

Legal Status of Civil Society: Comparative Study on NGOs in Iran and Germany

*Samaneh Rahmatifar**

DOI: 10.22096/law.2023.547432.2001

[Received Date: 13/02/2022 Acceptance Date: 03/08/2022]

Abstract

The situation of NGOs is a transparent image of the status of civil society in a country. The purpose of the present study is to assess the legal status of civil society in Iran compared to Germany. The method of the present research is comparative study with an inductive approach that legal system on NGOs, as an example of civic institutions, is compared in Iran and Germany, and the results extend to civil society. Findings in Germany show on the one hand law recognizes the legal personality of NGOs; decelerating method at the time of formation is adopted; the passive monitoring method is applied. All are Compatible to the right of association and freedom of their activity. On the other hand, the government, on the permission of law, influences NGOs by donating. In Iran, NGOs do not have an independent legal personality; the degree of government intervention in the formation time and during their life is prescriptive and the monitoring is active type. As a result, the German government, by strengthening civil society, uses it to advance its domestic and foreign goals, and in Iran, civil society has legally low status.

Keywords: Private Sphere; Legal Personality; Registration; Monitoring; Right to Association.

*Associate Professor, Faculty of Humanities, Hamedan Branch of Islamic Azad University, Hamedan, Iran.
Email: s.rahmatifar@gmail.com



Bibliography

- 55th civil chamber of international relations at shahid Beheshti judicial complex, Judgment no. 9909970237601089, March 03, 2021. [In Persian]
- Abrahamian, Yerevan. *People in Iran's politics, five case studies*. Translated by Behrang Rajabi. Tehran: Cheshme, 2014. [In Persian]
- Alam, Mohammadreza. "Investigation of the historical obstacles to the establishment of civil society in contemporary Iran with an emphasis on the inefficiency of elites." *Humanities Research Journal of Shahid Beheshti University* 2, no. 38 (2012): 1-23. [In Persian]
- Anheier, Helmut K, Eckhard Priller, and Annette Zimmer. "Civil Society in Transition: The East German Third Sector ten Years after Unification." *East European Politics and Societies and Cultures* 15, no. 1 (2000): 139-156.
- BMZ (German Federal Ministry for Economic Cooperation and Development). *Promoting Resilient States and Constructive State-Society Relations-Legitimacy, Transparency and Accountability*. Berlin: BMZ Pub, 2015.
- Bundesrepublik Deutschland. Basic Law . 1949. [In German]
- Bundestag. Civil Code. 1896. [In German]
- Bundestag. Law regulating public association law (Association Act). 1964. [In German]
- Committee of Ministers. "Legal Status of Non-Governmental Organizations in Europe." no. CM/REC 2007/14 (2007).
- Council of Europe. *Fundamental Principles on the Status of Nongovernmental Organizations in Europe*. 2002.
- Davies, Thomas. *NGOs a New History of Transnational Civil Society*. Oxford: Oxford University Press, 2014.
- Ecosoc. "Consultative Relationship between the U.N and Non-Governmental Organizations." no. 1996/31, 25.7 (1996).
- Engel, Susan. "Germany's Government-Civil Society Development Cooperation Strategy: The Dangers of the Middle of the Road." *Cosmopolitan Civil Societies: an interdisciplinary journal* 9, no. 1 (2017): 42-59. <http://dx.doi.org/10.5130/ccs.v9i1.4942>
- Firahi, Daud. "Political system and government in Islam (1)." *Political Science* 14, no. 4 (Summer 2001): 139-164. [In Persian]

- German Bundestag. Legal framework for the activities of non-governmental organizations in Germany. 2014. [In German]
- Giddens, Anthony. *Global perspectives*. Translated by Mohammad Reza Jalaipour. Tehran: Tarhe no, 2018. [In Persian]
- Homayun Katoozian, Mohammad Ali. *The contradiction between the state and the nation, the theory of history and politics in Iran*. Translated by Alireza Tayeb. Tehran: Nashre no, 2019. [In Persian]
- International Monetary Fund (IMF). "The IMF and Civil Society Organizations". Accessed August 5, 2020. <https://www.imf.org/external/np/exr/facts/pdf/civ.pdf>.
- Khaniki, Hadi, and Yousef Khojir. "Capabilities and Challenges of Virtual Social Networking for Iranian Civil Society." *New Media Studies* 5, no. 17 (2019): 35-69. 10.22054/nms.2019.37923.638. [In Persian]
- Olivo, Christiane. "The Quality of Civil Society in Post-Communist Eastern Germany: A Case-Study of Voluntary Associations in Leipzig." *Democratization* 18, no. 3 (2011): 731-750. 10.1080/13510347.2011.563117.
- Pedraza-Fariña, Laura. "Conceptions of Civil Society in International Lawmaking and Implementation: a theoretical Framework." *Michigan Journal of International Law* 34, no. 3 (2013): 605-673.
- Rahmatifar, Samaneh. "The role of civil society in lawmaking in the globalization era With emphasize on non-governmental organizations." *Public Law Research* 18, no. 45 (2017): 265-288. 10.22054/qjpl.2017.7436. [In Persian]
- Rana, PK. "Civil society organizations and its limitation." *International Journal of Law* 2, no. 6 (2016): 82-84.
- Ruling of the General Meeting of the Administrative Justice Court, case no. 661/84, Judgment no. 906, November 20, 2007. [In Persian]
- Sabzei, Mohammad Taghi. "Sociological analysis of the development of civil society in Iran, a comparative analysis of the constitutional period with the period of the Islamic revolution." *Social Studies of Iran* 4, no. 2 (July 2009): 49-85. [In Persian]
- Shariati, Shahruz, and Mehdi Abbasi Shahkuh. "Antagonistic Opposition between Oppressive Government and Web-like Civil Society of Iran under Reza Shah." *Political Science Journal* 10, no. 1 (Winter 2013): 37-62. [In Persian]

UN General Assembly. "Transforming our world: the 2030 Agenda for Sustainable Development." *resolution* no. A/70/L.1 (2015).

UN General Assembly. Rome Statute of the International Criminal Court. 1998.

Yazdanian, Alireza. "Theory of Civil Liability of Legal Persons Arising from Acts of Governing Body with Comparative Study of French Law." *Law Quarterly* 44, no. 4 (2014), 633-651. 10.22059/jlq.2014.53344. [In Persian]

Yildirim, Senem. "Arendt's Promise to Civil Society: Bridging the Social and the Political." *The European Legacy* 19, no. 7 (2014): 869-882.

Zolfagari, Abulfazl, Hossien Saber Damirchi, and Abdolreza Bagheri Bunjar. "Representation of civil society in press: Discourse analysis of civil society in Iran's press during 2009-2014." *Sociology of Social Institutions* 4, no. 9 (2017): 43-77. 10.22080/ssi.2017.1559. [In Persian]