and pays less attention to the principles in the Islamic context. In another book called "*Freedom in the Political Philosophy of Islam*", written by Mansour Mir Ahmadi, the author tries to present the realm and scope of

political freedom in the political philosophy of Islam according to the theoretical principles that can be the basis of freedom. He uses McCallum's theory which introduces three components to freedom to explore the basic elements of freedom and considers principles such as monotheism, nature and intellect, will and authority, natural-divine right, the principle of inherent equality, and equality as one of the fundamental principles of freedom in Islamic philosophy.

## **Conceptual Content**

### **A- Right**

The term *right* is used with different meanings. A common principle in these diverse applications is the concept of stability. Rights in its literal sense means social rules and regulations or the system governing the individual and social behavior of the citizens of a society whose implementation is guaranteed (Mirmousavi & Haghghat, 2009). In Stanford's encyclopedia, right means a set of capacities, powers, freedom, authority, surrender, worthiness, priority, and the concessions on which a claim is made. Various components have been considered by scholars in various fields of science in defining the term *right*. Therefore, it is necessary to consider some of these components in the concept of right. A) Right is an abstract and credible concept; thus, a definition which determines the scope and logical principles of the right is not possible (Javadi Amoli, 1996). B) The existence of a right entails superiority and privilege of its owner over others. Of the necessities of the right is assigning something to someone and it requires an obligation for others to observe it in the case of the rightful person. Therefore, right can be defined as a matter of credit, according to which the rightful owner deserves to enjoy something and allocates it to himself/herself and it is necessary for others to observe it (Mirmousavi & Haghghat, 2009). As can be seen from the above definition, rights and duties have a symmetrical relationship with each other. We know that duty means forcing a person to do something or preventing him from doing it. In other words, wherever there is a right, there is an obligation with the difference that there is the right and power to choose in the concept of right for the owner, while this is not the case with duty in which one is able to leave the task (Javadi Amoli, 1996).

### **B- Social Rights (Civil, Political, and Citizenship)**

Social rights are one of the basic principles of political, jurisprudential, legal thoughts, etc. Since man is inherently a social entity, it is necessary to be in the community to meet his/her needs. One of the principles of human social rights is human dignity. Therefore, according to the International Covenant on Civil and Political Rights, adopted December 16, 1966 by the United Nations General Assembly:

"In accordance with the principles set forth in the Charter of the United Nations, recognition of the individual dignity and equal and inalienable rights of all members of the human family is the basis of freedom, justice, and peace in the world.

- 1- These rights are derived from the inherent dignity of the human.
- 2- According to the Universal Declaration of Human Rights, the desired state of one who is free from poverty and fear is achieved when he/she can enjoy civil, political, economic, and cultural rights.
- 3- According to the Universal Declaration of Human Rights, governments are committed to promoting universal and effective respect for human rights and freedoms.
- 4- Everyone has responsibilities for other people and the community to which he or she belongs and is responsible for promoting and respecting these rights (International Covenant on Civil and Political Rights, 1966).

Accordingly, the social rights of individuals are recognized and rejects any factor that violates these rights are repealed. Social rights include civil rights, political rights and civil rights, as defined below.

## 1- Civil Rights

In the Oxford Encyclopedia, civil rights mean the rights of citizens in relation to political and social freedom and equality. In addition, the International Encyclopedia of Social and Behavioral Sciences defines civil rights as the legal protection of individuals and those who have been oppressed. The most common civil rights are prohibition of racial discrimination, ethnicity, religion and gender and the right to security, as well as supporting individuals who are accused or suspected of crimes. (Kairys, 2001)

## 2- Political Rights

Political laws in relation to civil rights which are raised to realize the freedom of the individual in society, deal with the role of individuals in the political life of society. Political rights and freedom arise from inherent justice in law, for example: the rights of the accused, the right of access to a fair trial and anything related to judicial security and the right of participation in civil and political society such as the right to self-determination, freedom to participate in gatherings, the right to vote, and the right to be elected, etc. Articles 2, 10, 14, 21, 22, 25 of the Covenant on Civil and Political Rights. (Conte & Burchill, 2009: 65,247,155) In summary, as to civil and political rights, it can be said that they are some human rights and freedom that are established by living in the society. In other words, civil rights are a set of individual entitlements that arise from civil life and citizenship and guarantees the integrity of life and the physical and mental security of human beings.

## 3- Citizenship Rights

The term citizen and citizenship rights is one of the most widely used concepts today and they are raised in many social, political and especially civil laws issues. Understanding different dimensions of this concept and then defining and playing a role in various aspects of modern human life require detailed and comprehensive studies. It is worth mentioning that this term is a new word in international documents as well as domestic laws. However, by studying the written history of mankind from ancient Greece (in mythological works such as Aristotle and Plato) until now, we come across its various concepts and definitions. Even some so-called contemporary theorists have dealt with it with extensive articles and theories. In this regard, Marshall is one of the scholars well-known for his theory about citizenship and the publication of a 1949 article entitled "Citizen and Social Class". He has considered components of citizenship and related rights. In his book (Marshall & Vottomore, 1992), they state:

"Sociologically, I suggest that citizenship should be divided into three parts (But experience and analysis explained through history is clearer than that which the logic offers. I call these three sections or elements civil, political, and social. Civil rights consist of the rights necessary for individuals' freedom of expression, thought and religion; property rights and valid contracts, and the right to sue and seek justice. The latter includes all other cases because it considers the possibility to defend all its rights on the basis of equality with others and within the framework of a correct legal process. This shows us that institutions that are directly related to civil rights are courts of justice. The political element means the right to participate in the exercise of political power, political power as a member of a body that has political authority or as a selector of the members of that organization. Examples of relevant institutions include local parliaments and councils. The meaning of the social element includes all spectrums, from minimum economic welfare and security to the right to full participation in social heritage and living according to prevailing standards in society. One of the institutions that mostly deals with this element is the education system and social services (Marshall & Vottomore, 1992).

New definition of citizenship is often offered as a substitute for traditional definitions in which political participation plays a central role. Historically, citizenship has been associated with privilege of membership in a particular type of political community, a society in which individuals have the equal right to participate in important decisions to regulate the social life. In other words, citizenship is associated with political participation in a form of democracy and reduces the importance of the distinctive political tasks that citizens perform in order to shape and support the public life in that community. (Bayat Komitaki et al., 2018). Political manifestation of philosophical ideas of citizenship rights and human rights can be found in the American Declaration of Independence, the Declaration of Human Rights, and the Citizenship of the French Revolution. (Basok et al, 2006). Finally, it can be concluded that some components of human rights can be observed even by authoritarian regimes, but citizenship rights can only be achieved within the framework of a democratic system and clearly citizenship rights cannot be considered without civil society. Thus, civil society is a suitable ground for citizens to participate responsibly in realizing their rights and determining the destiny of themselves and others. (Bayat Komitaki et al., 2018).

To identify the concept of right, we need to define one of the important components which include the ontological, anthropological, and axiological foundations to determine the dimensions of the concept of right in the Islamic domain.

### **A- Ontological Principles**

The close relationship between the type of attitude, orientation, and human behaviors in society is an undeniable fact, so that one's behaviors and tendencies are influenced by his/her attitudes. Therefore, the question is which ontological principles have the most impact on the formation of his/her optimal political and social system. A person who believes only in the material aspect of the world in his ontological principles, his/her conceptual system in the field of political life is also limited to material issues, and he/she has nothing to do with spirituality in his/her system of thought. Among the Islamic ontological principles in the field of political and civil law that can be the source of extracting some concepts are as follows:

#### **1- Existence Is Not Limited to the Material World**

The Qur'an, the main source for understanding the ontological issues of Islam, emphasizes the need for faith in the invisible world (Surah One, verse three). This approach of the Qur'an is in contrast to the beliefs which state that the reality of existence in the world is limited to matter. Verse 33 emphasizes God's encirclement of the unseen of the heavens and the earth and denies materialist thinking about existence. (Sura 1, verse 33) The first result of materialism is the denying the spiritual dimension of man and ignoring all his spiritual belongings in social life. As a result, when regulating political-civil rights, only the rights and duties that appear in the material sectors are emphasized. In contrast to materialism, divine thinking considers the reality of existence to include two aspects of the invisible world and intuition. As a result, some of the effects of this basis on the structure of civil and political rights are as follows:

- The obligations of the government and political system are not limited to providing the purely material rights of the citizens.
- The government is also responsible for spiritual advancement and guidance to the lofty human goals of the citizens.
- The legitimacy of the political system and governance does not depend on purely material indicators.

## 2- Divinity and All-Round Ownership of God in the Universe

According to this principle, the universe has a creator named Allah who created the universe on the basis of power and wisdom. He is contriver of the world and His power and will are present and current in all dimensions of the universe. He is the one who dominates the whole universe and, hence, the source of all power; since man is a creature of God, obedience to anyone other than God is not due on him. Therefore, the principle in the relationship of human beings with each other is lack of dominance. (Mirmousavi & Haghghat, 2009). This Lord is a wise Creator, so He has created the world in the best way. As a result, He has created man in the best way. (Tabatabai, 1992: 50) Some of the results of the second ontological basis include:

- The owner of power never has the right to claim guardianship of citizens.
- The government should not expect people to thank them for performing their duties. This can be effective in expansion of the spirit of service delivery in those with power.
- Protesting and expressing dissatisfaction with the existing conditions and asking for favorable legal rules is an inalienable political right of citizens.
- Sovereignty including imposition of any duty on citizens that causes failure and the vulgarity in the society is prohibited.

## 3- Denial of Transformation in the Divine Traditions

It was mentioned in the introduced principles that the world is the creation of God, the Wise; one of the signs of divine wisdom is the dominance of divine traditions over the world. One of the divine traditions is that for the fulfilment of any phenomenon its means must be provided. For example, no water will boil until there is enough heat and temperature; among these laws or traditions is the law of fate and predestination. Therefore, along with the will of human beings, divine providence must be considered. The following outcomes should be considered from the mentioned results:

- Neither the government can talk about the duties of breaking the tradition, nor can the citizens claim the right to conflict with the divine tradition. This basis can define the framework of citizens' rights and duties.
- The government is obliged to provide all the rights that revive the divine traditions. The government also has the right to oblige the citizens to do their duty regarding the implementation of divine traditions.
- Government and citizens achieve greater harmony and convergence; also, the spirit of hope is strengthened among the people and social harmony increases to ensure the political rights of citizens.

## B- Anthropological Principles

In humanities research, accuracy in anthropological foundations is of great importance. Therefore, in the study of law, especially political-civil law, it is very important to study the philosophical view of the schools and their intellectual principles.

### 1- Man and the Position of the Caliph of God (Man Replaces God on Earth)

In the teachings of Islam, man is respected and revered, but he is inherently a creature of God whose mission is to play the role of the divine caliph. One of the important goals of the Caliph of God is that the people worship God. That is why the secret of human dignity is to serve God. (Sura 51, verse 56) (Javadi Amoli, 2016: 68) This is the difference between two anthropological perspectives in the contemporary era. In Islamic thought, after the position of God, the second position of glory and exaltation is depicted for man, and he has defined man as a divine being and a perfect symbol of the

creator of the world on earth, and the nature of his creation has shown him to be superior to all earthly and celestial beings. (Mirmousavi & Haghghat, 2009: p. 148). However, in the eyes of the materialist person, man is one who can do any work and has come to replace God. Acceptance of the basis of the "position of the Caliph of God " implies new concepts and themes in the field of political-civil law:

- The legal structure, including human political rights, is regulated by God-centered consideration and man's representation in God and is not limited to the protection of human interests.
- However, in human-centered legal systems, democracy destabilizes all areas, but the human theory of the Caliph of God brings stability and peace to political rights and the criterion of merit and eligibility to fulfill the political demands of citizens.

## 2- The Originality of the Soul and Spiritual Needs

According to the Qur'an, man is a being composed of soul and body and his spiritual aspect is prioritized when evaluating him. The soul is from the celestial world and not from the earth. But for a few days, a cage was built for him in the natural world; then the cage breaks and the heavenly bird is released (refers to a famous poem) (Javadi Amoli, 2016: 304-305). While these two aspects, soul and body, operate in close interaction and are strongly connected, it is the soul that drives the body and is the commander of the human physical power. As a result, the political structure of society, while considering and protecting the political rights of citizens, must be committed to the following:

- The government has a duty to respect the rationality and consciousness of the citizens and to provide what gives rise to his capacities.
- The government and political system are responsible for providing the foundations and infrastructure for the spiritual health and mental peace of the people and is obliged to deal with harmful factors.
- Ensuring political freedom is not limited to customary cases; spiritual freedom is also considered as the people's right.
- Promoting political institutions and organizations and obtaining license for political activities are measured and issued in accordance with the promotion of the mental and moral health of the society.

## 3- The Necessity of Community Building

Islam considers man as a wise and authoritative being, so human beings have legal, criminal, political, and moral responsibilities for their behavior. Because man needs to live in society and acquires the growing and flourishing of many of his talents in the field of collective life, the legal system cannot be designed in such a way that the interests of society are not taken into account. Meanwhile, philosophy in terms of collective interests leads to the salvation of the individuals; therefore, collective interests cannot violate the fundamental rights of the individuals. (Mirmousavi & Haghghat, 2009:205) One of the responsibilities of human beings is to pay attention to the rights of others. That is, a Muslim cannot morally think only of his own interests and progress. "He who wakes up in the morning and does not worry about Muslims is not a Muslim." (Koleini, 1414 AH: 2/164) Living responsibly requires that man have a sense of compassion and empathy for the excellence of society. Of course, the meaning of this rule is not to ignore one's individuality and neglect personal interests! Public interests must also be considered important while paying attention to personal interests. This feature can have new consequences for the structure of political-civil rights:

- The government must give citizens the opportunity to fulfill this political responsibility.
- Requirement of creating some securities and create incentives and providing the necessary infrastructure for citizens by the government with the aim of accelerating the fulfillment of obligations commensurate accordingly.

#### **4-The Originality of the Human Will**

Man, while having authority and wisdom, is an effective and influential being, but his/her will is of great importance. The Qur'an reminds us of the importance of the human will in various verses. Although some coercions force one to make some decisions, when a person wishes, he can eliminate the pressure factors and make the desired decision.

Although man has free will, this does not mean that he is wayward and unaffected by external conditions. Rather, man's free will finds meaning precisely in the light of these forces. In other words, in the absence of any restrictions or pressure factor, although the authority is reasonable, free will would be futile. (Habibi, 2018: 1/199) This will lead to the implementation of new rights and some political duties in the social system:

- The government is obliged to observe the principles and laws for the citizens, so that the human will does not lead to coercion and inability.
- Duties and rights are directly related to the power of government and citizens. Therefore, the nation and government will be safe from the destructive effects of the task it is not able to perform.

### **C- Fundamentals of Value**

#### **1-Necessity of Morality**

Attention to morality and observance of moral standards in human life has a high place in Islam and ethics has been one of the main principles of the teachings of the Prophet Muhammad (PBUH). Obaid Zakani has also analyzed this case in his book. (1995: 50-51). The scope of the influence of morality is so wide that no dimension of human's individual and social life can be imagined outside it. It is this attention to morality and spirituality that causes the Western writers to admit that the economic growth and civilizational of the West is the result of the spiritual and moral effect of Islamic civilization. (Hunke, 1997: 91) Thus, politics and civil-political rights are among the most in need of ethics. Ethics not only adds new scientific and theoretical achievements to the structure of political law, but also affects the content and the appearance of political law; it will have clear consequences of guaranteeing the rights of citizens:

- Citizens are required to adhere to ethical standards when demanding civil-political rights.
- The government is obliged to observe moral principles in designing and expressing the political duties of its citizens.
- Ethics can be the source of newer rights in the original legal structure and system, because one of the origins of proving rights is the principles and ethical standards.

#### **2- Protection of Human Privacy**

In Islam, the observance of collective interests and benefits does not violate the privacy of individuals, especially when it comes to one's reputation. In some of the words of the Prophet, the sanctity of the believer is higher than that of the Kaaba (the holy place of worship for Muslims). It is natural that the acceptance of this basis and key concept in the legal system has consequences such as:

- Regarding the principle of innocence for all citizens
- Proving one's guilt in fair courts with valid documents
- Ensuring the political and judicial security of the citizens and safeguarding the lives, property, and reputation of the people
- Freeing the citizens from many of the government's most extreme and illegal inspections and restrictions.



### 3. The Principle of Leniency and Negligence

Undoubtedly, Islamic culture and civilization owes its existence to the principle of tolerance in its teachings (Zarinkoob, 2006: 174). The Qur'an has introduced the Prophet of Islam as a blessing for the world. Prophet Mohammad says: "I have been sent to a firm religion without deviation and easily." (Ameli, 1409: 8)

Imam Reza (AS) in response to the question of "What is intellect?" said: "Tolerate grief, be negligent to enemies and lenient to friends." (Hosseini, 1997: 9/238) As can be seen, gentleness with enemies and tolerance with friends is a sign of human intellect. This concept had a significant impact on the growth of Muslim civilization and its remarkable works from the language of Gustavo Lubon are important: "During the rise of Islamic civilization, what can be praised is the religious tolerance of the Muslims, who fully observed it. As to this point, he says: "Our ancestors gradually abandoned their barbarism through associations with Muslims and learned from them some moral duties, such as loving women and children and respecting the elderly, as well as adhering to the covenant. (Lubon, 1998: 714-713 and 722-721) Naturally, neglecting the permanent effects of tolerance on social cohesion will cause countless damages. Observance of the requirements of this basis is also a requirement of common sense. Of course, monotheistic principles define the boundaries of extreme secularism and religious extremism. Therefore, tolerance will be one of the effective means to get out of the challenges in the field of political rights, if it is not the only way out. Complying with the requirements of this foundation can end many conflicts between religious principles and the people. Therefore, the following effects will be part of the results of the basis of tolerance:

- The superficial and simplistic encounters of the idea disappear in the judgment, and every citizen is personally recognized.
- The government is forbidden to impose fanatical and unconventional duties on citizens.
- Ethnic, religious, partisan, and sectarian principles that lack a rational standard will decline.
- Government actions and citizenship demands remain deprived of the support of the majority of the people as long as they take on a sectarian color.

### 4-Human Dignity

Human dignity is the first principle of the values of Islam in the political-civil rights. It is stated in the Qur'an: "We certainly honored man ..." (sura 17, verse 70) According to this verse, human beings have dignity regardless of racial, geographical, cultural, and religious characteristics. In fact, we are dealing with general views on humans: a) Position with respect and esteem, and b) A contemptuous view of man. In the Qur'an, the rule of Pharaoh is an example of a contemptuous view of citizens. (sura 43, verse 54) Regardless of the importance of this basis in educational categories and the need for processing, its necessity in the field of politics and governance in order to realize civil and political rights is very important. Human dignity and rights are two concepts that can be intertwined. That is why Michael Mayer and Parnet have said in their book *The Constitution of Rights*: " Human rights today are based on or derived from human dignity. Therefore, human beings have the right because they have inherent dignity." (1992:10) Therefore, the basis of dignity can be the source and origin of some important concepts, including duties and political-civil rights in social systems, such as:

- Citizens' sense of equality in various aspects of social life
- Debilitation of bribery and removing many illegal immunities for some individuals and social groups
- Eradication of varnish, flattery, hypocrisy, and hypocrisy in civil and political relations
- Realization of logical competitions between different groups of people and political organizations to fulfillment of rights in different situations

- Development of security and public trust between the government and nation, which will prevent popular uprisings against the government
- Development of mutual hope and optimism in citizens and the government that will cause the people to support governments

## 5. Necessity of Consultation and Consensus

In the moral teachings of Islam, the principle of consultation has always been considered. In fact, as much as selfishness and tyranny have always been condemned, consultation, which is in fact a kind of aggregation of opinions and participation in the minds, is recommended. Especially in social affairs, the importance of consultation is such that the Prophet Muhammad was instructed to consult with his companions. (sura 3, verse 159) In general, consultation is considered as a moral requirement for recognizing the opinions of others. Therefore, acceptance of the principle of consultation affects the structure and political and civil relations:

- Any monopoly and tyranny on the part of the government or the citizens is invalidated.
- Citizens have the right to participate in decision-making and unilateral decisions are removed from the agenda of those in power.
- The influence and power of the people's votes is confirmed, and the ballot boxes find their true role and status.
- People's participation in national decisions will make decisions more comprehensive, realistic, and enforceable.

## 6. Honor for God, the Messenger of God, and Believers

It is stated in the Qur'an that the presumption of domination of the infidels over the believers is not accepted in any way. (sura 3, verse 141)(sura 63, verse 8) The political structure of power and the guardian of the civil rights of the Islamic society must protect the principle of dignity in such situations, both domestically and internationally and curb the threatening factors and contexts. As a result, both citizens and political sovereignty will have their rights and responsibilities in this regard. Therefore, continuous care to achieve such a desired result will lead to the following achievements:

- This principle prevents the citizens in their political demands from forcing the government to consider the rights that lead to undermining the dignity of the Islamic society.
- The government has no right to call the people to a task that involves humiliation and deprivation of their dignity.
- The actions of the government and people will be legitimate as long as there is assurance and dignity for the society.
- Any oversight of responsibility in monitoring the factors and areas threatening national dignity undoubtedly enhances the right of citizens to question the government officials.

## Matching of the Basics with Rights

According to the brief explanation and analysis of the ontological-anthropological, and axiological foundations, it is time to name some political and civil rights and examine the relativity and logical relationship of those rights to the relevant principles that are in fact the origin and source of this category of rights.

### 1- The Right to Elect Rulers and Determine Their Own Destiny

The term "destiny" means the personal and social destiny of individuals of a free nature in a non-coercive process and the manifestation of independence is the people's freedom to determine their own political and social situation (Online Dictionary, "Self-Determination"). Hence, the right to self-

determination requires a popular right. People determine their total political destiny and identity in a democratic way, it is a solid cornerstone of strengthening a democratic system. (Franck, 1992:52) In the ontological foundations of Islam, it is mentioned that God is the creator and manager of all the affairs of the whole world. Therefore, no human being has the right to dominate another human being; guardianship is under God's will. As a result, the possibility of human guardianship over other human beings is possible with the permission of God, but one of the most common sayings is: This right inherently belongs to God, and God has entrusted this right to man in a definite and specific framework. In fact, God has given the right to determine the destiny to the people and the right of guardianship over the society to the infallible Imam. From this point of view, sovereignty is the exclusive right of God, and the acceptance of people is the executor of its realization and actuality. (Montazeri, 1408; Naini 2007) This concept can also be seen in the statement of Imam Ali (AS). As to the acceptance of the government, Imam says: "It was not me who went to the people; it was the people who came to me. People did not pledge allegiance to us for the sake of domination, not for the existing wealth and property; they coveted by their own will, so they extended allegiance to me. (Nahj al-Balaghah, sermon 54) And elsewhere it is said: "If you leave me as one of you, I may be more obedient to the head of state than you are." (Nahj al-Balaghah, Sermon 91) These statements are evidence of the affirmation of the right to choose the ruler and determination of the destiny of the citizens of the religious community, but the question is what role popular vote and allegiance plays in the legitimacy of the government. It should be noted that in Islam, in the case of the allegiance of people, the rule of obligation is the matter as God has obligated the believers to follow the Qur'an and the Prophet (PBUH). Therefore, allegiance to Imam Ali (AS) is not the reason for his sovereignty and he does not need to argue with people to justify his political position. (Javadi Amoli, 1987, 18-19) Ibn Maysam Bahrani has also has the same saying about Imam Ali (AS)'s letter to Mu'awiyah:" The Imam did not argue with the words of the Prophet to prove his Imamate because they denied the words of the Prophet. For these people, the only factor in choosing an Imam was the consensus of Muslims. Thus, if Imam Ali (AS) had referred to the words of the Prophet (PBUH), they would reject it." (1996: 4/601).

## **2- The Right to Political Freedom and Its Legal Consequences**

This political and civil right is directly related to the principle of "the originality of the human will and the basis of human dignity, and the basis of human responsibility to society." It has been stated that man is a rational and autonomous creature, and this feature is the reason for his civil-political and moral responsibility in this world and the resurrection day. Just as man deserves to be rewarded for his good deeds, he also deserves to be punished for his mistakes and this principle is due to his free will. Thus, it can be said that the right to political liberty and all its legal consequences is derived from the "originality of human will and dignity".

However, political thinkers in defining the right to political freedom have explained the issue with different interpretations. For example, modern republicans describe political freedom as the power of law ends with the power of the people; it ends man's power over man. (Arendt, 1972:139) As viewed by Carl Cohen, freedom to do everything a popular government requires includes the freedom to use tools that can make citizens' voices heard and have a practical impact on the government. (Cohen, 2013:123) Another definition of the right to political freedom is "Non-interference and obstruction of the government against political persons and political organizations in the society in order to carry out their political behavior or enjoy political rights." (Mirahmadi, 2002: 100) Research in religious sources and texts and Islamic manners shows the existence of such a right for citizens. The Qur'an states: "We have shown the way to happiness for human beings, whether they are thankful or ungrateful." (sura 76, verse 3) The words of Imam Ali (AS) are important in this regard: "My child, do not be a slave to others, for God has created you free." (Nahj al-Balaghah, Sermon 31) It can be seen how the Imam gives confidence to human beings in this speech and understands and feels the spirit of freedom and for this purpose,; it inspires something in the heart and soul that has informed him of the principles of his existence, to awaken it and that the nature of the universe has set him free, and that human behavior should be based

on this natural right; this means a revolution against anything that can deprive him of the right to be free. (Khosroshahi, 2007: 1/225)

Freedom of thought is an important example of political freedom:

The requirement of this civil and political right is to refrain from any inquisition and to impose an opinion on the citizens by the government. For this reason, the government has no right to deprive an individual of his right because of the differences in opinion. Observance of this right has always been respected in the life of Imam Ali (AS). That is why he said about stealing of a Jewish woman's ankle bracelet: Believers should weep blood over this event. (Nahj al-Balaghah, Sermon/27) Exactly the same behavior and character has been applied by Imam (AS) against deviant groups such as Kharijites. (Sermon 58). This behavior of Imam (AS) towards political opponents is the pinnacle of free-thinking logic that has been practically presented to those in power. For example, he dealt with the Kharijite tribe in imaginable degrees of freedom and democracy. He never flogged them like the rulers in the usual way, did not imprison them, and did not even cut their quotas from the treasury; they were free to express their opinions everywhere. (Motahari, 1997 143). Issues such as freedom of speech and expression or freedom of political action and behavior, which lead to outspoken criticism of the regime, are supported by the Islamic government. The Qur'an swears to pen and those who write. (Sura 68, verse 1, Sura 1, verse 111, and Sura 16, verse 125) In these verses, the right to freedom of speech and expression are defended with indescribable clarity. Islam has never violated the right to freedom of expression. If we consider Imam Ali (AS) as the founder of freedom of expression and his government as the first supporter of political freedom, we have not said too much. He says in Nahj al-Balaghah: "Do not think if you offer me a right, it will be hard and pressure on me." (Nahj al-Balaghah, Sermon/207) As to freedom of political conduct and action, when Talha and Zubair intended to leave the city despite their allegiance, they wanted to establish a government in Basra and Kufa, Imam; despite knowing their intention, people did not stop them. In announcing the rules, he said to Malik Ashtar: "Dedicate some of your time to those who need you and take care of their affairs personally; sit with them and ... keep your soldiers, allies and guards out of their way, so that they can talk to you calmly and without fear. (Nahj al-Balaghah, Sermon 53) This letter from the Imam shows that the ruler must create an environment where citizens can easily meet their demands. There are other significant cases of this type of discourse in Nahj al-Balaghah. Imam says to one of the commanders of his corps: "Recruit enthusiastic and interested soldiers in your army because the soldier who is uninterested in war should not be in the corps, and it would be better for that soldier not to take part in the war than to be forced to help" (Nahj al-Balaghah, Sermon 4).

### 3: The Right of Advice and Criticism of Rulers by Citizens

Among the principles discussed in the anthropological section, there were brief references to the "necessity of socialization and human responsibility." It has been said that in Islam, despite the emphasis on personal rights in various aspects of human life, man has a civil, political, and moral responsibility to the people around them and is committed to the conditions of excellence and degeneration of his fellow citizens. Such an important mission requires the acceptance and entitlement of people to the rights they enjoy. This heavy responsibility is the source and cause of other rights such as the right of public oversight, the right to question government officials and advise and guide government officials. These rights are derived from the basis of community building and the responsibility of the faithful citizens. Naturally, a government that recognizes the right of public control oversight, the right of inquiry, the right of advice and guidance, and finally the right of constructive criticism for the people has practically used an effective strategy to prevent the government and society from deviation and destruction.

The teachings of Islam provides evidence that confirm and support these political and civil rights. In Islamic teachings, much emphasis has been placed on enjoining the good and forbidding the evil. (Sura 89, verse 104), so that even in Hadith sources there is a topic called "Advice for the Muslim Ummah", for example this hadith: "Each one is responsible and you will be held accountable for the people who listen to you." (Koleini, 1414: 2/164). Elsewhere, the Prophet of Islam (PBUH) says: "There are three rules that

no Muslim violates: purifying the actions for God, advising the Muslim Imams, and accompanying the Muslim community "(Majlisi, 1403: 2/148). In Nahj al-Balaghah, the Imam, in describing the necessity of exercising the right of advice given to the rulers by people, addresses his army:" As for the right that I have on you and it is your duty, you must be faithful to me in allegiance, and be benevolent both in the face of and behind me (adviser). (Nahj al-Balaghah, Sermon 34).

The set of these citizenship rights emphasizes the deep and logical communication between political and civil rights with the principles of the ontological foundations, anthropology, and values of cognition of Islam. As for other topics of political and civil law, it will also be possible to analyze and discover the relationship between each political right and the appropriate basis. Rights such as keeping people's secrets, knowing and informing citizens, paying attention to public opinion by the governments, providing security, considering the equality of citizens, and participating in decision-making and. .... by the citizens!

### **Conclusion**

Each of the schools and political systems strive to take measures for human well-being as to their principles in three ontological, anthropological, and axiological areas. The participation of these schools is in introducing a set of rights and duties for a happy human life. It is important to recognize the principles and origins of these rights, including political and civil rights.

The findings of this study show that the doctrines in the religious political system acknowledge the intertwined relationship between the right and duty; Islam introduces more comprehensive principles in three ontological, anthropological, and value-based areas. This feature is due to the realism of Islam in recognizing the creatures and phenomena of existence, including man and related issues. As a result, the rights and duties derived from these principles have special characteristics. Some of the features of the Islamic political rights system are as follows: 1. adaptation to the needs of human nature, 2. simultaneous attention to individual demands and protection of social interests, 3. attention to the material and spiritual needs of human beings, 4. attention to endogenous capacities, 5. attention to the completion and development of moral virtues in social life, and 6. attention to the dignity of human beings. According to these principles, religious rules are obligatory and all believers are committed to the use of their full capacity to realize and achieve the citizens' political rights derived from these principles and mobilize the authority of the government to confront the threats and obstacles to the access of people to their civil and political rights.

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