

State Obligations in Realizing Freedom of Movement and the Human Right to Mobility

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The purpose of the present article is to examine the obligations of states in realizing freedom of movement and the human right to mobility. Data were collected through library-based research using note-taking and documentary review techniques. The data were analyzed using a descriptive-analytical method. Freedom of movement, as generally understood, encompasses the right of every person lawfully present within the territory of a state to move freely without obstruction and without being required to obtain special authorization from public authorities. The right to freedom of movement within a country constitutes a fundamental component of liberty, enhancing individuals' capacity to secure their livelihood and engage in social interaction. This right applies not only to citizens but also to lawful residents and even foreign nationals who are lawfully present within the territory of the state concerned. As with other human rights, state obligations regarding the right of individuals to freedom of movement have three dimensions: (1) the obligation to respect, meaning that states must refrain from creating barriers or restrictions that interfere with the movement of individuals or groups of individuals and must remove existing obstacles and restrictions; (2) the obligation to protect, under which states are responsible for providing the necessary conditions and facilities for the free movement of individuals. In other words, the state itself must establish the conditions necessary for mobility so that individuals can move freely without political, economic, or cultural impediments; and (3) the obligation to fulfill and implement, meaning that states are required to provide the conditions and necessary facilities for the effective enjoyment of the right to freedom of movement. This includes access to necessary facilities during travel and the guarantee of security in the course of movement, throughout the journey, and even upon return. From the perspective of international human rights obligations, no state may undertake measures that impair the right to freedom of movement of individuals from other states or prevent them from enjoying that right. Today, one of the recognized principles of international law is that no state may permit activities within its territory that produce harmful effects, including adverse effects on the nationals of another state.

Keywords: right to freedom of movement (mobility), state obligations, human rights.

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1. Introduction

Freedom of movement and the human right to mobility are consistent with human dignity and constitute fundamental principles of human rights. Freedom of movement means that individuals are free to

leave their own country for any destination and may return to their country whenever they wish; they must also be able to move freely within their country whenever they choose. No obstacle should interfere with an individual's will in exercising this freedom (Shariati, 2018). This concept derives from personal security and



is regarded as one of the fundamental rights of individuals in countries governed democratically, to the extent that some scholars consider deprivation of this right to be a characteristic of authoritarian and centralist regimes (Ghazi, 2019). Freedom of movement and the human right to mobility have not been directly addressed by the legislature in the Constitution of the Islamic Republic of Iran; nevertheless, this right has implicitly been recognized. In this regard, reference may be made to Article 33 of the Constitution, which provides: "No person may be banished from his or her place of residence, prevented from residing in a place of his or her choice, or compelled to reside in a particular place, except in cases prescribed by law." It may also be argued that because Clauses 7, 9, and 14 of Article 3 of the Constitution employ such expressions as "political and social freedoms within the limits of the law," "securing the comprehensive rights of all individuals, both women and men," and "eliminating unjust discrimination and creating equitable opportunities for all in all material and spiritual spheres," and regard these as duties of the state, it can be concluded that freedom of movement is likewise among the rights and freedoms recognized for the people. The state is bound by and accountable for the rights of the nation and must observe all relevant considerations in this respect. Equal enjoyment of human dignity and status is a fundamental principle of human rights that admits of no exception under any circumstances. Accordingly, equal and identical human dignity, rather than affiliation with a particular sex, race, religion, or even the dominant political orientation, is the source of equal rights. One of the most significant contemporary global challenges concerns attention to human rights and the problems arising from violations of these fundamental rights by states. Indeed, it may be argued that the present era is characterized by increased attention to this domain and by efforts to establish governments capable of institutionalizing human rights in practice and guaranteeing their domestic enforcement (Molaei, 2000). What has been stated regarding the nature of state obligations toward human rights may create difficulties in their implementation. For example, a state may refuse to implement such rights on the pretext that fulfillment of its obligations is costly or by claiming a lack of resources. Likewise, by invoking the progressive nature of such obligations, a state may implement them

at an unrealistically slow pace and at a level below its actual capacity. The ambiguous formulation of such obligations may also provide a convenient pretext for evading public, administrative, or judicial oversight or may result in ineffective supervision, thereby jeopardizing their fundamental character. Taken together, these substantive characteristics may create both impediments to implementation and difficulties in monitoring compliance. Solutions must therefore be devised to address the adverse consequences arising from the nature of these obligations and to prevent states from evading their responsibilities (Esmaili & Amini Pazouh, 2016). Given that one of the enduring questions concerning human rights and fundamental rights and freedoms has been the issue of their enforceability, the question arises whether rights that are not guaranteed can, in the legal sense of the term, truly be regarded as rights, and how states' obligations to implement these rights can be strengthened. Historically, imposing human rights obligations upon national sovereignties has been extremely difficult, and it remains by no means an easy task today. Nevertheless, with the means currently available to humankind, it appears much easier and faster than in the past to compel states to fulfill their obligations or to establish enforcement mechanisms for those obligations that they fail to perform. This, however, cannot be achieved without increasing public awareness, enhancing individuals' knowledge of their rights, and ensuring the presence of benevolent public officials and persons of integrity in positions of authority. Accordingly, by examining freedom of movement and the human right to mobility, the present study seeks to answer the following question: What legal obligations have states undertaken to realize freedom of movement and the human right to mobility?

2. Freedom of Human Movement (Freedom of Movement)

"Freedom of movement means that a person is free to travel, reside in, and leave any place, whether within or outside the country, and is protected against arbitrary detention without justification" (Madani, 2017). Freedom of movement comprises four components: the right to move freely within a country, freedom to choose one's place of residence, freedom to leave any country, and the right to return to one's own country. Freedom of movement is regarded as one of the most important

individual rights and public freedoms. This conclusion may be drawn from an examination of declarations of rights, including the American Declaration of Rights, the French Declaration of the Rights of Man and of the Citizen, and the Universal Declaration of Human Rights, among others. Freedom of movement means that individuals are free to leave their own country for any destination, may return to their country whenever they wish, and may move freely within their country whenever they choose. No obstacle should interfere with an individual's will in exercising this freedom (Ghazi, 2019). "Freedom of movement is a consequence of personal security" (Shariati, 2018). This right is considered one of the fundamental rights of individuals in countries governed democratically, to the extent that some scholars regard deprivation of such a right as a characteristic of authoritarian and centralist governments (Ghazi, 2019).

Freedom of movement, as generally understood, encompasses the right of every person lawfully present within the territory of a state to move freely without obstruction and without being required to obtain special authorization from public authorities. The right to free movement within a country constitutes an essential element of liberty, enhancing an individual's capacity to secure a livelihood and engage in social interaction. This right applies not only to citizens but also to lawful residents and even foreign nationals lawfully present within the territory of the state concerned. It also includes freedom to choose one's place of residence, such that "every person lawfully present within the territory of a state may choose the place in which he or she wishes to live, whether in a city, village, or any other part of the country. The person may also choose which city, county, or province is to serve as the principal center of his or her affairs" (Graul, 2002). Furthermore, freedom of movement within the territory of a state also extends to all constituent parts of a federally governed country. With regard to freedom to choose one's residence, it should also be noted that this encompasses the freedom to establish either a permanent or temporary residence anywhere within the territory of the state.

3. Freedom to Leave a Country and Return to One's Own Country

The right to leave a country, including one's own country, constitutes another component of freedom of movement.

This right includes both permanent departure and shorter- or longer-term stays abroad. "This right derives from the general principle that no state has ownership over an individual" (Hurat, 2005). Moreover, the right to leave a country is a personal right. Freedom to leave a country should not be conditioned upon a particular purpose or a specific period of time. Individuals may reside outside their country of nationality. Because international travel requires travel documents such as a passport, the right to obtain a passport must also be regarded as part of the right to leave a country. Delays in issuing or renewing a passport may effectively impede an individual's exercise of the right to leave the country. Recognition of every person's right to enter his or her own country reflects the relationship between the individual and the country of nationality. This right has various manifestations and, in practical terms, includes the right to remain in one's own country. It encompasses not only the right to return to one's country after leaving it but also the right to enter that country for the first time when the individual was born abroad (Shelton, 2011). The right of return is one of the most important rights facilitating the voluntary repatriation of refugees. It also implicitly entails the prohibition of forcible population transfer and collective expulsion to other countries. Under no circumstances should a person be arbitrarily deprived of the right to enter his or her own country; rather, any interference with this right must be consistent with the purposes of the relevant Covenant and reasonable under the particular circumstances. States should not deprive their nationals of nationality or exile them to other countries in order arbitrarily to prevent their return. These four components that constitute freedom of movement are, in fact, indicators and hallmarks of a democratic society. Without freedom of movement and freedom to choose one's residence, other individual freedoms are undermined. These rights must therefore be protected by all states that bear responsibilities toward the international community.

4. Freedom of Movement from the Perspective of Human Rights Instruments

Article 13(1) of the Universal Declaration of Human Rights provides that everyone has the right to freedom of movement and residence within the borders of each state. Article 13(2) further states that everyone has the right to leave any country, including his or her own, and

to return to his or her country (Kamalan, 2019). Accordingly, it may be argued that no country should close its borders to nationals of other states or prevent its own nationals from leaving or re-entering the country. For this reason, any restriction imposed in this field may constitute a serious threat to international understanding and peace (Tabatabaei Motameni, 2019). Since this freedom has been strongly emphasized in human rights instruments, the effects of such emphasis can naturally also be observed in national constitutions. For example, Section 6 of the Canadian Constitution provides that every Canadian citizen has the right to remain in Canada, enter or leave Canada, and move throughout the country (Madani, 2015).

Article 16 of the Italian Constitution likewise addresses this freedom independently and provides that all citizens may move and reside freely in any part of the national territory, except for general limitations established by law for reasons of health or security. No restriction may be imposed for political reasons. All citizens are free to leave the territory of the Republic and to return to it, subject to any obligations prescribed by law (Madani, 2015). Examination of the constitutions of other countries likewise demonstrates that this right and freedom are expressly recognized among fundamental constitutional rules and enjoy a distinct position (Madani, 2015).

5. Freedom of Human Movement in Domestic Law

Under ordinary circumstances, movement within the country is generally free; accordingly, the use of roads and public thoroughfares is open, equal, and free for everyone. "Free" means that roads are open to all persons and that no special authorization is required to travel on them. Consequently, public authorities are not entitled to create obstacles that interfere with movement, except where considerations of security and public order require restrictions. "Free of charge" also means that travel on roads is ordinarily without charge and that imposing tolls on users may interfere with the principle of freedom of movement, unless such tolls are expressly authorized by law. Where public order, public health, or unforeseen events so require, the state may impose restrictions, provided that the boundaries of the restricted area and the duration of the restriction are publicly announced and judicial authorities remain obliged to hear complaints and render decisions in this

regard (Tabatabaei Motameni, 2019). Freedom of movement within the country does not, however, mean disregarding traffic regulations, transportation rules governing land, air, and maritime transport, urban traffic regulations, or similar measures. Such regulations are designed to enhance road safety, protect human life, and maintain order in transportation, and compliance with them does not constitute an infringement of the right to freedom of movement (Shariati, 2018). The Constitution of the Islamic Republic of Iran does not explicitly refer to this freedom. Nevertheless, the wording of several constitutional provisions supports the conclusion that although no express statement exists, this right has implicitly been accepted by the Constitution. As previously noted, one form of restriction on freedom of movement is compelling a person to reside in a specified location. Article 33 considers such a restriction valid only when prescribed by law; therefore, its declaration that no person may be exiled from his or her place of residence, prevented from residing in a place of choice, or compelled to reside in a specified place implicitly recognizes freedom of movement. Furthermore, since Clauses 7, 9, and 14 of Article 3 of the Constitution refer to "political and social freedoms within the limits of the law," "securing the comprehensive rights of all individuals, both women and men," and "eliminating unjust discrimination and creating equitable opportunities for all in all material and spiritual spheres," and identify these as duties of the state, it may be concluded that freedom of movement is likewise among the rights and freedoms that must be recognized for the people (Shariati, 2018).

Article 48: Every citizen has the right to move freely within the country and to leave or enter Iran, unless this right has been restricted by law.

Article 49: Citizens have the right to reside and settle in any part of the territory of Iran. No person may be exiled from his or her place of residence, prohibited from residing in a place of choice, or compelled to reside in a particular place, except in cases prescribed by law.

6. Restrictions on Freedom of Movement in National Constitutions and International Instruments

One issue that may, at first glance, be regarded as a restriction on freedom of movement is the requirement that individuals possess passports and appropriate visas, in accordance with international agreements, when

leaving or entering a country for purposes of order and control (Vafadar, 2017). However, given the importance attached to this freedom in national constitutions and international instruments, it may be argued that the state's authority to issue passports to its nationals is a mandatory competence. In other words, a state may not refuse to issue a passport without a lawful basis. Some scholars nevertheless maintain that "the state's competence concerning the issuance of visas—that is, authorization for foreign nationals to enter—is discretionary; therefore, if the state determines that the entry of certain persons would be harmful to the country, it may refuse to issue them visas." Freedom to leave or enter a country may also be temporarily restricted or suspended for reasons such as security, public order, or public health (Tabatabaei Motameni, 2019).

Article 12(3) of the International Covenant on Civil and Political Rights provides that freedom of movement shall not be subject to any restrictions except those provided by law and necessary to protect national security, public order, public health or morals, or the rights and freedoms of others, and which are consistent with the other rights recognized in the Covenant. The constitutions of certain countries likewise explicitly set forth exceptional circumstances in which this right may be restricted by law on grounds of national security, public health, or the rights and freedoms of other citizens (Madani, 2017).

The Prevention of Terrorism legislation of 1989 in the United Kingdom also restricted freedom of movement for the purpose of preventing terrorist operations (Barnett, 2013). In any event, a state may prevent the entry and residence of foreign nationals who do not satisfy legal requirements. Where a foreign national fails to comply with conditions of entry and residence—for example, by remaining beyond the authorized period, committing an offense, or being deemed a threat to the interests of the country—the state may return that individual to his or her country of origin (Boushehri, 2017).

One manifestation of restrictions on the right to reside in one's country, and of circumstances in which a citizen may be deprived of residence in his or her own country, arises where the person has committed an offense in another country and an extradition treaty exists between the two states. In such circumstances, the individual's right to remain in his or her country may be restricted.

Political offenses, however, are excluded from this rule, and a person may not be extradited merely for having committed a political offense (Boushehri, 2017). Article 79 of the Constitution of the Islamic Republic of Iran permits the government, in times of war and emergency and with the approval of the Islamic Consultative Assembly, temporarily to impose necessary restrictions. Such restrictions may also result in limitations on freedom of movement within the country. Another restriction imposed in some form by the Civil Code upon freedom of movement is that the domicile of a married woman is deemed to be that of her husband, while the domicile of persons under legal incapacity is deemed to be that of their guardian or custodian. Likewise, the domicile of civil, judicial, and military officials is considered to be their place of assignment. Moreover, pursuant to Article 19 of the Islamic Penal Code, a court may, as a supplementary measure to a discretionary or deterrent punishment imposed upon a person convicted of a public offense, prohibit that individual from residing in specified places or compel him or her to reside in a designated place (M. Ashouri, 2016).

Article 20 of the Constitution provides: "All members of the nation, both women and men, are equally protected by law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria." This constitutional provision explicitly indicates that all members of the Iranian nation, regardless of sex, enjoy equal rights and freedoms. Examination of the various provisions of the Constitution of the Islamic Republic of Iran demonstrates that criteria such as incompatibility with Islamic principles, public interests, public rights, the rights of others, and statutory provisions determine the permissible scope of freedoms; in particular, observance of Islamic criteria has consistently received emphasis. Among the restrictions imposed upon freedom of movement in the Iranian legal system, some are compatible with the above-mentioned standards recognized in the Constitution, whereas others cannot readily be assessed against any of those criteria.

7. Human Dignity and Personality from a Human Rights Perspective in Light of Freedom of Movement

Human dignity constitutes another foundational basis and justification of human rights. The inherent dignity of the human person has therefore repeatedly been

emphasized in human rights instruments. To honor a person means to accord respect, while dignity refers to worth, status, and honor, which, according to this perspective, belong to every human being and cannot under any circumstances be taken away. Accordingly, any conduct that impairs human dignity is unethical and must be avoided. One manifestation of respect for human personality is freedom of movement. Human dignity requires that an individual be able freely to travel to and from a country of his or her choosing and that domestic laws not unjustifiably prohibit such movement. The rules contained in international human rights instruments are, in fact, legal norms intended to protect human dignity. Under the principle of dignity, the rights of all persons in society are equal and are not confined to any particular class or race. Refugees likewise enjoy these rights on an equal basis (Aghaei, 2017). Human dignity is important and valuable because it is regarded as the foundation of numerous human rights, privileges, and obligations. In other words, human dignity is not merely conceived as a right or a set of inalienable and non-transferable rights; rather, it is regarded as the central foundation of human rights, and sustainable progress in any society and political system requires respect for the dignity of citizens. The numerous rights recognized in the Universal Declaration of Human Rights and elaborated in greater detail in the two International Covenants and other human rights instruments fundamentally derive from recognition of the principle of dignity for all persons. Nevertheless, some global human rights charters do not treat human dignity in an entirely uniform manner, and such uncertainty is also evident in human rights scholarship. Human dignity is normative in character and is not merely an anthropological description (Rahmani & Moezeni, 2016). Grant, in the article "Dignity and Equality," acknowledges that inequality is among the most challenging issues on the global human rights agenda because no formal approach to assessing inequality can, by itself, eliminate structural inequality. Addressing the roots of inequality therefore requires a different approach. Dignity, understood as a human rights concern, can contribute to the formation of a society in which all individuals are valued and inequality and discrimination are reduced (Amid Zanjani & Tavakoli, 2017). The principle of respect for human dignity plays an important role in emerging global human rights norms and related instruments. Recourse

to human worth and dignity in international human rights instruments reflects a genuine concern with promoting respect for the intrinsic value of the human person and the unity of humankind. Yet dignity alone cannot resolve many existing problems; for this reason, reliance on human dignity as an overarching principle is combined with reference to human rights in order to provide an effective and practical means of advancing human concerns at the global level (Stout, 2012). Dignity and human rights, as attractive and ideal aspirations, are linked to global political culture and possess the capacity to inspire a worldwide movement for justice for humanity. Another important issue is the absence of a uniform understanding of human dignity within the international community, human rights institutions, and international instruments, as every discourse concerning human dignity presupposes a particular anthropology. Cultures shaped by the world's various religions necessarily influence human understandings, and their dominant conceptions of the human person are substantially dependent upon religious beliefs. Islam, in particular, has a distinct perspective on the human person and human dignity. Thus, questions of dignity and worth are linked to local circumstances and cultural and religious understandings, indicating that human dignity may be subject to different interpretations. In any event, the Universal Declaration of Human Rights (UDHR), as a landmark document in the history of human rights drafted by representatives with different legal and cultural backgrounds from all regions of the world and adopted by the United Nations General Assembly on December 10, 1948, as a common standard for all peoples, emphasizes that all human beings are born free and equal in dignity and rights. These principles of international law attest to the importance of the "right to movement with dignity" (Ghorbannia, 2018). According to Amnesty International, dignity requires respect for all human rights for everyone, and no right enjoys precedence over the right to life and the freedom to move with dignity. The concept of human dignity, both as an intrinsic attribute of human existence and as an ideal achievement, was articulated in the 1948 Universal Declaration of Human Rights, whose drafters affirmed the inherent dignity of the human person in order to provide both a moral justification for that affirmation and an explanatory foundation for the validity of universal rights (Moghaddasi & Yahyaei, 2016). The

International Committee of the Red Cross has stated in the preambular context of international conventions that respect for human personality and dignity constitutes a universal principle that remains binding even in the absence of treaty obligations. In adopted human rights conventions, dignity and human worth represent prominent common principles prohibiting degrading treatment against human dignity, including unjustified restrictions on movement and compulsory residence; such measures contrary to human dignity are prohibited at all times and in all places (McCrudden, 2017).

8. Justice from a Human Rights Perspective in Light of Freedom of Movement

Justice is a fundamental value sought by every legal system, including the system of human rights. Human rights constitute a normative framework that, by their very nature, have a global dimension, and state sovereignty cannot create an absolute barrier to their influence. Justice is an ethical concept; therefore, all factors contributing to the formation of social morality also influence its realization and development. For this reason, many thinkers have maintained that judges, as a selected professional group within society, possess particular competence to distinguish justice from injustice. Justice provides guidance regarding the distribution of benefits and advantages arising from compliance with rules and the performance of particular conduct (Blakely et al., 2009). Justice based on entitlement and privilege may define entitlement by reference to virtue, lineage, race, sex, social class, or adherence to a particular religion. If entitlement is defined in these terms, it cannot provide a foundation for human rights, because allocating privileges on the basis of lineage, race, social class, sex, or wealth produces discrimination and inequality, which plainly contradict the objectives of human rights. Moreover, allocating privilege and entitlement on the basis of such criteria is clearly regarded as unethical. By contrast, distribution based on merit may be morally defensible and serve as a legitimate distributive criterion where access to the opportunity to demonstrate such merit is equal. Accordingly, distribution based on entitlement is just and ethical only when it rests on merit to which all persons have equal access. Justice means treating people as equals. It requires recognizing and counting each individual as equal. Every person is regarded as equal to

every other person irrespective of sex, lineage, race, beliefs, or social class; on this basis, efforts should be made to ensure equal treatment and equal access to opportunities, including opportunities to attain merit. If access to merit is not equally available to all, distribution of benefits and burdens on the basis of merit must itself be regarded as unjust (Majandeh, 2015). Important international instruments may likewise be considered in relation to justice and the rights of all citizens regarding freedom of movement. Justice in movement requires that all persons be treated equally. No discrimination should exist through prohibitions on the movement of particular individuals or by compelling them to reside in designated places. Justice in the field of mobility means that the rights recognized for one's own citizens should likewise be respected for other persons, including those who are refugees. No distinction in access to privileges should be based on race, minority status, or membership in a particular ethnic group.

9. Security from a Human Rights Perspective in Light of Freedom of Movement

Security means being safe and at ease, protected from danger and fear, and enjoying peace of mind. The term "secure" denotes being unharmed, safe, and at peace. Security likewise refers to safety and freedom from harm, or to a condition in which injury, danger, and harm are absent and tranquility prevails. Security may be defined, in its lexical sense, as a condition of freedom from any threat or attack or preparedness to confront threats or attacks. In political and legal terminology, the concept is used in such forms as individual security, social security, national security, and international security (D. Ashouri, 2016). Security in mobility means that citizens are able to travel freely to all places without fear or threats preventing them from doing so. It denotes a condition of relative freedom from threats or attacks, or preparedness to confront them. Security should not be reserved for a particular minority, because one of the most fundamental principles of any system of governance is the provision of security for all citizens. Security is among the most essential needs of society. In general, security is a condition of assurance in which individuals living in a society do not fear for the protection of their lives, dignity, or material and non-material rights (Nasri Meshkini, 2018). Security means not being exposed to danger or being protected from it.

It entails freedom from uncertainty, anxiety, and fear and the possession of justified and well-founded confidence and assurance. Security, whether individual, national, or international, is among the fundamental concerns confronting human beings. In a broad sense, security has been used to refer to peace, freedom, confidence, health, and other conditions in which individuals or groups of people are free from concerns relating to restrictions on movement, fear, danger, or threats arising from internal or external sources (Mirarab, 2018).

10. Dimensions of State Obligations Regarding Citizens' Freedom of Movement

State obligations concerning citizens' right to freedom of movement, like obligations relating to other human rights, have three dimensions: the obligation to respect, the obligation to protect, and the obligation to fulfill. In its General Comments, the Committee on Economic, Social and Cultural Rights employs this commonly used three-dimensional framework to explain the obligations of states regarding the right to freedom of movement.

10.1. *Obligation to Respect*

This dimension of state obligations represents the negative dimension of human rights obligations and consists of a range of duties of abstention and restraint. In other words, the obligation to respect requires states to refrain from specific acts or omissions that interfere with protected rights. With regard to freedom of movement, the obligation to respect means that states must not create barriers or restrictions that impede the movement of individuals or groups and must remove existing obstacles and restrictions (Ston, 2012). The Committee's General Comments identify several examples of the obligation to respect the right to freedom of movement. These include the obligation to refrain from prohibiting or restricting equal access by all persons to movement between different countries; refraining from depriving or restricting access for groups such as prisoners, detainees, asylum seekers, minorities, and lawful migrants, which necessarily requires extending freedom of movement to them through facilitated communication and adequate facilities; avoiding discriminatory practices as a matter of state policy and refraining from establishing discriminatory rules concerning women's freedom of movement;

avoiding prohibitions or obstacles to their movement; and refraining from restricting access to information necessary for various forms of travel, including tourism, scientific, artistic, recreational, and similar travel.

10.2. *Obligation to Protect*

The obligation to protect refers to the duty to safeguard individual rights against interference by third parties. This dimension entails both refraining from violating the right and preventing others from violating freedom of movement. In this regard, the Committee also provides examples of the obligation to protect the right to freedom of movement. States are required to enact legislation or adopt other measures to guarantee equal access to freedom of movement for all persons, including members of different minorities, against interference by third parties. States are responsible for providing the facilities necessary for citizens to move freely. In fact, the state itself must create the conditions necessary for mobility so that citizens can exercise freedom of movement without political, economic, or cultural obstacles (Hicks, 2013).

10.3. *Obligation to Fulfill and Implement*

The obligation to fulfill is central to the realization of economic, social, and cultural rights. Accordingly, the obligation of states to fulfill the right to freedom of movement requires the adoption of necessary measures to meet individuals' needs relating to mobility. In other words, states are required to establish the conditions and provide the facilities necessary for effective enjoyment of the right to freedom of movement. The right to freedom of movement includes access to facilities during travel and the guarantee of security in the course of travel and even upon return. Nevertheless, effective enjoyment of this right depends upon the existence of adequate conditions and facilities for mobility. Adequate recognition of the right to freedom of movement within domestic political and legal systems is a key factor in fulfilling this dimension of state obligations, which entails providing the material conditions necessary for the rights-holder. The purpose of such obligations is to improve the conditions under which citizens or other rights-holders exercise freedom of movement (Baubock, 2012).

11. Scope of State Obligations Regarding Citizens' Freedom of Movement

The final step in explaining state obligations concerning citizens' freedom of movement is to determine the limits and scope of those obligations. It is evident that the right to freedom of movement is not temporally limited; accordingly, state obligations in this respect are not confined to any particular period (Gill, 2008). Nevertheless, two fundamental issues arise concerning the scope of obligations relating to freedom of movement. The first concerns the material scope of the obligations, while the second concerns their personal or substantive scope. State obligations regarding freedom of movement, like their obligations concerning other economic, social, and cultural rights, are not confined solely to the resources and facilities immediately available to them. With respect to the personal scope of such obligations, questions arise such as the following: Are state obligations concerning freedom of movement limited to persons under their jurisdiction and within their territorial boundaries, or do they extend to all human beings, even those outside their jurisdiction? There appears to be substantial evidence from which a general legal obligation of states to respect the right to freedom of movement of human beings may be inferred. This general obligation comprises several more specific obligations: the obligation of international assistance and cooperation, the obligation to respect, and the obligation to recognize.

11.1. *Obligation of Assistance and Cooperation*

Article 1(3) of the Charter of the United Nations identifies as one of the purposes of the United Nations the achievement of "international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Article 55 of the Charter likewise obliges the Organization to promote higher standards of living, including higher living standards, full employment, and conditions of economic and social progress and development, and to facilitate solutions to international problems related to citizens' mobility and broader economic, social, political, communicational, cultural, and educational matters. The language of the

Universal Declaration and the Covenants also indicates the existence of obligations toward every human being. States are required to take measures, individually and through international assistance and cooperation, particularly economic and technical cooperation, and to use the maximum of their available resources toward the full realization of the rights recognized in international human rights instruments (Shelton, 2011).

11.2. *Obligation to Respect*

It is true that states parties to international human rights treaties are the principal actors responsible for implementing their obligations regarding freedom of movement and, under international law, bear ultimate responsibility for realizing citizens' right to movement. They must therefore adopt appropriate measures toward its full realization. It is equally true, however, that states are required to respect the right to freedom of movement beyond the territories falling under their own jurisdiction. No state may undertake measures that impair the right to freedom of movement of persons from other countries or prevent their enjoyment of that right. Today, one of the recognized principles of international law is that no state may permit activities within its territory that produce harmful consequences, including adverse effects on citizens of another state (Hicks, 2013).

11.3. *Obligation to Recognize*

The obligation to recognize constitutes an important component of states' international obligations concerning the right to freedom of movement. Measures taken by states within their own territories may adversely affect the freedom of movement of peoples of other countries. Recognition of this right therefore requires adequate consideration of it in relations among states. States bound by international human rights obligations must ensure that appropriate attention is given to freedom of movement in international agreements and, for this purpose, should examine the development and implications of other agreements. Furthermore, when concluding international agreements, states must adopt measures to ensure that such agreements do not have adverse effects on citizens' right to freedom of movement.

12. Conclusion

The existence of public rights and freedoms for all individuals is among the essential conditions of democratic states. In other words, people can meaningfully participate in the formation and functioning of such governments only when they enjoy these rights and freedoms. A government's failure to respect such rights makes the establishment of genuinely popular government impossible; under such circumstances, claims of democracy that disregard these fundamental requirements are devoid of substance. Freedom of movement is among the most fundamental of these freedoms. It has been declared a fundamental right and is recognized in the Universal Declaration of Human Rights as a natural right of human beings. Human rights are not confined by geographical, racial, religious, or class boundaries, and centers of power throughout the world must respect and submit to their requirements. Freedom of movement, freedom to change one's location, and freedom to travel are human rights concepts respected in the constitutions of many states around the world. Article 13 of the Universal Declaration of Human Rights provides that every person, whether woman or man, is entitled to freedom of movement from one place to another and to residence within the borders of his or her country. The inclusion of freedom of movement among the fundamental rights proclaimed in the Universal Declaration of Human Rights has reinforced its status as a pre-existing natural human right. State obligations regarding citizens' right to freedom of movement, like obligations concerning other human rights, have three dimensions: (1) the obligation to respect: this dimension represents the negative aspect of state human rights obligations and consists of duties of abstention and restraint. In other words, the obligation to respect requires states to refrain from particular acts or omissions. With regard to freedom of movement, this means that states must not create barriers or restrictions impeding the movement of individuals or groups and must remove existing barriers and restrictions; (2) the obligation to protect: states are responsible for providing the necessary facilities and conditions for citizens to move freely. In fact, the state must itself create the conditions required for mobility so that citizens may move freely without political, economic, or cultural obstacles; and (3) the obligation to fulfill and implement:

this obligation is central to the realization of economic, social, and cultural rights. Accordingly, states must undertake the measures necessary to meet individuals' needs relating to movement. In other words, they must establish the conditions and provide the facilities necessary for effective enjoyment of the right to freedom of movement. This right includes access to necessary facilities while traveling and the guarantee of security during travel and upon return. Effective realization of the right, however, depends upon the existence of adequate conditions and facilities for movement.

Authors' Contributions

Authors contributed equally to this article.

Declaration

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

Transparency Statement

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

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