

STUDYING AND REVIEWING TOURISTS' RIGHTS IN ISLAMIC REPUBLIC OF IRAN

(After and Before Islamic Revolution of Iran)

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Abstract-Tourism is considered as one of the main and thriving economic elements of world trade organization. According to the reports, more than 600 million tourists travelled throughout the world in 2008 which resulted in 400 Billion Dollar circulation. Unfortunately, Iran could not even attract 0.1% of tourists considering that Iran is among top 10 countries in terms of geographically appropriate location, various climate modes, natural sceneries, and mountains, ancient and well-known castles, historical monuments and buildings. Reaching effective and continuous progress in tourism activities is a complicated process which involves appropriate attentions toward all dimensions of tourists' activities. Tourists would have more expectations compared to domestic travelers from governments and the destination authorities due to being away from their own countries, and this expectations level requires a wise system and various and specified rules for them. In addition, tourists' entry to the destination countries causes to observe rules and regulations related to tourists' affairs in the host countries. Since 2005, due to political problems or nuclear activities, the number of tourists has even reduced more dramatically. This paper aims at tourists' rights before and after Islamic Revolution.

Keywords: Tourism, Tourists, Tourists' rights, Islamic Republic of Iran, Islamic Revolution.

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1. Introduction

When human civilizations established after abandonment of wandering and nomadic life, and relations among humans became widespread and complex, the need for regulating the relations among individuals in communities became obvious. And this resulted in the emergence of a strong organ on top of the social organizations called government. Accordingly, the government became the source of governing regulations on extraterritorial relations. Rules and regulations were enacted based on several factors such as the growth of productions, religious beliefs, ethical principles, trade regulations, cultural indexes, custom and traditions. Tourism is important in terms of cultural and economic aspects for governments. The governments use regulations to manage this industry in the direction of their goals by prioritizing each of these dimensions. Tourism is considered a part of development in modern period (Papoli Yazdi, M.H., and Saghai, M., 2009). Tourism started by trading, and businessmen travelled for months and years to other countries. This was the story of tourism in past days (Mohaghegeh Damad M., 1998). Since tourism industry has a particular characteristic that effecting on production, construction, improvement and increasing of labor, income and foreign currency resources, then it is regarded as one of the most important resources of creating various services such as currency circulation, job vacancies, and export/import of products. In modern countries, most of them are trying to establish unnatural tourist attractions such as modern edifices and skyscrapers, beautiful beaches and sceneries, art galleries and museums. So that they attract tourists in this way, which in turn leads to increase in their foreign currency income.

Based on the holy text of the Koran, Muslim people should travel so as to fully perceive the beauty of this world created by God, and also visit their friends and relatives. They have a responsibility to give hospitality to visitors and tourists who enjoy the citizens' rights. Tourism is conventionally linked to religion acted as a powerful motive for traveling. Religious buildings, rituals, festivals and religious events are important tourist attractions for those are the followers of the particular systems of belief represented (Henderson, JC., 2003).

In 2006, the World Tourism Organization (WTO) nominated 10 Islamic countries (among total 54 countries), i.e., Algeria, Bahrain, Egypt, Iran, Lebanon, Malaysia, Oman, Syria, Turkey and UAE among 38 countries as the world's top emerging tourism destination (www.unwto.org). This report reveals the high potential of Iran that could be one of the most important places in tourism market among other Islamic countries. In fact, Iran has a great number of ancient traditions but it is as yet little known in the throughout the world. Rituals, annual festivals, ceremonial events and religious buildings are basic tourist attractions. Iran because owning geographically appropriate location, various climates, natural sceneries, beautiful mountains, ancient and well-known castles, historical monuments and buildings, shrines and holy places has a high potential for attracting foreign currency and introduce Iranian culture to the world.

In Iran, tourism comes back to 3000 years ago to Achaemenid Empire. Many foreigners, particularly Greeks, came to for various reasons. The expansion of tourism was so rapid that tourism related organizations were established throughout the country. Iran Tourism industry was formally founded in Iran by establishing tourism affairs office in internal ministry for developing tourist industry. Then in 1964, tourism affairs office was

replaced by supreme council of tourism. However, tourism affairs were managed under the supervision of ministry of information. Later on the basis of sanctioned law of 8th February 1980 by revolution council, buying and managing hotels belonged to Alavi Foundation was submitted to organization of Iran touring and tourism centers. Problems resulted from the merger and objection of budget and planning organization resulted in approving other regulations until 1983 when based to the sanctioned law of number 11384 dated 5th April 1983, managing of the hotels under the control of organization of Iran touring and tourism centers was returned again to Mostazafan Foundation (Alavi Foundation). In 29th October 1992, the law of development of Iran touring and tourism industry was approved for determining the Iran touring and tourism policies and creating coordination between affiliated bodies. Affairs of tourism industry were managed in this manner until 13th January 2004 when the law of establishment of cultural heritage and tourism organization was approved by Parliament in an open session, and was notified by president to Presidential Institution and Ministries of Islamic culture and guidance and management and planning organization for execution. This law consists of 12 articles and 7 notes. According to article one, cultural heritage organization and Iran touring and tourism organization is separated from ministry of Islamic culture and guidance and from their merger, organization of cultural heritage and tourism is established under the supervision of president with all authorities and responsibilities of the mentioned organization which they had by virtue of different rules and regulations and all facilities and properties and manpower. The head of the organization is appointed by the president (Ghanami, O., *et al.*, 2008).

2. Terms of tourism (definition)

A. Tourist and tourism

World tourism organization has defined the tourist as: a person who travels to a country other than their homeland or usual environment for duration at least one night and less than one year and they are not intended to work or to earn money. This definition includes people who travel for leisure time, spending holidays, visiting friends and relatives, doing business and professional affairs, treatment, pilgrimage or other goals). In the same way, tourism is related to any type of individual or communal travelling which lasts more than a day, or 24 hours, and is not intended for business "Article 1". In this article the same definition is considered. Any travel which is resulting in staying at least one night at the destination, however the time of being away from home should not be more than one year (Vela, F., Beacheril, Y., 2005).

B. Tourism system

Tourism system, in general, is created by combination of supply and demand. In tourism, demand factor includes internal and international markets as well as local inhabitants of the destination. Supply factors include tourist attractions, activities, accommodation facilities, transportation system and other tourism facilities and services (Farhadi, F., 2013).

C. Tourism destinations

Destinations related to tourism can be considered as the place of facilities and services provided for the needs of tourists. One of the most important parts of the tourism system is tourism destination. (Cooper, C., *et al.*, 1998).

3. The international law of tourism (reviews)

In tourism industry, economic and cultural benefits of tourism are an inevitable principle. In spite of this general feeling of the countries toward the necessity of tourism development, there are still no international agreed legal limits about tourism right. Travelling of tourist to the other countries is often difficult and complicated. Some governments prefer to prevent from entering foreigners to their countries by putting obstacles on their way. Whereas, other governments maintain more freedom for the foreigners to enter their countries. Governments act based on their independent and specified policies to limit/encourage the freedom of entering foreigners to their countries. Therefore, governments have different and specified laws and views concerning the issue of freedom, prohibition or restriction of entering foreigners. In the international law, there are two theories related to the issue of freedom of allowing foreigners to enter the country.

A. Theory of necessity of exerting restriction on acceptance of foreigners into the country.

Supporter of this theory believe that governments are obviously free to accept or reject the entrance of foreigners to the country. Based upon this theory if the countries have

no special treaty among them, they will not be obligated to accept foreign nationals to their territory. In the year 1928, the generality of this theory has been verified by international law institution in Genève. However at the time of, an addendum has added to it which as follows:

In spite of such a freedom for the governments, fair principle orders that countries do not misuse this right and use it as a limiting principle for entrance or staying freedom of foreigners just in cases where the country is really at the risk of a potential danger (Nasiri, M, 2001).

B. Theory of unconditional entrance freedom of foreigners to the country

Supporters of this theory believe that the governments cannot prevent foreigners from entrance, exit, or staying in their country or maintain limitations. Over time, by expiring communal ownership and prevalence of personal ownership, the liberty in travelling everywhere did not fade away as early days in human's history, because shifting communal ownership to personal ownership has not involved hindering from liberty of relations between humans (Nasiri, M., 2001).

4. Tourist rights (general policy of countries)

Nowadays, most countries maintain least rights for tourist, i.e., the freedom of entrance, movement and staying. There is no globally accepted and fixed criterion about it and its determination depends upon the attitude of countries within their own territories. Moreover, in reality, a difference is maintained by countries between a foreigner whose

entrance has already been accepted and one who enters the country for the first time, and such a policy is in conformity with the concept of acquired right (Khaliliyan, 1984).

It should be noted that inaction and execution of fixed and general international rules and regulations on the issue of accepting a foreigner is not in conflict with sovereignty of the countries at all, and is one of the manifestations of countries' resoluteness.

However, the authority to reject a foreigner to the country must not be misused as political and other kinds of pretexts. Today, there are several globally used reasons for rejection of a foreigner to a country that has been stipulated as fixed and general regulations in the law of the countries such as 1) the foreigner who suffering from a serious and contagious diseases, 2) confinement and insanity of a foreigner, 3) deported foreigners and 4) offenders or perpetrators of illegal acts incompatible with chastity.

5. Tourist rights in Iran before and after Islamic Revolution

Iran with its illustrious history, claiming that the first declaration of human rights was written by Iranians (Charter of Cyrus the Great). Studies about the ancient Iran revealed that rights of foreign tourists at the ruling government (Achaemenids, Parthians and Sassanids) were of great importance. In this era, the rules and regulations known as the laws of tourism were considered in terms of providing facilities for travelers. For example, during the Achaemenid Empire, roads with the length of 2500 km and bridges were constructed; moreover, special agents for providing help to travelers were employed. Today, foreigners have the liberty to enter Islamic Republic of Iran and stay wherever they like and this liberty is stipulated to get a visa and taking a residence

permit from related authorities. Therefore, when a tourist enters Iran, they need a valid visa which should be gotten from the authorities. Regarding to this point, it becomes quit obvious that the authority to permit the entrance of foreigners to Iran is within the country's competence which has been recognized. In addition, the competence of the government in connection with granting visa is considered a voluntarily competence. In other words, if there is a possibility of damage from entering a foreigner to the country, government can refrain from granting the entry permit to the foreigner. While, from law standards and also international law point of view, the government's competence in granting passport to its nationals is considered a capacity of incumbency unlike the mentioned competence (Motameni Tabatabaie, M., 1991). Therefore, Iran's law by focusing on government's sovereignty principle with various reasons such as security issues, public interests and hygiene considerations concerning exerting some restrictions on accepting foreigners. Regarding "Article 2", Iranian officials in Iran's ambassadors throughout the world can reject giving visas for tourists due to following reasons:

1. In case of doubt about the authenticity of the delivered documents to get the visa.
2. Persons, based on Iranian law, who have Iranian nationality and want to enter to Iran using non-Iranian documents.
3. If the foreigner presence in the country is against the security or public order otherwise ignored the country's interests.
4. If the foreigner committed criminal misdemeanors in Iran, or even if they convicted or sentenced in another foreign country.
5. If the foreigner has already been expelled from Iran (Shemiri, F., 2006).

Therefore, Iran by relying on the rights of sovereignty by several reasons such as security, public interests and public health considerations impose some restrictions and limitations on the admission and stay of foreigners, and also, empower the cabinet in the following cases:

1. To avoid all or part of frontier relations,
2. To ban the temporary or permanent stay or cross in certain areas.

In the case of illegally staying of foreign nationalities, Article 15 of the Law on the Entry and Residence of Foreign Nationals (approved on May 1931 and amended on October 1988) stated that anyone (foreigner) who defrauds the entry officers for residence permit or to pass false testimony, the foreigner may be confined for 1 to 3 years in prison or will be fined 5000000-30000000 Rials (Hojjati, S.M., and Bari, M., 2005). About the ownership of immovable property by non-resident foreign citizens in the Islamic Republic of Iran, "Article 1" (approved by council of ministers on December 1995) states that the foreign nationals without the permit of permanent residence who enter regularly into the territory of Iran for travelling and vacation, whenever they want to buy a place for their accommodation they have to deliver an application containing details of the person and the relevant documents via one of the diplomatic and consular representatives beyond the borders or to the local governor located in the place of property along with related documents, which are submitted to the Ministry of Foreign Affairs (Shahri, Gh., *et al.*, 2005). However, according to "remark 2" of "Article 2" of the Law of Entry and Residence of Foreign Nationals, issuance of residency permits are prohibited for these persons: 1) people banned from entering the country, and 2) the people banned from entering the free zones (Shemiri, F., 2006).

3. Adoption of instruments for monitoring foreigners in special occasions.

To realize the rights and privileges of tourism in Iran, we have to review the latest regulations adopted after the Islamic revolution of Iran, i.e., the touring and tourism industry development (approved on October 1971).

Anticipated benefits for tourists and tourism:

- 1) Personal or direct benefits,
- 2) Indirect benefits associated with the development of appropriate tourism infrastructure,

Benefits intended for individual tourists:

1. Taking ordinary personal equipment with the exemption of customs procedures,
2. Taking authorized crafts or products in compliance with the relevant rules,
3. Taking books and newspapers to keep out the non-commercial aspects,
4. Using customs facilities.

In all countries, human enjoys natural rights and its related basic principle including freedom and security principle, and their freedom and security must not be threatened. In today world, with generalization of tourism and creation of appropriate grounds for travelling in various countries and establishing UNWTO, the meaning of tourism has changed and tourists along with their natural rights have enjoyed new rights and special privileges.

The effect of civil societies, international unions, formal tourism organizations and decisions made in international communities including suggestions of 1963 conference of UN in Rome and finally suggestions of 1088 conference of Vancouver, Canada, and

more importantly, increasing the recognition of canon law were remarkable in this ground” (Mohaghagh, Damad, 1998: 29).

6. Tourists' duties

Each tourist has mutually duties which must fulfill it. The most common duties are:

- Traveling with awareness and good faith,
- Treating with broad – mindedness and forgiveness to what is opposed to their ideas,
- Protecting environmental and natural resources during travelling,
- Reverencing for all cultures and traditions of people when they meet,
- Giving their thanks to hosts and citizens of the country where they travel,
- Behaving friendly with all they meet during the travel,
- Supporting every institution, organization or person having such ideas by their thought and action
- Inviting others to travel and see the world with peace.

In Iran, Islamic laws prohibit displays of affection in public, handshaking or any physical contacts between the opposite sex, sharing rooms by unmarried couples, gambling, breaking fast in daylight during Ramadan month, consumption of pork and other haram (forbidden) foods, trading liquor and dressing no Hijab (wearing the headscarf) for women. Therefore, tourists are required to have respect to these prohibitions.

7. Conclusion

This paper has investigated tourists' rights in Iran, before and after Islamic revolution. Due to the numerous reasons such as placing among top 10 countries in the world in terms of tourism potential, Iran can enjoy tourism benefits. Not only, Iran can use this industry for economic purposes, but also, it can be used to show real face of Islamic-Iranian tradition and customs. By changing or amending several strict rules about tourists rights and their entry into Iran, Iran can improve tourism throughout the country. In addition, in recent decades, the advent of several radical and terrorist groups who relate themselves to Islam have shown false face of Islam. By attracting tourists to Iran, as one of the most developed and prominent country among Islamic nations, the real and peaceful face of Islam and Iran can be rehabilitated.

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