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A B S T R A C T

Contemporary economists, who have made privatization theory common, evaluated privatization as part of a larger process of economic reform and recreation and inevitable to promote community and appropriate respond to the needs and welfare of people lives. It the view of thinkers who have dealt in this arena, the primary goal of privatization is "economic efficiency" as a safe and convenient path to rationalize the objectives and fit to the goals and wishes of the public. This paper explores the nature of Iran's privatization policies of Article 44 of the constitution.

Keywords: Privatization, Private Sector, Public Sector, Article 44 Of The Iranian Constitution.

INTRODUCTION

The promulgation of policies of Article 44 of the constitution by the Iranian leader, made the Ministry of Economic Affairs and Finance to take up a bill for providing legal of the mentioned policy bases by a comprehensive overall approach. In this regard, Minister of Economic Affairs and Finance sent the bill of implementing the policies of Article 44 of the constitution in a letter to President and Cabinet on 12.08.2006.

This legal bill has been developed on the implementation of the policies issued by the Supreme Leader on the basis of paragraph 1 of Principle 110 of the constitution on the general policies of Article 44 of the constitution on May 2005 and 03.07.2006. Assignment of governmental activities to nongovernmental ones has been described in the Article 44 of the constitution -except for the exceptions in accordance with the law- as well as regulations and authorities of the economic activity of each of the sectors as state, cooperative and private in the bill. The bill of policies implementation of Article 44 is been organized in chapter 8 and in 74 articles¹.

Article 44 of the constitution has reckoned the boundaries and probability of each of the sections' ability to operate by dividing the economic system of the Islamic Republic of Iran into three sectors of state, cooperative and private. In other words, it has placed cooperative and private sectors in the activities of head principle and their possession to the government or governmental sector². The mentioned principle has emphasized the transformation of country's structure in the framework of current economic and social status requirements and in the way of meeting the goals

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of document of perspective on the basis of policies of Article 44 focusing on the three following parts:

1. Government is not allowed to log in to the activities which are in the ownership and management of cooperative and private sectors in accordance with Article 44 and should transfer the current assignments to the mentioned sectors of at most until the end of the Fourth Development Plan.

2. Government should allow and pave the way for the cooperative and private sectors to administer the activities of in head principle 44 which were absolutely in state ownership.

3. The development of non-governmental sectors through the transfer of activities and governmental agencies to private sector³.

Take the purposes of the policies of Article 44 governs to accelerate the national economic growth and growth at the level of public ownership to provide social welfare, the promotion of business workshop efficiency and productivity of human and material resources and technology, increase the competitiveness of the national economy, increase in the proportion of cooperative and private sector share in the national economy, the reduction of financial and management burden in the chairmanship of economic activities, increase the public level of employment, motivating people to save and invest money and the improve of their income. These indicate that achieving such goals as medium-term objectives in order to achieve perspective document objectives is only possible with a full understanding of the comprehensiveness of the promulgated policies.

FULL REALIZATION OF REQUIREMENTS OF ARTICLE 44

In order to fully realize this principle of the constitution, considerations need to be taken into account some of these considerations have been also emphasized in the policies:

The first paragraph: approval of appropriate laws:

Although the general policies of Article 44 are designed according to the desired objectives, the strict implementation of this principle requires new laws and amending the existing legislation to eliminate bureaucracy and the ease of transfer and making private sector more effective in the use of resources.

Second paragraph: not sacrificing justice and efficiency:

As noted in the objectives, the increase in productivity as well as meeting justice and eliminating poverty has been concerned in the general policy. In some of the existing theories, the combination of the two has been proposed as difficult and sometimes impossible. So, it is necessary to act in a way that none of the two sacrifice each other applying adequate sensitivity and appropriate methods. Of course it is natural that meeting justice is ranked higher than increasing productivity and efficiency, but the combination of both is possible and desirable⁴.

Third paragraph: avoiding bribery and stimulating pricing:

One of the negative experiences in privatizations is the corruption and indeed the policy which is to reduce and eliminate areas of bribery is converted to a means of abuse due to the malfunctioning. So, the most important requirement in the new policy also emphasized in the statement is the implementation of procedures for transfer in which there not is the lowest opportunity of looting the Treasury. Stock market can be a useful tool in the case of efficiency.

Fourth paragraph: maintaining state status:

The government has a significant role in the Islamic economy and reduction of government leadership should not be the cause of ignoring the important role of government, especially in policy-making and monitoring in order to achieve the objectives of Islam. The most important

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duty of the government is legislating anti-monopoly laws and strict supervision to monitor the strict implementation of the principle. It is natural that these laws and supervision should not inhibit the newly emerged bureaucracy and the wheel of productive activity².

BENEFITING THE EXPERIENCE OF PRIVATIZATION IN IRAN AND OTHER COUNTRIES

As noted, privatization in Iran and other countries has a background with strengths and weaknesses in each. Therefore, it is necessary to localize other countries' experiences and remove weaknesses to prevent the repeat of some bitter experiences in implementing this policy.

Barriers to implement the policies of Article 44 of the constitution

1. The study of the "Law on Amendment of the Fourth Development Plan and the implementation of the general policies of Article 44 of the constitution," legislator focuses on the triple axes of the policies shown as follows:

Only 2 articles and 6 amendments are focused on the facilitation and acceleration in the investment and issuance of the economic activities license for non-governmental sectors (articles 7 and 8) and 3 articles and 4 amendments are only related to the development of cooperation sector (articles 9 to 12 of the law) from 92 articles and 90 amendments of the previously mentioned law. This is while 20 articles and 35 amendments of the same law are focused on the process of state-owned enterprises. This study merely shows this important issue that from the triple axes of the focused policies of Article 44, the development of non-governmental sectors is been paid attention to only through the transfer of governmental corporate and activities by the executives and focusing on the next axes which have more fundamental roles strategically in the provision of the mentioned directive objectives is neglected or is not addressed as equally important. It seems that this is the biggest strategic obstacle in the realization of the policies⁴.

2. Necessity for successful and on time implementation of any policy and its expression within the framework of the strategic and processing plan. According to this accepted principle in management science, it is required to express the strategic plan to implement the policies with basic features before any action:

Paying attention to the document of 20-year perspective as its goal in which all mid-term and short-term operations should be planned in the way of its realization and the formulation of mid-term implementation plans of policies within the framework of 5-year development plans and ultimately regulating short-term implementation plans in the framework of annual government budgets and regulatory requirements of implementing the general policies of Article 44.

Formulation and approval of such a program with stated prospects in the perspective such as health, welfare, food security, appropriate income distribution, the first economic, science and technology position in the Southeast Asia region with an emphasis on the production of knowledge, rapid and continuous economic growth, the relative enhance in the level of per capita income, achieving full employment and so on are essential in order for the planners to require strategic tasks as follows:

1-2. preparing a model of the current state of the country in terms of the stabilization point in the issues addressed in the establishment of perspective

2-2. Preparation and formulation of the comprehensive charter of the economic development of the country especially in terms of share determination of each of the economic parties and determining the objectives of each sector quantitatively at the end of strategic plan in order to make it possible to change it into implementation and operational plan.

3-2. preparing the regional planning document of the country in terms of inappropriate employment opportunities distribution, investment and development of each economic sector

based on established position and potential or actual merits of each of the towns and villages of the country.

4-2. drafting the charter and document of the non-governmental sector in the activities in the head principle of the Article 44 the general parts of which are mentioned in paragraph (c) of Article (3) of Article 44 of the law.

5-2. explaining the links to other progressive provisions of the constitution, especially the progressive principles of Article 43 of the constitution in relation to the changed Article 44 of the constitution and administration routes to fulfill these links¹.

Therefore, failure to provide strategic plan for the complete and comprehensive implementation of policies of Article 44 is assessable as the second strategic obstacle in the realization of these policies.

3. The lack of full compatibility of Article 44 of the Law with the policies in the funds: Lack of sufficient attention to the non-admission of government entrance to activities outside of Article 44 activities in terms of forecasting requirements and implementation ensuring and prosecuting violators of the stipulated in the text of the law.

-Derogation of explicit framework of mentioned policies based on creating an exception to the government's re-entry activities outside of head principle of Article 44 due to Note 2 and 3 of "General Policies implementation law" which has tarnished its spirit.

-The principle and comprehensive focus of the mentioned law to the transfer of governmental companies as was previously mentioned indicates the dominant view of legislator and government to the focus of policies on the transfer rather than on the enforcement and encouragement of non-governmental sector in creating and developing new corporation³.

STRUCTURAL BARRIERS

1. The lack of compatibility of laws of economic activities with economic methods and objectives such as Labor Law and the law of direct taxes which are barrier of economic unit managers' efforts in developing human resource efficiency and the lack of creating effective motivation for the employers through legislating same lawful provisions in all activities that mainly each of them have especial condition and need the different view of laws such as the law of direct taxes. In this regard, paying attention to the different fields of activities, size of activities, location and amount of investment, the role of activities in providing the long-term objectives and its alignment with the goals of perspectives, technology and technical knowledge transfer is necessary⁴.

2. The lack of attention to the benefits of economic employers in the forms of syndicate and associations in order to benefit from their systematic presence in economic decision makings related to their operational fields inhibits the effective feedback of governmental decision making systems and consequently and the lack of optimization.

3. The lack of systematic efforts of the various decision-making, implementation and pursuit parts as well as the absence of common objectives of governmental, public and private departments in relation to economic activities which cause the lack of imprinting of each in the innate tasks and expected by them. In this regard, examples such as the lack of the serious presence of private and corporation sectors in the protocols and agreements between the government of Islamic Republic of Iran with the rest of foreign governments, the lack of effort of agencies and business consultation of Iran in foreign countries for the marketing of products and regulating the trade transactions, the lack of strong support of the government from regularly hold specialized exhibitions abroad and so on could be mentioned³.

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4. The lack of effort in creating cultural infrastructure, particularly the development of the social responsibilities of employers and employees, the development of work ethics, the belief in the excellence of the country through hard work spirit and effort and the lack of modeling in this field by the social institutions. Lack of attention to this important task is one of the most important problems of transfer in previous years, including the separation and sale of land, the non-normative sale of inventories, closure of businesses, workers unemployment and so on.

5. Lack of sufficient and serious attention to economic competitiveness of profitable activities and eliminating monopoly in the market of production inputs and outputs and services.

6. Enough effort in the targeted creation, accumulation and aggregation of public savings aimed at investment development capacity building, development of the private sector and cooperatives capacity for greater accountability in economic activities does not take place.

7. Not formulating the charter and straight document of implementation plans of the government in strengthening the non-governmental sector and betterment of business environment aimed at creating attractive advantages of investments and the lack of effort in leading investments in routes ending to perspective document objectives in this way.

In this regard, it is appropriate to look at the thirty-fourth session of the OECD member countries held in October 2008. At the meeting, small and entrepreneurs firms were introduced with the two facing risks:

- Lack of working capital and a reduction in domestic liquidity, delayed payments have coupled with an increase in inventory.

- An increase in reported non-repayment debts, bankruptcy and inability to repay received loans.

In dealing with the current financial and economic crisis problems and also to fit the nature of such enterprises, the necessary ongoing efforts of governments were announced as follows:

- Create mobility on demand (presenting packages related to consumers, liquidity development plans, tax policies)

- Increase in credit measures, including re-investing in banks in order to maintain or increase the capacity of banks to finance the mentioned firms

- Measures with a focus on labor market, such as reducing taxes on salaries or job security as well as support the development of temporary employment

Some government actions in the framework of the above factors were as follows: the development of collateral and guarantees provided to the banking system to receive loans, export credit and insurance, repayment of deadline loans, the reduction of deferred liabilities tax, facilitate and improve in Customer payments from the government, allowing for the depreciation of investments made prior to the commitment period, a sharp reduction in corporate tax rates. Although the government has taken some measures such as support for businesses in crisis in 2009 and this year, matching the government's actions in the field of economic enterprises in recent years with the above described actions, in terms of breadth and depth of actions, policies to reduce liquidity in the economy through control over the bank facilities, lack of fiscal stimulus packages, more serious tracking issue of deferred liabilities and so on are the source of all of the negative impacts on this sector.

Recent cases as well as the declining growth rate of private sector investment, reduction in the number of establishment licenses, reduction in the facilities granted by banks and other cases indicate the lack of serious attention to policies and tools to encourage the private sector to develop a presence in the economy.

CONCLUSION

Lack of presenting support before and after the transfer of transferred companies such as offering managing trainings, employment, management of human resource, management of financial resources and market development in accordance with the field of activity of each of the companies, the unguaranteed investment profit in the mentioned governmental companies are of the barriers to implement the effective implementation of policies in Article 44. In this regard, the government can estimate the reasonable and economic period of investment return to guarantee the purchase of goods and services produced by the companies in a set timeframe for domestic consumption or export through the formation or regulation and specialized company governance in the field of export and supplying the local market that meets all the facilities and tools and necessary supports to provide products and services in foreign markets (under the specified standards) and pursue the following objectives:

- Avoid low or no quality products export in order to secure export markets
- Create world class for Iranian brands
- Eliminate or reduce the advertising, marketing and selling costs of companies and ultimately reduce the costs of goods and services
- Using the capacity of government agencies located inside or outside the country to develop target markets
- Reduce the cost of Iranian products in fairs abroad
- Centralization and management of export awards through interaction of producers and the development of interaction with government in the speed and quantity of paid awards

On the other hand, the government should use the capacity of abroad centers for the identification and relationship between the foreigner producers and Iranian investors to create and develop small economic firms and the issuance of license for the import of goods under the mere condition of common production, the serious prevention of smuggling as well as creating bed for the development of foreign investment in order to increase the technical knowledge and technology of domestic manufacturers thereafter.

Meanwhile, until the central point of government's transfers is earning revenue through offering transferable companies by auctions and the stock market, the background for the presence and effectiveness of employers without essential financial resources will not be provided in such transfers. It seems that the Government must transfer companies to those employers who have a reasoned and documented divestiture to develop companies without the intention of making money from the annual profit of companies through the adoption of efficient and systematic methods without funds.

In connection with instances of administrative barriers, the trend of investment in recent years shows that:

- Average investment of companies in 2008 is at least 18 million RIALS in the education sector to the maximum of 31906.5 million RIALS in transportation and warehousing and communications sector.

Due to this fact and regardless of the reducing trend of average capital of companies compared to 2007, average corporate capital amount is 555.6 million RIALS. It should be paid attention that the average of invest in the principle sectors of the economy which are the realization of perspective document such as agriculture would be 55.7 million RIALS and 388.2 million RIALS in industry. These figures, with regard to the requirements of capital productivity, are considered as the slopes obstructed economic activity associated with underdevelopment of the private sector in the economy.

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The lack of appropriate governance of investment through creating attractive profits in the principal sectors of the economy has caused the most investment accumulation in the service sector and the least in the agriculture sector in recent years. This important issue is also true of granted credits from the foreign exchange reserve account. According to the statistics of Central Bank, a total of \$ 965.7 million is been spent on contracts from the \$ 3590 million in 2008, which has resulted in only 44% percent share of the agricultural sector. Engineering and technical services as well as mining have had no allocation in this regard.

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