



Investigating the Challenges of Institutionalizing Women's Social Participation in the Legal System of Iran¹

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Abstract

Contemporary scholars emphasize the deliberate, voluntary, and responsible nature of participation, both as a right and a social obligation, attributing participation as an indispensable component of social justice and women's involvement as half of society. In this research, using a descriptive-analytical method, an attempt is made to elucidate the challenges and obstacles to institutionalizing women's social participation, considering the capacities of the legal system in Iran, and based on this, propose solutions for institutionalizing their participation. The research findings indicate that underutilizing all legal capacities for women's participation in the country's legal system and deliberation on solutions should be prioritized. The main challenges in this regard are focused on women's imbalance and minimal role in influential positions such as political and legislative institutions and managerial positions. The results suggest that by removing barriers and utilizing the capacities of the legal system, steps can be taken towards strengthening sustainable balance and stability. Accordingly, promoting women to managerial levels through institutionalizing appropriate governance and positive discrimination and strengthening women's position in legislative and supervisory institutions through legislation to adjust women's share and education and cultural promotion to maximize women's participation is recommended.

Keywords

Women's social participation, challenges and obstacles to institutionalization, limitations of women's participation, legal capacities for participation, the legal system of Iran.

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Introduction

Social science scholars, in relation to social participation, while emphasizing the general meaning of "participation," which implies "participatory action" and includes various types and levels, often consider its concept in a specific sense related to "participatory action". Thus, social participation is an act of free, willful, conscious, voluntary action (Mohseni Tabrizi, 1996: 35), and stems from social commitment based on the commitment to practical attention to community development based on divided duties and responsibilities (Tatcher and Campos, 2003: 84). The importance and necessity of contemporary definitions of social participation stem, firstly, from the belief that participation is one of the inherent rights and fundamental values of humanity (Niyakani Far, 2010: 34), and secondly, sustainable development requires the institutionalization of social participation at various levels (OECD¹). It also plays a special role in the effectiveness of policy implementation and reducing government costs. (Kamali, 2012: 88)

Researchers have considered equality of rights for all members of society as a prerequisite for achieving social participation. Therefore, women's social participation, as half of society, is considered an integral part of real participation (Lahsayizadeh, 2001: 52), and observing social justice entails the longevity of social participation and its establishment and consolidation in society (Niazi, 2007: 12).

Thus, it can be said that in the present era, women's participation, within the framework of an inherent right and duty towards society, receives attention, and it is clear that the means of exercising this right and the necessary ground for fulfilling the social responsibilities of citizens should be prioritized in the actions and goals of governments and authorities. What makes women's social participation require special attention is the history of women's participation in our country and other human societies, which has been neglected and faced with many obstacles in various periods; to the extent that in this country, at times, women's presence in society and their education have been condemned both socially and from a jurisprudential and religious perspective, even to the extent of voting rights and participation in socio-political destiny and role-playing in decision-making

1. Organization for Economic Co-operation and Development.

and executive affairs (Mehrizi, 2005: 25). In addition to the importance of creating sufficient opportunities for realizing the rights and benefiting from their social rights, it is essential to establish the groundwork for the stability and continuity of active women's participation, which guarantees the realization and achievement of social participation, and the realization of this important matter and the enjoyment of individual and social effects of participation, and moving towards sustainable development, are contingent upon a conceptual framework called institutionalization and consolidation of active and conscious women's participation in society.

Many social scientists believe that institutionalization of participation and consolidation of participatory phenomena should be integrated into the legal systems and social structures of contemporary societies to achieve maximum efficiency and effectiveness. Although multiple factors and objectives can be considered regarding the reinforcement, stabilization, and development of women's social participation, all within the context of institutionalization, a comprehensive analysis of all these factors is beyond the scope of this article. Therefore, the focus of this research is on examining the institutionalization strategies of women's participatory rights with an emphasis on maximizing the utilization of existing legal frameworks and striving to achieve a sustainable balance in the impact and implementation of women's views and demands in various social dimensions, which seems to be the primary and foremost objective among others. Subsequently, in line with the descriptive-analytical method employed in this research, the scope and limitations of women's social participation within the legal system of Iran are initially addressed and examined, followed by monitoring the status of women's participation and the key challenges and obstacles to institutionalization. The barriers to maximizing women's social participation, directly related to the lack of institutionalization of such participation, have been mainly identified through reliance on previous case studies. However, further scrutiny is given to the research conducted, which is somewhat relevant to the current research topic.

Nahid Salimi (2023), in an article entitled "Conceptual Pattern of Women's Social Participation in the Policy-Making Process in the Field of Women and Family from the Perspective of Religious Discourse in Iran," aimed to extract the mentioned pattern using qualitative content analysis. To complete the research data, interviews were conducted with 13

religious experts familiar with the activist women's sphere and with practical experience in policymaking. She concluded that in the stated pattern, two fundamental dimensions, "participation components" and "participation mechanisms," are crucial.

Vosoughi-Raad and Naghi-Poorefar (2021), in a study titled "Audience Analysis and Its Principles in the Institutionalization of Culture from the Perspective of the Quran," examined various models proposed in the field of institutionalization and introduced audience analysis as one of the necessities of institutionalization. Using the contemplation method in the Quran with a data-driven strategy, they concluded that firstly, institutionalization in the Quran is a process-oriented and interconnected process, and it is essential to recognize the target audience of institutionalization to effectively apply appropriate principles when dealing with them.

In another study, Nouri et al. (2022), in an article titled "Designing a Model of Women's Social Participation with a Structural-Interpretive Approach," considered participation as a universal right. They conducted interviews with 10 academic experts from Golestan University in the field of sociology and employed a descriptive-correlational method to analyze the research data. Their research results indicate that models of social participation consist of two levels, including age on one side and a set of other components such as social cohesion, social status, hope for the future, social security, and so on, on the other side.

It is worth mentioning that within the subtopics of this research, numerous studies have been conducted. Despite researchers' attention to the importance of women's participation, it is observed that most of them have focused on assessing the level of participation and the current status, primarily at certain levels of women's participation. However, in this study, social participation is considered a broad concept encompassing all forms of participation, including economic, political, cultural dimensions, and so on, which directly impact society. By examining the country's legal and regulatory capacities, we address the challenges and institutionalization strategies of women's participation, making it a practical and innovative subject matter.

1. The Concept of Institutionalization and its Relationship with the Legal System

Institutionalization is defined as "the incorporation of values at a higher

level than requirements or conditions and the type of work being undertaken" (Selznick, 1957: 17). According to this definition, institutionalization is akin to a process of adaptation to the environment based on the natural evolutionary course. Additionally, special attention is paid to the elevation of values and the sustainability and stability thereof, which result from the natural evolutionary process. Some social science scholars consider institutionalization as the conscious creation of cohesion and coherence from personal interpretations of external reality, wherein personal viewpoints gain value and credibility. In this sense, institutionalization entails processes whereby social actions and thoughts, based on a social framework, are realized through commitments or what is actually being done (Mayer & Rowan, 1977: 341). This definition also emphasizes the necessity of a historical perspective, considering institutionalization as a process involving transitions, and views the qualities of stability and sustainability in institutionalization as conscious definitions of new values, achieved through consensus of personal perspectives at the social level. According to another definition, a social institution is a relatively enduring system of organized beliefs and behaviors in society, which operates in various fields within the social system (community, politics, economy, etc.) according to these beliefs and behaviors. Institutionalization is recognized in this definition through norms and symbolic systems on one hand, and through behavioral systems and their continuity and stability on the other (Scott, 1987: 499).

In summary, institutionalization can be defined as follows: institutionalization involves processes aimed at creating a suitable ground for the formation, continuity, and stability of desirable norms and social behaviors, based on adaptation to natural evolution, social order, benefits, and appropriate rewards for society, which require a long period of time. As evident, the values and desirables, which are the ultimate goal of the institutionalization process, are very ambiguous, and their characteristics are not specified; whereas in Islam, direction and goal-setting hold a special place.

Some researchers consider institutionalization, from the perspective of Islam and the Quran, equivalent to the term "establishment" and believe that institutionalization is a process with a spectrum and continuity that can be positive (elevated) or negative (debased). It is aimed at elevating those who seek to establish faith and debasing those who seek to establish

disbelief (Vosoughi et al., 2018: 161). Therefore, the most significant difference in the concept and patterns of institutionalization between Western social sciences and Islam lies in the difference in the criteria of desirability of norms, values, and behaviors, which must be extracted and aimed at based on Islamic foundations. Thus, contrary to the concept of participation in Western countries, which is interpreted as complete equality and equity between men and women, there are undoubtedly preferential and necessary considerations that confine the scope of women's social participation, which will be further discussed. However, it will ensure the elevation of society.

Regarding the relationship between institutionalization and the legal system and the necessity of addressing the issue within the country's legal system, there are matters worthy of discussion, which include:

The prevailing approach to the issue of women's social participation in the present era, in terms of logic and framework, is the "jurisprudential and legal" approach. It is explained that proponents have divided the approaches governing women's participation, especially in recent centuries, into three categories: Firstly, the traditional approach, which, based on religious sources, religious decrees, and societal norms, emphasized the necessity and desirability of women's seclusion. Despite women's noteworthy participation in the constitutional era, they did not succeed in obtaining the slightest legal rights, and having the right to vote and similar matters faced opposition from both scholars and the general public (Torkaman, 1993: 44; Karbasizadeh, 2005: 46). Secondly, the rhetorical-social approach, which, following the viewpoints of Allameh Tabatabai and later, with the works of Martyr Motahhari and Dr. Shariati, entered the public sphere of society. According to this approach, attention to religious sources and the Holy Quran, in terms of caring for women's personality and their social presence, became more pronounced and received greater attention. In the third period, since the eighties, with an emphasis on three pillars: attention to realities, observance of the rules and principles of jurisprudence and *ijtihad*, and a reconsideration of religious sources, the juristic and legal approach became dominant on the issue of participation (Mehrizi, 2005: 23-28).

Nowadays, the role of the state in institutionalizing social participation is a matter agreed upon by intellectuals, and some international documents (such as the World Summit on Sustainable Development, 2002) and the

requirements of the constitutional laws of countries, including Iran (in line with Article 56 of the Constitution¹), have confirmed this responsibility. Previously, the concept of participation was limited to "recognizing the people's right to participate" only; however, in the discourse of transformed participation, governing bodies are obligated to accept people's participation strategies and create the necessary grounds and facilities for the development and institutionalization of the participation of all segments of society and their impact on the fate of society (Qari Seyyed Fatemi, 2009: 47). According to some researchers, educating and socializing citizens, empowering citizens, and paying attention to public opinions are examples of government responsibilities in this regard, the realization and integrity of which, directly or indirectly, require legislation and the utilization of the capacities of the legal system as the arms of governments.

2. Capacities and Opportunities for Women's Social Participation in the Iranian Legal System

Despite the conditions prior to the revolution and especially before the Constitutional Revolution, where women's presence in social arenas, the right to vote, the opportunity for education, and other rights were either considered prohibited or at least frowned upon, after the Islamic Revolution and particularly with consideration to religious decrees, viewpoints, and guidelines of the revolution's founder, Imam Khomeini, women gained rights that had been unprecedented for centuries. Significant transformations occurred both at the societal level and among intellectuals. Furthermore, in line with the main focus of this research, which is centered on maximizing the existing legal capacities for women, the legal and juridical capacities for women's social participation in the Iranian legal system are examined.

2-1. At the societal level

Women's social participation at the grassroots level can include presence in social arenas, educational rights, employment rights, the right to vote,

1. Article 56 of the Constitution of the Islamic Republic of Iran states: "The absolute sovereignty over the world and mankind belongs to God, and He alone has made man the ruler of his own social destiny. No one can deprive man of this divine right or place it at the service of individual or group interests, and the nation exercises this God-given right through the methods specified in the subsequent principles."

participation in socio-political destiny, and participation in associations, groups, and social and political parties. It seems that in all of these cases, the greatest legal capacities exist, and there is not much difference between the rights of women and men. For example, regarding the right to vote, there is no difference between men and women in the laws, and participation in elections is not only a right but also heavily emphasized, with the maximum facilities provided to achieve this goal. To the extent that Imam Khomeini, after the victory of the revolution, considered women's participation in determining their own destiny and participating in elections as their duty at times (Mousavi Khomeini, 2000: 6/432).

Similarly, legal capacities for other aspects and dimensions of women's social participation, such as education and participation in associations and parties, which have always witnessed parties and groups composed of women (note: Hajipour Sardui, 2018: 388), and the laws in these areas have assumed such equality of rights between men and women that sometimes gender is not even mentioned. For example, regarding the right to employment, Article 28 of the Constitution stipulates: "Everyone has the right to choose a job that they desire and is not against Islam and public interests and the rights of others. The government is obliged to create job opportunities and equal conditions for all individuals to engage in various occupations, considering the society's needs." Additionally, the Presidential Election Law mentions Iranian citizenship, being 18 years old, and lack of insanity as prerequisites, without making any distinction between women and men (Article 36 of the Presidential Election Law, adopted in 1985 amendment 2006).

The only considerations that exist more for women than men, originating from Islamic foundations, are some mandatory observances regarding observing Islamic norms and attire when present in society. For example, women's hijab was initially implemented for women employed in government and private centers in the summer of 1980 and later for all women (Mirsalim & Khomeini, 2010: 361).

Furthermore, there is a preference regarding the observance of spousal rights and maternal duties; provided that women's social participations at the grassroots level, such as employment and involvement in socio-political activities, do not conflict with spousal rights and do not hinder the care for children, they face no legal restrictions. This limitation stems from the fact that the rights of the husband and the responsibilities of

motherhood take precedence and have no alternative. As stated in Article 10 of the Constitution of the Islamic Republic: "Since the family is the fundamental unit of Islamic society, all laws, regulations, and planning must be aimed at facilitating the formation of the family, safeguarding its sanctity, and strengthening family relationships based on Islamic rights and ethics." Accordingly, in many upstream documents and relevant laws, prioritizing the family, personality, mental and physical conditions, and the security of women have been emphasized. For example, Article 4 of the Cultural-Social Council's Resolution states: "The working conditions and social environment for women should be provided in a way that fosters their spiritual, scientific, and professional growth and does not harm their faith, personality, status, and mental, spiritual, and physical health" (Ghanipour Khondabi et al., 2022: 35).

2-2. At the elite level

As observed, the legal capacities of the Iranian legal system regarding the legal domain of women's social participation do not differ significantly from men's rights and are less challenging. However, women's participation at the elite level, which has been very limited in recent centuries and has seen significant development after the Islamic Revolution, is highly challenging in terms of conflicting with Islamic foundations in some cases, and it is one of the important issues of today's era. Continuing from this, we will address various dimensions of women's participation at the elite level in terms of legal capacities of the Iranian legal system.

2-2-1. Undertaking managerial occupations

In the laws and legal system of Iran, after the Islamic Revolution, there is no reason to prohibit the appointment of women to managerial positions and high-level positions; indeed, there are numerous cases where women have been appointed to such positions (Maghsoudi, 2009: 154). Although Imam Khomeini believes in the sanctity of governance for women and even does not consider it permissible for them to hold authority and issue fatwas, some sensitive managerial positions have been assigned to women in his managerial career. For example, one of the women who fought against the Shah's regime was appointed as the commander of Sepah Hamedan (Rouhani & Pirouz, 2013: 64), indicating that Imam Khomeini approves of women's management.

The difference in undertaking managerial occupations compared to women's employment at the grassroots level is that, according to some jurists and interpreters, there is evidence that prevents the appointment of women to high-level management positions. Therefore, there is no legal restriction or prohibition for women to undertake managerial occupations, and the existing differences of opinion are primarily of jurisprudential nature, which are briefly mentioned. One of the most important reasons cited by opponents of women's appointment to managerial positions is the noble verse: "Men are in charge of women by [right of] what Allah has given one over the other..." (An-Nisa, 4). Some jurists and interpreters have stated below this verse: The meaning of the verse is that men have authority over women in disciplining, managing, and educating them; because Allah has given men superiority over women in intellect and thought (Sheikh Tusi, n.d.: 3/189; Tabarsi, 1999: 3/69). In criticizing this conclusion, some jurists argue that based on the context of revelation and the context of the noble verse, the authority of men is only over their wives, and such an interpretation that all men have authority over all women, even through the intrinsic and financial support they provide to their wives, is baseless and cannot be correct (Montazeri, 1990: 1/350).

2-2-2. Oversight and participation in policy reform and undertaking governance positions in politics and legislation

One of the most important positions in the field of policymaking and legislation in all social domains is the Islamic Consultative Assembly (Majlis). According to Article 162 of the Constitution of the Islamic Republic of Iran, the Islamic Consultative Assembly is formed by the representatives of the people through their direct vote under the conditions specified in the electoral law. Neither in the constitution nor in the electoral law of the Islamic Consultative Assembly, are women restricted more than men for assuming membership in the Majlis, and the laws regarding them are the same. Since the beginning of the Islamic Revolution, the structure of the political system of the Islamic Republic of Iran has accepted women's representation based on jurisprudential principles and fatwas of the jurists, which were significantly influenced by the views of Imam Khomeini. However, it should be noted that the majority of past jurists and some contemporary jurists have had objections to women's participation in Majlis representation and considered it contrary to Islamic principles.

Among the criticisms raised in the early sessions of the Islamic Consultative Assembly were the discussions on the sanctity of women's presence in consultation meetings on governance and legislation among men and gender mixing. Another issue that has been raised in opposition to women's representation in the Majlis is the belief in the allocation of guardianship to men. (Hosseini Tehrani, 2010: 3/179-182).

From the context of these discussions, it appears that opponents consider the nature of the Majlis as a general and guardianship council, and since they consider guardianship to be exclusive to men, they have not accepted women's participation in this council under any circumstances. In response to this group, defenders of women's rights in the guise of Majlis representation believed that the representation in the Majlis is nothing but agency; according to this view, the essence of voting is the same as agency, and Majlis representatives are not subject to any ruling class; rather, they are representatives of the people, and whatever they approve is credible due to the agency they have. (Motahhari, 2013: 102).

Another aspect of policymaking in the social domain is the social and cultural councils. For example, reference is made to the Women's Social and Cultural Council, which is a worthy initiative in the field of women's social participation. This council is affiliated with the Supreme Council of the Cultural Revolution and was formed in 1987 with the aim of planning and policymaking in social and cultural matters concerning women. The importance of the role and position of this council is evident from the fact that its decisions are final after approval by the Supreme Council and, therefore, in the field of policymaking and legislation concerning women, it is considered parallel and equivalent to the Islamic Consultative Assembly. (Regulations on the Formation of the Women's Social and Cultural Council).

2-2-3. Ijtihad and representation in the Assembly of Experts

The Assembly of Experts for Leadership, due to its role in the selection of the Supreme Leader of the society and oversight of his performance, is highly important and influential. Regarding the qualifications and attributes of the representatives of this assembly, the condition of being male is not mentioned, and according to Article 11 of the Law on the Election of the Assembly of Experts enacted in 2023, the only potentially challenging issue may be the requirement of ijtihad (independent reasoning in Islamic

jurisprudence). However, *ijtihad* is an acquired quality and not an bestowed position; in other words, anyone, regardless of gender, who attains the levels of *ijtihad* and acquires relevant knowledge can become a *mujtahid* (someone capable of independent reasoning in Islamic law). Therefore, there is no legal restriction on women attaining *ijtihad*, especially considering that the founder of the Islamic Republic believed in the special status of women in society regarding their scholarly and cultural persona and was of the opinion that women could attain the rank of *ijtihad*. (Mousavi Khomeini, 2000: 1/21).

The legal non-prohibition of women's presence has been repeatedly announced by members of the presiding board of the Assembly of Experts and other officials (Shargh News Website, 2023: Challenges of Women's Presence in the Assembly of Experts). Additionally, besides the presence of one woman in the Assembly of Experts, confirmed in the Constitution, the eligibility of one female *mujtahid* was confirmed in the third term of the Assembly of Experts, but she announced her withdrawal before the elections. (Shargh News Website, 2023: Challenges of Women's Presence in the Assembly of Experts).

3. Constraints on Women's Social Participation in the Legal System of Iran

In the legal system of Iran, constraints and prohibitions have been imposed on women's participation in social spheres, particularly in terms of their eligibility for certain professions. These constraints stem from jurisprudential interpretations and have been incorporated into laws and regulations. Thus, alongside considerations such as adherence to Islamic norms and family priorities, these constraints represent the third compulsory and essential consideration hindering women's social participation. However, unlike other considerations that do not significantly impede women's participation, this third aspect restricts the scope of their involvement. Regardless of jurisprudential and legal disagreements, the assumption of these roles by women remains non-legal to this day. Further discussion on these matters follows.

3-1. Presidency

Regarding the presidency in the laws of the Islamic Republic of Iran, Article 115 of the Constitution stipulates the qualities and conditions for

the president as follows: "The President must be chosen from among religious and political men..." The term "men" in this article has sparked debate as to whether it denotes gender specificity, referring exclusively to men, or whether the legislator intends to encompass political and religious figures regardless of gender, using the term "men" in a generic sense. This ambiguity and issue were raised during the drafting of the Constitution, and instead of the word "man," the phrase "religious and political figure" was used to reconcile differences, ensuring a smoother legal pathway should the presidency be agreed upon for women (Beheshti, 1999: 33ff). From a jurisprudential perspective, some scholars believe that this position falls under the category of guardianship, perhaps influenced by Article 113 of the Constitution, which states: "After the Leadership, the President is the highest official position in the country and is responsible for enforcing the Constitution and heading the executive branch, except in matters directly related to the Leadership." However, some contemporary jurists argue that positions such as the presidency, parliamentary representation, and embassies do not fall under general guardianship, and thus, women assuming these roles pose no theological objections (Fayyaz, 2013: 40). Nevertheless, despite the extensive research by scholars from both jurisprudential and legal perspectives, indicating that the term "political and religious figure" encompasses women as well (Pourmohammadi, 2022: 140-156), the Guardian Council, responsible for vetting presidential candidates, has practically supported a specific interpretation implying the prohibition of women from assuming this position. Ayatollah Modarresi Yazdi, a member of the jurists of the Guardian Council, in an interview (dated 6/18/2023), responded to the question of why the Guardian Council does not clarify the term "political figure" by saying: "There is no need to create trouble for ourselves. The jurisprudential position is relatively clear, but there is no need to make everything an official announcement" (Pourmohammadi, 2022: 137-138, 156). Consequently, it appears that one of the legal constraints, or at least a limitation arising from the legal interpretations of relevant authorities, is the assumption of the presidency by women.

3-2. Authority, Fatwa, and Judiciary

In response to the question of whether women can attain the position of authority and issuing fatwas, it must be stated that the prerequisite for an

authoritative position is jurisprudence. Since jurisprudence is an acquired attribute, there is no restriction for women to attain it. Moreover, the founder of the Islamic Republic of Iran emphasized the significant role of women in society's scientific and cultural spheres, suggesting that women can also reach the rank of jurisprudence. However, they cannot serve as a source of emulation for others (Mousavi Khomeini, 2000: 21).

The requirement of male gender for the position of emulation authority is predominant and well-known among jurists, even in contemporary times, and they oppose the establishment of emulation authority for women. However, some jurists do not impose a prohibition on women attaining such a position. The most significant reason they provide in this regard is that there is no solid evidence against the establishment of emulation authority for women. Claims of consensus on this issue are not considered conclusive and valid, unless it can be demonstrated that it was established during the time of the infallibles and has been passed down through generations, which is unattainable (Fayyaz, 2013: 33).

Regarding the judiciary, in the legal system of Iran and in accordance with Article 163 of the Constitution, "the qualifications and conditions of judges are determined by the law based on jurisprudential standards." In Ordibehesht 1982, the law on the conditions for the selection of judiciary judges was ratified as a single-article law, clearly specifying the conditions for the appointment of judges. According to this single article, "judges are selected from among men who meet the following conditions..." Consequently, for a period, women were deprived of assuming the position of judgeship. In 1995, the "Law Amending Five Clauses to the Law on the Conditions for the Selection of Judiciary Judges Approved in 1984" was ratified as a single-article law, allowing women to once again participate as consultants and investigative judges in the country's judicial bodies. However, according to this decision, women were not granted permission to preside over courts or issue judgments. In recent years and amid the latest legal developments concerning women's appointment as judges, Article 2 of the new Law on Family Support ratified in 2012 emphasizes the necessity of utilizing female judges in family courts. Despite the establishment of specialized civil courts, the new Law on Family Support obliges family courts to benefit from the opinions of female judge consultants in the judgment issuance phase (Pourjamal & Pourparmoz, 2014: 42).

Naturally, the position of women as consultants and investigative judges, advisors to the Supreme Court, assistant prosecutors, and deputy heads of judicial complexes has become more prominent. Consequently, they participate alongside the branch head in issuing opinions. Their number has exceeded 1900 judges nationwide, and they are capable of issuing judgments, indicating positive developments in the policies and judicial authorities' approaches regarding women's judiciary. However, even in specialized women's courts, women cannot issue judgments independently and must defer to male judges for enforcement. In fact, to enhance women's participation in the country's judicial system, the status, number, and importance of female judges' opinions in roles such as consultants have been strengthened. Still, due to jurisprudential constraints, these opinions must be co-signed by male judges. (Khabar Online, 2019: "A Single Roof and Two Winds of Judgment for Women")

From a jurisprudential perspective, despite criticisms of the prohibition on women's assumption of judgeship, and despite the fact that many contemporary jurists do not recognize maleness or even the condition of absolute *ijtihad* as qualifications for judgeship (Note: Fayyaz, 2013: 38; Sanei, 2009: 36), the limitation imposed in the law and regulations regarding women's assumption of judgeship, indicated by the use of the term "men," remains consistent with the prevailing view among jurists.

3-3. Assumption of Leadership and Rulership Positions

The most challenging normative position that women face restrictions and limitations in assuming is the leadership and governance of the Islamic society, which poses challenges from two perspectives. Firstly, according to Article 109 of the Constitution, the leader and ruler of the community must be an absolute *mujtahid* and possess scholarly competence for fatwa issuance (Constitution of the Islamic Republic of Iran, 2016: 97), and according to the prevailing view of jurists, being male is a condition for fulfilling this position. Additionally, as previously mentioned, the position of fatwa issuance and the qualification thereof for women remains unestablished. Secondly, other evidence directly conveys the prohibition of women's leadership.

Regarding *ijtihad*, authority, and fatwa issuance, it has been previously stated that in the legal system of Iran, achieving the status of authority and fatwa issuance for women is not possible. However, some other evidence,

such as narrations, also indicates the prohibition of women's leadership. Certain narrations suggest that female leadership will lead to the misery and regression of society. It has been reported that the Messenger of God said: "A people will never succeed who appoint a woman in charge of their affairs" (Bukhari, 1993: 5/136; Majlisi, 1983: 32/194).

Regarding the aforementioned narration, some scholars and jurists believe that this hadith and similar ones are not valid; rather, they are unverifiable. The meaning of it implies that a woman, as a woman, cannot govern a country or take charge of any of its affairs. The notion that female leadership and governance lead to the downfall of a country and the destruction of all its vital spheres cannot be possible unless the intellect and thinking of women are deficient and lacking. Such a judgment contradicts conscience and opposes factual realities in all academic institutions and social scenes where women are present (Fayyaz, 2013: 68). However, according to the laws of the Islamic Republic of Iran, based on the lack of attainment of authority and fatwa issuance in women, the possibility of leadership and governance of society for them is excluded in the first place.

4. Challenges of Women's Social Participation and Their Pathology

So far, the scope of women's social participation in the legal system of Iran has been examined, revealing that regardless of considerations related to Islamic dress code and etiquette, as well as the priority given to the institution of family, the social participation of women and men differs mainly in assuming certain positions and roles, primarily stemming from Islamic jurisprudence. However, regarding the realm of women's participation, investigations have shown that there are suitable legal capacities and frameworks, and significant gaps are not observed. Now, monitoring and reporting on the status of women's social participation will be addressed to identify the challenges and obstacles to the institutionalization of women's social participation and its dimensions and domains.

According to some researchers, there is not much difference in the level of participation between women and men at the mass level, and less discrimination is observed, with the participation status in crucial areas such as political decision-making and voting, presence in society, and

education being evaluated as desirable for women. However, their participation at the elite level faces very serious inequalities and imbalances. (Sheikhzadeh & Asfari, 2020: 14-15; Maghsoudi, 2009)

4-1. Imbalance in Undertaking Managerial Positions

As mentioned earlier, there are no explicit prohibitions on appointing women to managerial positions in the laws and legal system of Iran after the revolution. However, statistics show that until the late 2000s, women held only 2.1% of top management positions in the country and 2.5% of managerial positions overall in government agencies. Considering the suitable legal frameworks and comparing it with the female population, which comprises half of the country's population, it was expected that women would have a greater share of participation in managerial positions. (Maghsoudi, 2009: 154)

Some researchers (Zahedi, 2004) have concluded regarding the quality and conditions for promoting women's participation in managerial levels that the presence of women in major and minor management ranks is very insignificant, and women not only lack equal opportunities with men at the beginning of employment but also during the ascent and progress phases.

Regarding the obstacles to women's advancement to managerial levels, research and studies have categorized them into three groups: personal, organizational, cultural, and social factors. Thus, gender stereotypes have the greatest impact. Another interesting finding by researchers is that from women's perspective, cultural, social, organizational, and personal factors are the barriers to women's participation in managerial positions, while men consider social, personal, cultural, and organizational factors as effective in preventing women's advancement to managerial levels. This indicates that the prevailing atmosphere in administrative environments and organizations is influenced by incorrect gender stereotypes, which fall under cultural and social factors. Despite the increasing number of educated, skilled, and technically proficient women, unfortunately, the capacity of women is not adequately utilized in managerial positions. (Sedaghatzadegan et al., 2017: 134-135)

Another category of research lists positive and negative factors as barriers to women's advancement to managerial positions. Positive factors include women's priority in family duties, while negative factors include certain social and cultural beliefs, such as the belief that women should

never be subordinate to men's roles and women's submission to men. Considering the importance of social and cultural beliefs, all the studies reviewed are aligned in this direction. (Modanlou, 2015: 2-6)

Some other studies have listed the obstacles to women's participation in managerial levels as follows: internal policies, lack of leadership and management experience, social and cultural effects of male dominance, glass ceiling, managers' attitudes, and women's status in the family. (Iranshahi & Davoudi-Makinejad, 2013: 250-260)

Regarding internal policies, it can be said that sometimes the policies of governmental and non-governmental organizations and companies directly or indirectly prevent women's promotion to managerial levels; these policies may include favoritism, male dominance, and so on.

The social and cultural effects of male dominance and its remnants in work environments are among the factors that contribute to the low participation of women in management levels. The lack of management and leadership experiences among women is also one of the factors hindering the development of women's participation in management. Studies have shown that there is no significant difference between men and women in terms of individual competence in essential managerial qualities such as problem-solving, analytical skills, competitiveness, dynamism, motivation, leadership, learning, and adaptation to others (Robbins, 2010). It has also been reported that men who had female managers had concerns because such situations were unconventional in some countries (Peebles et al., 2004). Additionally, for example, in one of the churches (in 1999), when the leadership of a church was offered to a woman, she was afraid because she said such an action had not been experienced in that region before. (Robbins, 2010: 56)

The glass ceiling refers to artificial and invisible barriers, organizational decisions, and biases of officials that prevent the advancement of qualified individuals or minorities (especially women) within the organization. Moreover, according to the human capital theory, if employer decisions regarding recruitment, job assignment, promotion, wage levels, etc., are based on criteria unrelated to productivity such as gender or race, it constitutes discrimination. Studies have shown that managers' attitudes toward the promotion of women are among the influential factors in the low participation of women in management. (Iranshahi & Davoudi-Makinejad, 2013: 258)

4-2. Imbalance in Undertaking Governance Positions in Oversight and Lawmaking

In relation to representation in the Islamic Consultative Assembly (the Parliament), some notable points can be raised. Firstly, despite the absence of legal barriers, women's participation in parliamentary representation has been very low. Secondly, in the Islamic Republic system until the fourth term of the parliament, female candidates from rural areas did not find their way to the parliament. This is despite the fact that some researchers have observed a considerable number of registrations and candidates for the parliament even in rural areas. However, due to cultural reasons, lack of trust in women's abilities, and the dominance of patriarchal culture in Iranian rural areas, women were not successful in this regard. (Maghsoudi, 2009: 110)

Furthermore, the statistics regarding the number of parliament members by gender in various terms are observed. (Alipour, 2016)

Table 1 - Number of representatives in different terms of the Islamic Republic of Iran Parliament by gender.

Terms	number of seats	number of male representatives	number of female representatives	percentage of female representatives
First Term	270	266	4	1.5
Second Term	270	266	4	1.5
Third Term	270	266	4	1.5
Fourth Term	270	261	9	3.4
Fifth Term	270	256	14	5.2
Sixth Term	290	277	13	4.5
Seventh Term	290	277	13	4.5
Eighth Term	290	282	8	2.7
Ninth Term	290	281	9	3.1
Tenth Term	290	273	17	5.9
Eleventh Term	290	274	16	5.5

Based on the above information, it is evident that in the tenth term of the parliament, with the presence of 17 female representatives and obtaining 5.9% of the seats, the highest rate of women's participation in the Islamic Consultative Assembly has been recorded, which is not significant and is evaluated as very low.

Furthermore, for various reasons, women's membership in political organizations, which can play a significant role in women's access to policymaking and legislation centers, is also very limited. The proportion of women members in political parties ranges from 10 to 20 percent of the total members, and this ratio decreases at higher levels of leadership. The reason for this should be sought in the type and method of social acceptance and the education system (Bashariyeh, 2008: 295).

The Women's Cultural and Social Council affiliated with the Supreme Council of the Cultural Revolution is also one of the cases responsible for women's participation in monitoring and reforming governance policies through policymaking. Although the necessity of women's social participation requires such councils and organizations to be formed and developed at various levels and areas, and the mentioned council's initiative is commendable, it is necessary for these councils to become more active with greater participation of women to strengthen the voice of women in society and to improve the grounds for women's participation and better understanding of women's approaches and gaps. It is clear that in this council, women have a proportionate share of presence, but compared to the level of women's presence in the overall policymaking levels in the country, it is evaluated as very insignificant. This can be compared to the gender-segregated statistics of members of the Supreme Council of the Cultural Revolution, which is one of the important and upper-level bodies of the Women's Social and Cultural Council: currently, out of 29 permanent members of the mentioned Supreme Council, only 2 are women, which is 6.9% (<https://sccr.ir/members/2>: 23/02/2024).

Regarding the supervisory domain, particularly the Assembly of Experts, it must be noted that the absence of legal prohibition on women's presence has been repeatedly stated by the members of the presiding board of the Assembly of Experts and other officials (Shargh News Website, 2023: Challenges of Women's Presence in the Assembly of Experts). Additionally, apart from the presence of one woman in the Assembly of Experts, as stipulated in the Constitution, only once, during the third term of the Assembly of Experts, was the eligibility of a qualified woman confirmed. However, she announced her withdrawal before the elections, stating that due to Ayatollah Safi Golpayegani's opposition to her candidacy, she withdrew (Shargh News Website, 2023: Challenges of Women's Presence in the Assembly of Experts). With these details, it

seems that despite the absence of legal prohibition, there are two challenges in this regard: firstly, women's participation and acceptance are very low (Fararu, 2023: Conversation with Mohsen Araki); secondly, it seems that there is no suitable ground for realizing and encouraging such participation because even Mrs. Gorji¹, who entered the Assembly by obtaining people's votes, and Mrs. Seaati², who passed through the Guardian Council's confirmation barrier, faced cultural pressures or serious opposition from colleagues and religious and academic figures. Mrs. Gorji mentioned in an interview that her presence faced such opposition from her colleagues in the Assembly of Experts that some of them threatened to leave the session if she stayed (ISNA, 2016: Untold Stories of the Only Woman in the History of the Assembly of Experts), while her vote was significantly higher than many members of the Assembly of Experts. Mrs. Safati recounted that Ayatollah Safi had said she would definitely receive votes, but they did not want this matter to become an issue (Shargh News Website, 2023: Challenges of Women's Presence in the Assembly of Experts). Although the grand clerics certainly consider certain considerations and precautions, our discussion pertains to criticizing the grounds and facilities for women's participation in social activities, and it is observed that despite the shortcomings and gaps in the processes of women's representation in the Assembly of Experts, evidence and indications suggest that this issue is undoubtedly popular among the people and will continue to be. Furthermore, the absolute minimum participation of women in the guise of representation in the Assembly of Experts and religious affairs is not at all appropriately evaluated or balanced, and perhaps it is a dilemma of Iranian Islamic society.

Many researchers have examined and evaluated the low level of women's participation in the socio-political realm and assuming parliamentary seats, and research results indicate that various factors are involved in this issue (Maghsoudi, 2009; Zanjani Zadeh, 2004; Sheikhzadeh & Asfari, 2020; Al Ghafour & Kashefal-Gheta, 2009; Qasemi & Ma'aly, 2014). Based on the most comprehensive studies, the reasons for low women's participation in the parliament have been examined

1. Monireh Ali, known as Monireh Gorji (born 1929, Tehran).

2. Zahra Sefaati (born 1949, Abadan).

from women's perspectives. Accordingly, they consider two categories of factors and causes influential in shaping the state of women's political participation. One category is internal factors, which indicate that women are generally inclined towards passive participation. Therefore, they welcome being present at polling stations and casting votes, but they are less inclined to candidacy for representation, which is considered active participation. This is despite the majority of respondents emphasizing that women have the capability and qualification for representation, but they are not inclined to run for parliamentary candidacy. Most respondents consider participation in elections important for influencing political and social processes and agree to participate in elections in any possible way, but they emphasize their disinterest in politics and involvement in it and mostly declare their interest in social areas, particularly cultural fields. About one-third of male respondents consider men more successful in political arenas, while almost the same number disagree with this opinion. However, given that all respondents were women, it indicates that men's success in political arenas holds a powerful position among women; in other words, there is less inclination among women to vote. Yet, most respondents are dissatisfied with the level of women's socio-political activities in Iran (Qasemi & Ma'aly, 2014: 150-151).

Another category is external and environmental factors that, while influencing women's internal tendencies, also affect their participation. Among these external and environmental factors, cultural factors such as prevalent culture and customs, society-centeredness, attention to family and its priority have the greatest impact on shaping women's political tendencies and their manner of participation in electoral activities for the Islamic Consultative Assembly. Based on the findings of the aforementioned study, respondents believe that women have the ability to engage in high-level political participation and even candidacy for high-ranking positions. Despite this attitude and confidence in women's ability to represent the Islamic Consultative Assembly, women's inclination towards passive participation and contentment with merely being present at polling stations has been shaped under the influence of other factors. Cultural factors have shaped the process of socialization of women in society in such a way that it has led to different societal acceptance of women compared to men in political arenas. This different societal acceptance has led women to perceive political arenas as male-dominated

and refrain from participating in them or settle for lower levels. This perception has even deterred them from voting for women to send more female representatives to the Islamic Consultative Assembly. Therefore, women's reluctance to active participation, namely running for representation, on one hand, and women's failure to vote for female candidates on the other hand, has resulted in a limited number of female candidates making it to the Islamic Consultative Assembly (Qasemi & Ma'aly, 2014: 152).

Given that the laws of the Islamic society, which are also approved in accordance with Sharia, have not created any prohibition for active participation of women and their presence as managers and representatives in the Islamic Consultative Assembly, and considering that half of the society's population consists of women and their participation is inevitable for advancing development plans, providing the necessary conditions and grounds for active participation of women in various fields, including legislative and managerial arenas, is essential.

5. Strategies and Influential Factors in Institutionalizing Women's Social Participation in the Legal System of Iran

At the elite level, instances of women's participation in managerial positions and their presence in the Islamic Consultative Assembly and other cultural and legislative institutions are considered fully legitimate based on legal principles and jurisprudential interpretations. In this regard, solutions for institutionalizing such participation by women are proposed.

5-1. Advancement of Women into Managerial Positions

As emphasized repeatedly in this research, there are no legal or religious voids regarding the assumption of managerial positions, and the very low level of women's participation in this field is attributed to factors such as social and cultural elements. To address these obstacles and create a balance in the participation of women and men in managerial domains, solutions are presented.

5-1-1. Increasing Women's Management Experience through Positive Discrimination

Numerous studies indicate that although individual characteristics and capabilities, as well as women's roles in the family, are among the barriers to women's assumption of managerial roles, their impact is not as

significant as organizational and cultural factors. Researchers believe that organizational indicators include: preference for male or female managers under equal conditions, the selection of male or female managers by decision-making authorities, acceptance of female managers by superiors, peers, and subordinates, women's membership in councils and organizational committees, and delegation of project execution responsibilities to women. The results of the studies indicate that organizations have serious weaknesses in accepting female management, and the organizational atmosphere and culture are not conducive to female managers (Zahedi, 2004: 109).

Consequently, breaking this cycle and rejecting the exclusion of women from management positions by organizations requires the establishment of new desirable values. It seems that legislation is necessary for cultural reform and modification of organizational and societal cultures. As mentioned earlier, one of the barriers to minimal participation of women in managerial positions is the rarity of experience among female managers. Therefore, considering the principle of gradual institutionalization, it is suggested that decision-makers and appointees be encouraged to utilize the capacities of women more and design and implement programs to ensure an increase in the experience of appointing female managers.

5-1-2. Institutionalizing Meritocracy

Some women advocates believe that besides the cultural issues that aim to accept women as capable managers, the presence of various groups in managerial levels and their dominance over these positions is one of the most important factors contributing to the low presence of women in managerial positions. They argue that in these groups, there is not necessarily a gender segregation, and if a woman is included in these groups, she can take on managerial roles. However, since women generally do not have an interest or belief in the challenges posed by these groups, they become victims of exclusion from managerial levels. Some researchers and advocates interpret this issue as the "illness of the management system" and do not consider the existence of these groups desirable. Therefore, solutions have been proposed to address both gender segregation and the unhealthy state of a part of the country's management system dominated by group dynamics; the most important of these solutions is the design, implementation, and institutionalization of a

meritocratic system in managerial positions. Although these topics have been highly regarded in recent years, according to the mentioned advocates, we still lack a written system in the selection of managers, and the criteria for such selection are not clear (Gerami & Aalipour, 2002: 28).

As a result, it is suggested that the governing system prioritize the formulation and implementation of a meritocratic system, especially in managerial levels, and achieve results as soon as possible.

5-2. Increasing Women's Participation in the Representation of the Islamic Consultative Assembly, Assembly of Experts, and Other Socio-Cultural Institutions

In the realms related to societal governance, especially in the legislative bodies of the country, it has been said that despite the absence of legal and religious barriers, we still witness a considerable gap between women's participation and the desirable status thereof. Regarding the Islamic Consultative Assembly, even the presence of women as representatives has not reached 8 percent. Therefore, it is necessary to take measures to institutionalize women's participation, and in line with the previously mentioned obstacles and gaps, the following solutions are proposed.

5-2-1. Legislation to Adjust the Share of Women in the Representation of the Islamic Consultative Assembly and the Assembly of Experts

The lack of women's participation in assemblies and political activities is one aspect of gender mainstreaming, as some women's issues experts say: With the emergence of a new political structure and the People's Majlis, women should be able to enjoy their rights in national and international decision-making processes for the effective advancement of their interests. Women constitute a significant portion of voters, but their presence in various political bodies does not match their capabilities (Mutý', 1994: 36).

Additionally, for various reasons, women's membership in political organizations is very limited. The percentage of women members in party organizations ranges from 10 to 20 percent of the total members and decreases at higher levels of leadership. The reason for this should be sought in the nature and method of societal acceptance and the education system (Bashariyeh, 2008: 295).

Considering the importance of women's presence in decision-making bodies of governance and the time-consuming nature of educational and cultural-based solutions, as a short-term solution, it seems appropriate to

use legal reform tools to adjust the share of women in important positions of the country; it should also be noted that many believe these legislations are for cultural reform, and cultural reform may be based on legislation in many cases.

As some advocates believe, one of the important factors in cultural reform in the country is the issue of laws and regulations, and the law can play a constructive role in cultural development. However, the hallmark of proper legislation is to preserve human dignity and ensure social order; in a way that does not unduly limit human freedom (Davari Ardakani et al., 2003: 35); and the implementation of divine and religious laws can also be attributed to preserving human dignity.

It has also been said that the law must maintain order, and the primary function of the law in society is to maintain this order (Davari Ardakani et al., 2003: 37).

Thus, it can be said: whether we examine the issue from the perspective of practical reason and religious decrees or from the perspective of maintaining order and preserving human dignity, we can conclude that, on the one hand, for the sake of justice, order, and the dignity of individuals, a significant portion of society must necessarily be considered in decision-making, policy-making, oversight, and even executive positions; and on the other hand, the necessity and importance of women's participation in these positions and areas, considering the role they play in development, progress, and civilization, must be realized, and given the time-consuming nature of other actions, it is proposed that gender quotas be applied in these important professions as a short- or medium-term solution and implemented.

5-2-2. Education and Advocacy for the Importance of Women's Presence in Legislative Institutions

In most developed countries around the world, belief in the necessity of increasing women's political participation as a prerequisite for balanced and sustainable development has led to the provision of platforms for this participation becoming a significant priority in the planning of these countries. In fact, the belief in the reality that women's presence in decision-making institutions is not only an essential factor in sustainable development but also has positive effects that benefit the whole society, both in the short and long term, has made the utilization of civil society

capacities for increasing women's participation a priority. (Parizad & Ghadiri, 2019: 40)

It has been previously mentioned that one of the barriers to women's presence in the Islamic Consultative Assembly is their low inclination towards active participation in the political sphere, meaning taking on decision-making and influential roles. However, the important point is that it seems the reason for such a perspective is the lack of sufficient education regarding the importance of women's presence in such professions and positions. Because the minimum harmful effects and damages caused by low female participation in decision-making institutions such as the Islamic Consultative Assembly and other policy-making and legislative bodies stem from the fact that women's desires are not well-reflected and perceived, and until women present their needs, beliefs, and viewpoints in organized, legal, influential, and capable forms, it is not possible to hope for improvement in their situation, addressing their deficiencies, and addressing their needs; therefore, the prerequisite for improving the situation of women, especially in social issues, increasing participation, and sufficient education, is this understanding of how vital the necessity of women's social activities and participation in decision-making institutions truly is, which has been observed through conducted research, the lack of awareness and recognition of which among women has been observed.

Among the important solutions for education and advocacy to understand the importance and necessity of active participation in the political sphere by women is strengthening political parties and social organizations and encouraging women's participation in these structures, as mentioned in this section. Therefore, political parties are recognized as the best platform for women's presence, through which the conditions for women's participation in decision-making arenas are facilitated, and the possibility of raising, pursuing, and addressing their demands will be well provided. (Parizad & Ghadiri, 2019: 39)

Conclusion

In conclusion, it must be stated that social participation, encompassing all its dimensions such as political, economic, cultural, and so forth, is among the most crucial issues in contemporary political and legal systems. Ensuring the benefits and outcomes of this matter has directed the minds of social science researchers towards the necessity of institutionalizing social

participation, especially women's participation, and the most effective approaches to institutionalization are recognized as germinating within the legal system. Despite perspectives and findings in common sciences, institutionalization from an Islamic perspective is directional, and in the pursuit of excellence, all stages in the institutionalization process should adhere to religious decrees. Although this may lead to certain limitations and considerations.

The process of institutionalization is an extensive subject, and in this research, by prioritizing and emphasizing "maximizing the utilization of legal capacities" over other institutionalization strategies, these capacities, obstacles, limitations, and challenges of this strategy have been the focal point.

The results of the investigations indicate that nowadays, women's participation in various aspects of social affairs and among the general population faces less discrepancy and discrimination. However, concerning women's participation among elites, the most significant challenges and differences are observable.

Apart from the three authoritative positions of emulation, governance, and presidential leadership and also judging in its literal sense, which due to the popular opinions of jurists and the interpretations of the Constitution, face limitations in women's assumption, other dimensions of women's social participation among elites, especially after the Islamic Revolution and the deepening of contemporary jurists' viewpoints as well as research and actions taken in this field, we witness a convergence of jurisprudential opinions towards consensus and gradual changes in the country's legal system, and there are no legal vacuums in these areas. However, despite the significant legal gaps in the field of women's social participation among the masses and elites (aside from the three authoritative positions, leadership of government, and presidential leadership), statistics indicate very low rates of women's participation in these dimensions and levels.

In order to institutionalize through maximizing the utilization of legal capacities and based on detailed previous research that had conducted suitable case studies regarding the reasons and factors influencing the strengthening of participation, proposed methods include creating positive discrimination in appointments, institutionalizing meritocracy, legislating to adjust women's share in electoral affairs, and paying special attention to education and advocacy regarding the necessity of women's development,

especially in legislative and policy-making institutions.

In the analyses and proposed methods aimed at maximizing the utilization of legal capacities, firstly, a wide spectrum of previous research has been utilized, which has followed the alignment of the current research results with other studies regarding the subtopics under consideration. However, concerning research related to women's social participation and institutionalization, there is also suitable compatibility with previous research. For instance, in a study where Vosooghirad and Naghi-Poorfar (2021) emphasized the necessity of audience analysis in the institutionalization process, in this research, and precisely in this regard, the statistics and results of studies conducted to better understand the audience and the factors influencing their participation at each level and aspect of participation have been highlighted.

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