



An income on requirements, styles and implications of power transition from state to citizens

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ABSTRACT

Assessing the requirements of using the mechanisms of power transition from state to citizens and introducing the implication of such process is the focus of current paper. It believes that in addition to theoretical justifications, power transition is necessary based pragmatic considerations. It is for the same reason that law and politics philosophers acknowledge the necessity of public administration and the realization of resilient and citizen – based state in their synchronized orientations toward today contingencies of humanistic laws. Thus, in the format of present paper, the necessity of power transition is initially studied and then peaceful and democratic techniques of power transition for state to citizens are introduced and, ultimately, the legal implications of power transition are identified in the framework of local and global legal evidences in order to confirm research hypothesis.

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Introduction

In present paper, assuming the necessity of power transition, authors attempt to answer these questions: by which mechanisms, can we realize power transition process? What is the legal origination of such thinking in domestic and international documents? Those answers are merit and competent which are compatible with current realities in addition to their scientific adequacy. On this basis, such answers address the necessity to justify power transition via three discourses; then, the most popular power transition techniques in a democratic manner are investigated and to enhance the main idea of the research, human law and citizenship documents are assessed in the format of international documents and Iranian Constitutional Law. It is briefly reminded that as mentioned before, authors plan to prove though a descriptive and analytical method that power transition is a democratic process based on incremental and step-by-step planning rather than an approach by which states can achieve their desired results. Noteworthy, power transition process is based on democratic tools and backups confirmed by domestic and international law documents.

Speech 1: power transition requirements

Conceptual rotation to public power exertion right

By transition from absolutist to constitutional power, the most important issue to strength and stabilize the power in a citizen – based framework. In this vein, democratic paradigm is the most desired and safest mechanism which monitors and control power permanently. However, the commonest model to which the power tends and returns constantly is absolutism and power accumulation. Hence, we point out two general perceptions on power which explain the democratic meanings of power in the route of evolving power transition to people:

Right as resistance against power

The nature of power resistance which is today considered as an old perception of democracy explains the ideality of those

citizens who remember centuries of limitations in the hope of releasing from power and exploitation. In this vein, people enthusiastically look for guarantees against administrators and, consequently, they wish civil freedoms and personal rights (Burdeau, 1999: 184). In such perspective, citizens only enjoy limited and periodical power exertion rights.

Right as power utilization

Here, people's right is to use and run the power. Such democratic demand draws real and objective demands of citizens (more precisely, righters). Under such meaning, people do not look at power phenomenon idealistically as an overwhelming force and a legendary force that has constrained them and it is necessary a superpower comes and breaks such limitations. Rather, people have owned the power and they demand to use the current capacities and facilities of the power in the favor all individuals despite of existing barriers and difficulties.

What distinguishes both perceptions is their attitude toward human value and status as the owner and proprietor of his/her right (ibid: 186).

In recent definition, power belongs to right owner namely righters and political administration is nothing than guaranteeing the freedom of people and creating condition for their contribution. In such belief, it is people who have the right of power rather than state as an abstract and contractual entity. By this theory, not only people are preferred to others including state in possessing the power, but also they use it based on rational contribution toward the wellness of all people as the proprietors of political power and governance.

Structural rotation to democracy

In expressing the concept of power transition process of democratization, the most important theoretical discussion are raised by connoisseurs of democracy studies and transformations mainly with historical and sociological approaches to identify such transitions steps. Among democratic

transition authors, one can point out Samuel Huntington, Juan Linz, Alfred Stepan and Charles Tilly who have addressed to different angles of power transition process. Hence, we address 'briefly to the reflection of transition idea in contemporary theories,

Democratic transition steps

According to Huntington, there are three steps for democratic transition as below:

1.1.1. The first step starts by the end of authoritarian age and leads to power break.

1.1.2. The second step which yields to the establishment of democratic system and citizens' empowerment.

1.1.3. The third step is based on strengthening democratic system in the society and enforcing public administration idea (Huntington, 1991: 97 – 102; Bunce, 2000: 733 – 734).

According to Charles Tilly, the process of transition to democratic administration is understood and classified through the components of contributive democracy model components. He believes that transition to democracy is undeniable and he looks for the root of movement toward democracy in the role of state. In his approach, the role or, in other words, the capability of state in interacting with people is too vital. Hence, states' capability directly associates with citizens' contribution in the society (Tilly, 2000: 6).

Thus, one can conclude that more contributive and citizen – oriented state means that it feels sensitivity to accept the right of citizens' administration, recognizes the right of people to determine their fate and utilizes all its facilities with any condition (Seyed Fatemi, 2009: 43 – 46).

Thus, he looks for the code of democracy transition process in state's commitment to people. He adds that state's tendency to peaceful and contributive treatment with people, expanding citizenship rights, obligation to establish equality in using the opportunities for citizens, supplying and guaranteeing citizenship rights and freedoms all facilitate and stabilize state's transition to democratization (Fazeli, 2010: 25).

To this end, Linz and Stephen believe that transition to democracy is fully realized when there is a radical consensus in the body of administration on achieving a democratic and citizen – based administration: it means that administration designates a part of power to people (Lins and Stephen, 1996: 3). Likewise, Lins and Stephen believe that the results of transition are not identical among non-democratic systems. According to them, transition in democratic system especially Sultanate one compared to non-democratic one comes to no end due to upsets and lack of any hope to democratic future (Linz – Shahabi, 2001: 87).

Democracy waves

Samuel Huntington is a pioneer of new perspective popularized as "democracy wave theory". Since used by Huntington to express democracy process, it is used as a prevalent theory by theoreticians. We put forward our discussion by using this theory as benchmark which considered at least four waves for changing governance paradigm two hundred years ago.

There are different opinions on this theory. All descriptions believe that the first wave of democracy is influenced by revolutions in France and USA. The emergence of the second wave relates to the end of WWII and release of German and Italy from fascism and Nazism. Third wave was emerged in the end 1980s by scattering single party systems in Eastern Europe and Communism block. The final wave stated and continued by cross – industrial age and informational community and the emergence of worldwide web (Heydarain, 2002: 40 – 42).

In another interpretation, some believe that transition experience to democratization in the revolution of France between 1793 and 1789 is the most famous paradigm of national democratic system (Tilly, 2013: 54).

Among the reports on democracy waves, the most comprehensive one is narrated by Tatu Vanhanen who imagined transition to democracy from 1848 to 1979. Concerning to his reports, within three decades (end1940s – 1980s) transition cases to democracy are significantly decreased. In this period, military regimes are sequentially emerging and falling in Latin America. In Europe, Portugal, Greece and Spain passed democratization process. Overall, democratization trend since 1850 shows that in the first wave, European countries were pioneers and adhered to the second wave between 1900 and 1949 and simultaneous to Asia and Africa, they entered the third wave (Bashirieh, 2008: 255).

Likewise, Huntington identifies five pattern of transition to democracy as below:

a. Circular pattern: it involves frequent changes in political system of countries between democracy and autocracy like Brazil, Argentina and Turkey.

b. Second experiment pattern: it caused the failure of democracy and taking lessons from this failure re-democratization like Spain, Portugal and Greece

c. Scattered democracy pattern: it stops democracy process due to certain circumstances despite of democracy long records

d. Direct transition pattern: it requires direct transition from autocracy to democracy

e. Leaving exploitation: it means releasing from exploitation and keeping democratic entities like New Guinea (Shahramnia, 2007: 146).

According to Freedom House, among 193 countries, 121 ones have minimum democracy system. In a more detailed statistics, 30 of 33 countries in Latin America have minimum democracy namely competitive and fair elections for political positions. Over two third of communist countries and one third of Asian and two fifth of African nations have resorted to democracy. It proves that transition to democracy is changed to a global process and there is no remarkable resistance against it (Bashierieh, *ibid*: 256).

According to the United Nations, 11 of 36 countries with minimum human development have democratic system. If we exclude 16 of 43 Arabian nations and evaluate only 27 countries, then we can find that one fourth of them (7) have minimum democracy (Diamond, Platner and Bromberg, 2003: 25).

Speech s2: power transition democratic styles

1. Power transition by representative democracy

In fact, it is considered as the first method of democratic power transition aimed at citizens' contribution in multilateral power management countrywide. John Lock is seen as the founder of such political new thinking. In this style, the representatives of people decided on behalf of them. Incrementally, it was reconstructed by modern patterns and rules and it can be now identified as below:

Statistical representative democracy

It means that the representative is the symbol of all voters' will. In this style, people's representatives are elected statistically. It is similar to balloting in ancient Greece.

Job representative democracy

In this style, job owners or important officials should have representatives in decision making process. Here, it is believed that the society consists of associations and organizations that

have their own goals. Hence, one can consider representatives for each goal.

Syndicate representative democracy

It is used in macro pattern of democracy. Here, those associations and organizations that are representatives of interested groups are recognized by government and play their role in advising, policymaking and policy execution processes.

Shared representative democracy

In this political style, the contribution of people and citizens is institutionalized in the power in contrary to those systems which support majority. The aim is to create conditions by which any syndicate can have representative in administration in excess of its share. Belgium, Switzerland and the Netherlands use such system (Lipset, 2003: 702 – 705).

Participatory power transition

This pattern is raised to criticize liberal democracy theory. The proponents of people's active participation assert that liberal democracy system hides tyranny – based structures and relations and it gets far from the principle right of people's participation in their affairs. They believe that the aim and foundation in liberal democracy is only to encourage citizens to vote and in long terms it would yield into their passiveness (Puladi, 2009: 150 – 151). As a result, people's power limits to participation in periodical elections, polls and establishing groups for discussion and dialogue. To confirm this, one should say that when it is the time of public decision making the majority namely winner parties who enjoy less than half of votes would decide for all (Miller, 2008: 62 & 74). Therefore, one can say that participatory democracy is the evolutionary type of representative democracy since in contrary to the style in which citizens' participation is through their representatives, it requires direct and active intervention by people in social affairs, social movements and peer groups (Lipset, *ibid*). On the other hand, one can say that participatory democracy is versus representative democracy since it involves most critics against representative theory. Such critics initially are toward some peripheral problems like people's political indifference and disrespect to citizens' rights by the government epically during elections. Then it finds that representative democracy cannot assign what belong to people since the outcome of such process is that people limit themselves to passive participation and put aside active and constant participation after designating the affairs to their representatives (Puladi, *ibid*, 154 – 155).

Deliberative power transition

Similar to participatory democracy, it starts by criticizing the foundations and performance of liberal democracy. The most serious criticism is that in liberal democracy, citizens are imagined as individuals with fixed presumptions who participate to achieve their preferences. The most famous figure of this theory is German philosopher, Jurgen Habermas (*ibid*: 156 – 157). According to Habermas, deliberative democracy can be a short cut between liberal democracy and participatory democracy. Overall, deliberative democracy is based on the thought that a society based on democratic principles should move forward training under favored circumstances by discussion; negotiations, consultancy and dialogue relied upon to argument and contemplation. Therefore, public governance in this pattern does not mean sampling voting and holding elections. What matters is collective decision making rationally and legitimately. According to Habermas, legitimacy and illegitimacy of state is constantly benchmarked by citizens' support or non-support. Therefore, the state should expose its plans, decisions, policies and laws by public opinion measurement for its own sustainability and legitimacy. When

such contracts are in contrary with the wills of involved individuals (citizens), such policies would cause confusion and ambiguity. They will be considered as hating barriers rather than the factors of liberty and freedom (Nozary, 2002: 549).

Dialysis power transition

According to proponents of deliberative democracy, it is insufficient to respect democratic rituals in order to realize participation of people and state's participatory role. On the other hand, the processes of democratic are fully legitimate when people are allowed to participate in all affairs related to their fates through deliberation, reasoning, dialogue, adducting, satiation and consensus. For instance, when the first kind of dialogue dialysis democracy was undertaken in ancient Greece, the direct participation by people in city – state political affairs paved the ground for communication between state and citizens (Ghazi Shraiat Panahi, 1996: 21). However, there are always disagreements on general policies. What matters is democratic dialogue through efficient political entities. According to Habermas, such dialogue is possible through a relation act and the efforts to achieve consensus to move forward the goals in a coordinated and planned manner (Puladi, *ibid*: 158 – 159). In another narration, the possibility of free dialogue is one of the most important characteristics of an open society. According to Bernard Williams, the nature of democratic society is free and without censorship dialogue. Williams believe that the only way to establish democracy is to disseminate democratic culture in the society: a culture based on two radical rights: the right of transfer and the right of receive. Thus, citizens can participate actually in decision making by possessing such rights and contribute in their society openly (Johnson, 2001: 179).

Discourse 3: legal documents on power transition

Legal structure of power transition can be investigated in both national and international documents. To identify the status of power transition, one can pursue it through international documents, human right global declaration as well as economic, social and cultural treaties and political – civil rights. To understand power transition domestically, one can resort to the Constitutional Law.

Human right docs

The first docs

In accordance with article 14 of Human Right Declaration ratified in August 26, 1789 “all citizens have rights to monitor personally or via their representatives on general material participation and freedom as well as its costs and determining the highest levels, how to receive and terms.”

1.1.1. In accordance with article 29 of Human Right Declaration ratified in June 24, 1793 “all citizens have equal rights to participate in legal associations and determining officials or agents.”

1.1.2. In accordance with article 20 of Human Right Declaration and the Constitutional Assignment ratified in August 22, 1795 “all citizens have equal rights to participate directly or indirectly in devising the law and assigning people's representatives or civil servants” (Ghazi Shriat Panahi, *ibid*: 227 – 238).

Human Rights Global Declaration (1948)

1.2.1. Article 21 of Human Rights Global Declaration

Article 21 of Human Rights Global Declaration reads participation in three paragraphs as below:

- a. Anyone is righteous to participate in his/her national administration directly or through representatives selected freely;
- b. Anyone is righteous to access general services of his/her country equal with others,

c. The will of people should be expressed through healthy periodical elections with equal right of voting for all people and using hidden votes or other similar free voting styles (Movahed, 2003: 156).

1.1.4. In accordance with article 27 of Human rights global declaration:

a. Anyone is righteous to participate in cultural life of the society, enjoys arts and enjoys scientific achievements and advancements freely."

b. Anyone is righteous to enjoy the support of material and spiritual interests of his/her compiled scientific, literal or artistic works."

Concerning above points, article 21(3) of global declaration certifies that the foundation and origination of administration are the will of people. It should be expressed through authentically and periodically elections. Therefore, such election should be public, fairly and equally through hidden voting or similar methods (Levin, 1998: 1720. Likewise, article 27(1) refers to the right of citizens to exert power in society.

International treaties

Article 1 of both treaties

Noteworthy, the article 1 of both treaties are too important that citizens' general participation in running the society in political, social and economic areas as the as the necessity of participation are mentioned in all its three paragraphs so that paragraph 1 respects political participation, paragraph 2 respects economic participation and paragraph 3 respects the task of state and accepting contribution.

a. All nations have the right of self-authority. Accordingly, nations can determine that political status freely and supply their economic, social and cultural development.

b. All nations can use the natural resources and wealth in order to achieve their goals without any interference in their obligations from international economic cooperation based on mutual interests and international rights. No one can deprive a national from its subsistence in any case.

c. Membered nations including the nations responsible to run non self-authority territories and sovereignties are obliged to facilitate their self – authority and respect it in accordance with United National Charter.

Article two of civil right – apolitical treaty

3.1.3. Article 25 clarifies that any man who is a member of society is righteous to act as below irrespective all limitations mentioned in article 2 and irrational limitations:

a. In general running directly or through representatives elected freely

b. In periodical election by public voting, equally and in hidden and guarantees free expression of voters' will

c. with equal right under general circumstances to achieve general jobs in his/her nation.

Other humanistic docs

1.1.1. Article 23 of US Convention on Human Rights and article 13 of African Charter ratified in 1978 read: "all citizens are righteous to exert power as below without any discrimination and irrational limitations:

a. In general running of the country directly or through representatives elected freely,

b. In periodical election by public voting, equally and in hidden and guarantees free expression of voters' will

c. Acquiring public position based on equal general conditions

4.2.1. Article B of Islamic human rights declaration (1990) on people's governance on their fate

Article 1 of Vienna Declaration (1993)

4.4.1. Article 76(b) of the United Nations Charter

4.5.1. Article 37(b) of the United Nations Charter

4.6.1. Articles 19 & 20 of African human right charter in accordance with Article 1(a & b) of both international treaties

2. Iranian Public Laws

2.1. The first documents

2.1.1. Principle 2 of constitutional law ratified in 1896 As the result of constitutionals revolution, it was decided that Shah govern rather than administration. The Parliament should be shaped and people could send their representatives to Parliament by free elections. Thus, the first time of people political participation was accepted in Iran and the first Constitutional Law recognized it: "National Council Parliament is the representative of all people of Iran who participate in economic and political affairs of their own country".

2.1.2. Article 10 of election laws by National Council Parliament

According to this law, women, those who have committed murder and steal, political offenders, minors, crazy people, bankrupted people and disbelievers are deprived on voting and electing representative. The structure of this article was considered as a closed loop. This article was eliminated in next amendments and the rights of women were accepted based on principle 2.

2.1.3. The law on establishing state and county associations ratified in 1907

Accordingly, 140 associations were shaped but they left the scene in 1911.

2.1.4. Civil association law (1930)

It was ratified upon the action on establishing municipality.

2.2. Islamic Republic of Iran Constitutional Law

Islamic Republic of Iran Constitutional Law talks about democratic values and the constructive role by people in determining strategies and running the society by several principles. Both explicitly and implicitly, these principles have pointed out citizens' power and participation in decision making and their fates in different political, economic, social and cultural arenas. These principles include:

Principle 3, paragraph 8

According to principle 3, the state is obliged to use all its facilities for the participation of all people in determining their political, economic, social and cultural fate. Thus, mobilizing governmental facilities shows musts in democratic systems as the basis of transformation in educational system, repairing macro-economic structures and civil society development.

Principle 6

It reads: "in the I. R. of Iran, national affairs should be run by general votes through election: president, Parliament members, council members, and so one or through polling determined in other principles." In present principle, it is explicitly emphasized on democracy foundation and public governance and also implicitly on the necessity of power exertion from state to citizens in political management.

Principle 7

According to principle 7, councils, Parliament as well councils in province, county, city, town, division and village and so on are considered as the pillars of decision making and are recognized as local democracy symbol. Council system is, inter alia, efficient initiatives which facilitate power transition process from state to citizens.

Principle 8

It reads: "in the I. R. of Iran, command and prohibition is a public and mutual task among people to people, people to state

and state to people. Law would determine its conditions, boundaries and quality.” According to principle 8, there is a mutual relationship between state and people. By admiring citizens’ monitoring on the functions of top ranking officials, it identifies a major pillar of a democratic society. Hence, public surveillance process on states’ performance can be considered as admiring the monitoring and controlling role of people in political arena.

Principle 56

According to principle 56, absolute administration on globe and human is exercised by the Divinity and Allah has determined man’s fate. No one can deprive this divinity right or put it in the service of interests of other people. According to this principle, the Divinity created man as his caliphate on the Earth and assigned him the right of running the affairs as its successor. It clarifies that man controls his fate and has the power of wisdom, will and thought to exert power and accept critical role. Here, rights are exercisable by two indirect (Parliament elections) and direct (polling) ways.

Principle 59

In important economic, political, social and cultural problems, Legislature actions may be conducted by polling.

1.1.5. Principle 100

To conduct rapidly social, economic, constructional, health, cultural, educational and other amnesty plans through people cooperation and by considering local requirements, running any village, division, city, county or province is conducted by the monitoring of a council and called the council of village, division, city, county and province whose members are selected by the people of the same region. However, such rights and liberties are always limited to legal boundaries. Neither state can consider more limitations than what mentioned explicitly in the law nor people can ignore them (Movahed, 2003: 76).

Conclusion

Throughout the paper, the authors attempt to analyze the requirements of power transition in the light of two conceptual and structural attitudes toward democracy rotation and people’s right in power exertion and show that power transition is a step-by-step process realized by social and historic transformations. Then, by relying upon the most common power transition methods, they have tried to explain that real power transition from state to citizens can be only done through a peaceful framework. Concerning human right documents and Iranian Constitutional Law, the authors have attempted to highlight legal indicators of power transition. The result is that power transition from state to citizens is undeniable and the route of political regime transformations confirms it. It should be pursued in peaceful and democratic manner so that one can achieve people’s desired results. On the other hand, human right

documents and Iranian Constitutional Law including principles 3 (paragraph 80, 6, 9 and 56 support citizens’ governance rights and crystalize political power share and transition from state to people.

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