The Pathology of 44th article of the IRI Constitution, and its Consequences in the Field of Economics and Politics

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Abstract

According to the 44th article of the IRI constitution, the economic system of the Islamic Republic of Iran is based upon three sectors public (state's economy), co-operative and private with regular and correct planning. the public sector mainly refers to a situation in which the productive factors are being controlled and directed by the state with public capital tools, even if that state would call itself as a socialist regime, but the scope of the phrase is also applicable for countries like Japan, China, and even Brazil, which, either at a time they closed their boundaries on foreign services and goods, or adjust the rules for imported goods with heavy equipment tariffs, which with this mindset, they were trying to boost the national production; which, in the pre-privatization stage, was a significant success for them; ultimately the later states moved towards based on teachings of Adam Smith and the market economy, which led them to the upswing steps up faster than before; similarly, the Islamic Republic tried to compensate for its backwardness therefore, tried to get economic patterns through the current developed countries; hence it paid more attention to the subject of private economics, so that the productive forces can draw a better perspective on the development of Iran, but with the lack of proper infrastructure to operate this principle with moving in the imperfect privatization path of recent years, it created a rentier system in the owners of government official's favour; and impressed the greatest shock to the realization of social justice, which was one of the goals of the 1979 Islamic revolution. In this paper, moreover it will try to challenge the state's economy (State Interventionism), which causes the backwardness and lack of social justice for developing countries, also it can cause the social crises, meanwhile, it will be discussed about the advantages of privatization in the form of attracting foreign investors, helping the

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dynamic economy, and moving towards social justice through the descriptive-analytical method.

Keywords: Article 44 of the IRI constitution; Privatization; Rentier Capitalism; Market and Dynamic Economy; Social Justice.

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I. Introduction

Nowadays, research in the field of humanities with socio-political issues is one of the needs for researchers. In this regard, after the four decades since the Islamic Revolution of Iran (1979), the evaluation of one of the most important principles of the Islamic Republic of Iran Constitution is necessary based upon an economic point of view; therefore, the author is going to analyze the Article 44 of the Constitution of IR Iran, which is one of the fundamental principles in the field of economic affairs. As far as, so far, this principle has faced major challenges, this research tries to evaluate the implementation of the 44th principle in the form of a thorough research; accordingly, the research will focus on privatization, whether the privatization process and transferring the economic affairs to people have positive aspects, or privatization also has negative aspects? Meanwhile, will the privatization process be useful for the developing countries like Iran? What obstacles will it face if it is useful? The author believe that the implementation of the privatization process outlined in Article 44 could have positive aspects in Iran's development as well as the negative aspects of its backwardness. I believe that not only the nature of this important principle has been neglected, look like other constitutional principles, but also ignored the proper implementation of this principle, therefore, I seek to scrutinize these challenges and opportunities.

II. Privatization

As we know, privatization is a process, not a project that will be operated in a short time. Privatization refers to a process in which ownership and management of the public sector is transferred to the people (private sector). During this process, the size of government or volume of government activities in the economy is reduced, and the size of the private sector or the volume of private sector activities increases. In general, the main objective of privatization in most countries is it to increase the efficiency of enterprises and optimize allocation of resources.

The key point to increasing efficiency through privatization is that mere ownership transfer cannot increase the efficiency level; however, the element of the transfer of management to a private sector along with the competitive environment also plays a significant role in this process. Simply put, the logic of privatization is that the governmental economic activities, which have been done with high costs, low quality, and low efficiency in an exclusive atmosphere.

From now on, the private sector will do the same activities at a lower cost, higher quality and efficiency in a competitive environment. Privatization also leads to lower government spending, on the other hand, increases state tax revenues in the event of privatization objectives (Nademi, 2013, p. 3077); therefore, privatization can also lead to increasing on the government budget, and hence the destructive effects of the budget deficit on the country's economy will also be decreased. The basic point in the process of privatization is that the success of privatization depends on the existence of economic, political and social institutions that are effective in achieving the goals of privatization. For instance, a clear definition of property rights by the parliament, its strict implementation by the government and the guarantee of property rights by the judiciary are prerequisites for the success of privatization.

In short, to achieve the ideal privatization, it is necessary to strengthen the rights of private property, and should act simultaneously to change the structure of companies, liberalization and deregulation, reform of the regulation, reform of the financial structure (especially the capital market) and the labour market, encouraging and directing the development of the private sector in order to stimulate competition and the entry of producers into the market, the transfer of governmental institutions to private sector (ownership change); ultimately it means: Moving towards “Market and Dynamic Economy” (Salween, 2001, pp. 16, 37)

II.a. Privatization of industries in the Persian Gulf Region

In some countries (especially the developing countries), privatization is deemed as a project starting from a place and time ending at another place and time. However, privatization should be regarded as a process, not a project; where the private sector recovers and the public sector to reconstructs.

It should also be noted that racing at the privatization corner is not at all a way out of the economic problems in the region, but it rather takes some walking along with reflection and contemplation (Elahi, 2008, pp. 113, 132); because privatization is not an end in itself; it is rather a means to achieve goals such as increased efficiency and faster economic growth and the consequent realization of sustainable development. Therefore, attitudes must be changed for successful privatization, while the correct privatization mechanisms must be adopted. It should be noted that all debate concerning privatization is not focused on transferring; but it rather involves the releasing as a very important factor where competitions should particularly be concerned. This in turn requires a long-term strategy and selection of efficient techniques (Fred, 2000, pp. 18, 78).

After all, the privatization equation in the region seems to be as complex as thousands of other economic equations such as inflation, unemployment, poverty etc, which is an important marginalized issue in the economy of these nations including Iran. Privatization is a very

sensitive process to which any lack of attention in terms of capacities and requirements can unfortunately lead to the failure of this essential policy for the economy of the region. The objective of privatization should not be forgotten, which is increasing the efficiency and productivity of the entire economy. But what has so far happened in the economy seems to bear from that objective (Yazdan Fam, 2007, pp. 547,590).

Therefore, prior to any privatization there should be grounds provided for competition and elimination of monopoly in the economy, followed by lifting the obstacles against production and investment (both domestic and foreign) as far as possible in order fulfil greater efficiency in the privatization process. One of the major problems in the proper implementation of privatization in the region is the stagnation and resistance on the part of government officials in the course of privatization, which must be examined in great details due to the intricacies.

It should be remembered that those people ideologically staunch defenders of shared and state ownership can never fully adhere to the principles of privatization. Because privatization does not involve governments selling certain firms or transfer the shares under any title to employees.

Such privatization will yield no promising outcome. In other words, if privatization takes place through government vision and preservation of state and public administration, it not only will bring prosperity, but it is possible to farther aggravate the amount of damage and losses in some sectors. In certain countries, governments have best played their role so far in line with their inherent objectives. The problem occurred when the governments stepped into areas outside their inherent scope of responsibilities and obligations. Whenever governments are faced with an important issue such as concession unloading most of the duties while keeping costs minimal, they will certainly transfer some authority. It seems that privatization in the region, especially Iran, is an emphasis on such a situation. Because from the perspective of regional authorities, the government should be downsized, which has been viewed merely in terms of property, and not in terms of intervention power in the markets and economic mechanisms; the discussion therefore must be clarified in that viewpoint (Alavitabar, 2010, pp. 35, 41).

Government intervention needs to be minimal in the economic system of the region, i.e. the regional economic system must be reformed. If we look at privatization as a process rather than a project, productivity will certainly increase, development will be accelerated and consequently the security will govern the region (Hewud, 2011, p. 93).

The following are the challenges, opportunities and benefits of privatization and free competition in the oil industry as regional mother of the industry analyzed so as to figure out the expected security, at least in the economic sector (ALvishes, 2003, p. 9).

At the end, security in the region and sustainable development of other economic sectors will be archived through creating a competitive and open market (Zarabi, 2001, p. 59).

II.b. Oil Industry's Privatization changes, as Regional Mother of the Persian Gulf Industry

- Low capital capacity and poor general financing as well as lack of administrative and managerial experience of regional entrepreneurs in the massive oil industry projects.
- Mono-disciplinary activity of regional consulting firms and contractors coming with only equipment capabilities or implementation of certain limited operations.
- Lack of synergy and poor teamwork between companies.
- Lack of insurance coverage against risks for regional entrepreneurs' expectation from the employer to recover damages.
- Insensitivity to time management during the execution of projects.
- The complexity of the regional public sector and the bureaucracy governing state employing organizations.
- Negative atmosphere regarding support for local entrepreneurs and the employer refraining from engagement in widespread support which can ruin the capacities in the country.
- Technical and technological and managerial difficulties.
- Financing issues and implementation of free capacities for participation in other countries.
- Inadequate experience in carrying out large-scale projects (Mega-Projects).
- Lack of familiarity with international law, unfamiliarity with the laws of the country of destination (such as the customs, taxation, particularly oil and gas) and insufficient negotiating teams from lawyers specializing in marketing and contract laws.

Objective and benefits

a. Wealth creation, profitability, innovation, job creation, prosperity and development followed by sustainable development in the mid-term and democratization in the long-term for the region.
b. Creation of new businesses.
c. Expansion of existing businesses.
d. Downsizing and agile development of the government.
e. Relatively equitable distribution of wealth in the region.
f. Prevention of tribal and ethnic crises.
g. Prevention of terrorism in the region, since the massive oil revenues under certain regional states sponsors various forms of terrorism in the region.
h. Discipline in the entire region.

III. Oil-dependent state economy leading to wealth distribution crisis, poverty and insecurity in the region

From the perspective of Lucian Pye, the improvement of functionality of a government political structure not only depends upon transition from a "crisis of distribution", but in many cases, but the survival of a regime is also dependent on overcoming this crisis, since the "crisis of distribution" can be dangerously shaking the foundations of a political system. Either directly or indirectly aware of such a crisis, the dictatorial regimes strive to resolve it as much as possible, but due to lack of archaic governance structures and rigid administrative practices and blatant corruption gripping all administrative structures, judicial and legislative procedures, there are insufficient mechanisms to settle the crisis.

For that reason, the efforts made in recent years, by King Abdullah to inject a portion of huge oil revenues to certain segments of society (strata associated with the government) failed to put an end to the "wealth distribution crisis"(Zaheri, 2011, pp. 30, 49).

IV. Endless alibis of regional states for encroaching on oil revenues

The regional economy resembles a teenager who has lost his parents early in life with huge inheritance left. The teen will waste all the capital due to poor experience and will go broke years later without any good job to earn some income. Similarly, in Iran, as long as the oil money is in the hands of government, it will be wasted under different pretexts, e.g. regional crises in Iran and six GCC member nations, assisting the private sector or budget (Ghasemi, Salehi, 2007, p. 6).

The noteworthy point here is that the countries of the Persian Gulf have difficulty in integrating and capital accumulation, i.e. they need to feed on the oil sources and revenue for fulfilling investment needs (Adib Moghadam, 2009, pp. 69, 83). It was within such a framework that President Ahmadinejad (Ninth and Tenth President of Iran) believed oil money is tantamount to wealth and it should be invested. However, the idea was wrong from the roots, while the president's statement implies the fact that the private sector will have no place in the economy. As long as liberalization of the economy is not realized in these nations, the private sector will not engage in the economy and no good results will be obtained. The Norwegian government once decided that national oil money should be completely overlooked, and then new solutions should be sought.

V. Strategies to increase the efficiency and productivity of the oil economy

It seems that the regional governments are doing great at governance, but very poor and weak in public services. Nevertheless, governments such as that in Switzerland is greater in terms of GDP as well as highly developed public services sector (Hosseini, Azizi, 2006, pp. 102), whereas the countries of the Persian Gulf region have never sadly kept up, in 100 years, with emerging economy of countries such as Korea, Malaysia and Australia operating in distribution and sale of petroleum products in the world. For solving this problem, they have to merely progress toward resolving the reasons and causes of underdevelopment and gaining optimum productivity of the oil economy, otherwise they will not get any desirable outcome. In relation to the question of where and how to spend the oil money so as to avoid any potential distribution crisis, investigation should be made concerning where and how this money has - been spent so far. In summary, these countries have so far been resorting to dumping, importing as much consumer goods and military equipment as possible, and allocating development budgets while nothing has been left for public funds. Or in the case subsidy payments in Iran.

A small portion of the oil money is distributed among people and many other measures of this kind. Had an appropriate National Strategy been designed in all these years for industrial and local planning in the form of private sector employer, the oil industry in the region would have had something to say around the world regarding the entire relevant areas (Imami, 2003, pp. 23). There are several suggestions to overcome the problem of poor distribution of oil wealth, the fragility of oil-based economy and building regional security:

- Utilization of privatization and free competition in the industry for optimal use of natural resources and indirect distribution of wealth in society.

- Tax increases. It demands evolution both in the tax system and tax increase transparency and liberalization of the economy.

- Spending the tax revenues from private sector for public expenditure and development projects.

- Prevention from uncontrolled growth of rentier states, thereby creating a barrier against national resources wasted by an incompetent, rentier capitalism.

- Prevention from uncontrolled conspiracy theories and wild purchase of military equipment by local governments due to reduction of state intervention in the economy and transparency in government tax revenues rather than the unaudited oil money (Dehghani, 2008, pp. 12, 17).

- Reduction of trans-regional military power in the Persian Gulf and especially the US as an intruder under the support of the regional governments, which in turn unravels another conspiracy theory.

- Building adequate grounds for the theory of democratic peace and stability among the eight core and periphery countries, which a basic component of the theory of free and competitive economy.

- Creating private sector trusts and cartels in the region for raising the price of oil and related industries (the invisible hand mentioned by Adam Smith), rather than a cartel similar to the OPEC built based on sham assistance from states, considering its survival in fluctuating oil prices according to the theory of intruder sector (i.e. state non-free market or economy bound to politics).

- The linking between corporate interests, cartels, private sector trusts in trans-regional nations, especially the United States as an interfering power with its private sector involvement in the Persian Gulf region and thus preventing possible conflicts in the future as well as economic sanctions, risk of jeopardizing their vital interests, and the request for ceasefire in the region through powerful lobbies in their respective congresses (Motaghi, 2010, pp. 259, 278).

- Generating wealth, productivity, innovation, job creation, prosperity and development.

- Creation of new businesses.

- Expansion of existing businesses.
- Downsizing and agile development of the government.
- Relatively equitable distribution of wealth in the region.
- Prevention from fuel trafficking by government agents due to the state monopoly in the oil industry.
- Prevention of tribal and ethnic crises.
- Prevention of terrorism and its proponents in the region, since the massive oil revenues under certain regional states sponsor various forms of terrorism in the region.
- Free oil trade in the region will lead to regional and ultimately international cooperation and order.
- The regional order is generally justified due to complex dependency and self-organization in the context of free market and the economic liberalism.

VI. The privatization in recent years based upon 44th article of the IRI constitution

One of the important issues that has arisen after the victory of the Islamic Revolution and in accordance with Article 44 of the IRI Constitution in the economy field is the discussion about privatization, which I am going to review its process with the start of the first plan of economic development from 1989 to1993, Iran's economic reform program, including the privatization of government economic units, was put into government policy. In fact, under the principles of Articles 44, 134 and 138 of the IRI Constitution, and in accordance with Sections 4-37, 8-2 and 8-3, the law of the first plan of economic development, privatization, and more specifically the transfer of state-owned companies formally followed. Privatization in Iran after the announcement of the general principles of Article 44 of the Constitution via the IRI Leader entered to a new phase.

Many economists have introduced the new interpretation of Article 44 of the Constitution as an economic revolution in the country, which could lead to the strengthening of Iran's national production, labor and capital and, ultimately, the country's economic development (Nazarpour, 2001, pp. 11, 52).

Looking at the performance of the last few years of privatization in the country shows which expected and positive trend for implementing this policy has not been achieved. For example,

the proportion of public funds and total budget of the country increased to Gross Domestic Product (GDP),and respectively increased from 24% and 80% in 2007 to 29% and 85% in 2010 ; the increase in these ratios undoubtedly reflects the poor performance of privatization; while under the Article 145 of the Fourth Development Plan, the government was required to reduce ratios at least 2% during the annual program; the figures indicate that the previous government has acted contrary to the Fourth Development Plan and has allocated more funds to state-owned companies; these figures indicate that the expansion of the state has made the field of activity tighter for the private sector; and has led to the "Crowding Out Effect." ; the "Crowding Out Effect" means that the expansion of the government and the government's investments have led to a weakening of the private sector and has reduced the volume of private sector in the country. The inadequate performance of the previous government in enforcing the laws of the Fourth Development Plan and Article 44 of the Constitution has led to political pragmatism and the weakness of observer entities. The mentioned factor has caused the privatization in the country not to be done properly and does not achieve its goals (Nazarpour, 2001, pp. 11, 52).

According to the latest statistics released by the Iranian Privatization Organization, the amount of transfers to the non-governmental sector during the years 2005-2013 was as follows (The statistics are from 2013 to the end of September; the figures are in billion Rials.)

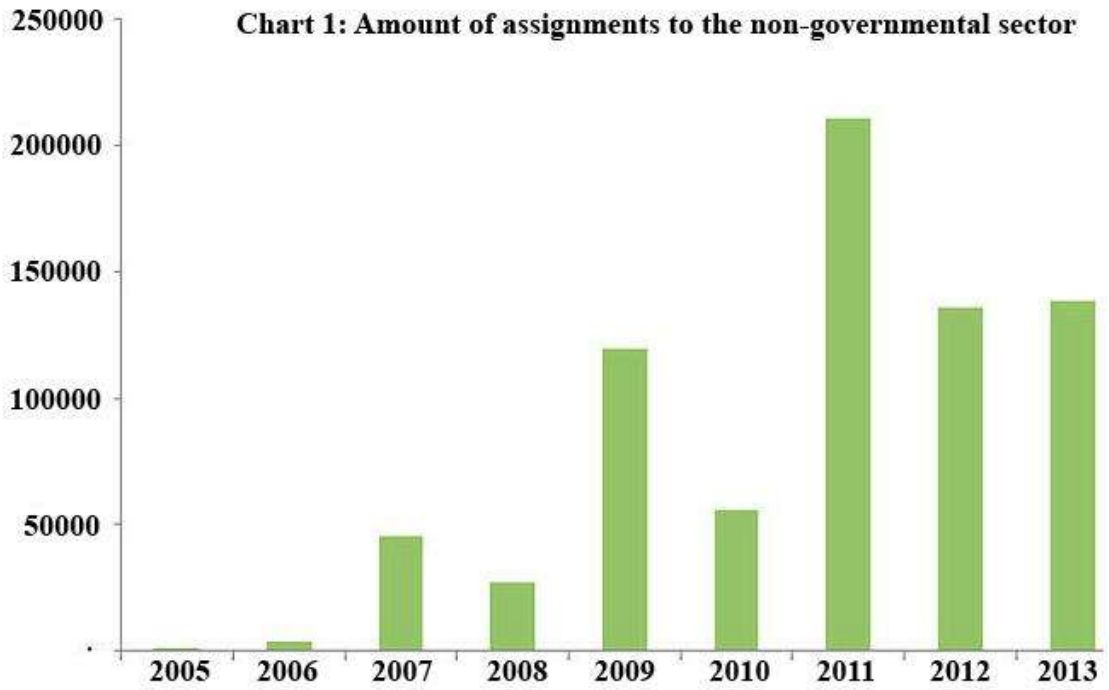

Chart 1. Assignments to non-governmental sector

As shown in the diagram, the process of assignments to non-state sector had ups and downs, which illustrates the lack of proper and consistent planning of assignments to the private and cooperative sectors: also, according to the statistics of the Iranian Privatization Organization, the total amount of assignments, 8.29% was belonged to the "Equity Distribution Shares Plan or Justice Shares", for lower-income groups with the aim of creating social justice; 4.49% was transferred to the non-state sector and 8.20% was attributed for transferring to the government agencies and other organizations, with the aim of paying government debts.

In the case of "Equity Distribution Shares Plan or Justice Shares" indeed management of this kind of shareholding remained in the hands of the government, and in the case of government ‘debts rejection, it can be said that most state-owned companies were transferred to the government officials and interest groups; in fact, these statistics show that, the Government and Quasi-governmental institutions have played a significant role in purchasing state-owned enterprises.

VII. Neglected cases in the process of privatization

1. Institutional-structural reforms before the assignment. The prerequisite for the transfer of state-owned enterprises to the private sector will be institutional-structural reforms in the national economy in general and, in particular, transferable enterprises. Regarding institutional-structural reforms, there are some basic issues that will be mentioned:

a) Ministries are reluctant to allocate profitable enterprises to the private sector; therefore, they do not provide the necessary information on structural reform to Iranian Privatization Organization; and these issues will double the problems of structural reform and its amendment.

b) The existence of high inflation is the biggest obstacle for the private sector, because under inflation conditions, investments in fixed assets and brokerage and mediation sectors have high incomes and there is no incentive to produce; also, the exchange rate fluctuations in the foreign exchange market is another factor that eradicates the private sector's incentive to produce and pushes the private sector into a currency market; and this sector tends to be a bargaining agent in the currency market.

In addition, the lack of an efficient capital market is another problem of privatization. The existence of widespread information rallies in the stock market has led to a large presence of speculators in the market, which is a major barrier for private sector investors who are largely

out of political and informational rents. Informal trading in the stock market is another issue that requires serious oversight by supervisory institutions; it is noteworthy that in the Article 44 of the Constitution, structural reform has been included in the public companies, but only two to three sub-articles in the law have been devoted to this issue. Correction of the structure of public companies requires the formulation of clear rules in this regard.

2. Empowerment of the private and cooperative sectors. The empowerment of non-governmental sectors (private and cooperative) is a prerequisite for the non-governmental sector's privatization and growth; poor nongovernmental sectors cannot replace the public sector, and the transfer of affairs to them will worsen macroeconomic performance. Reducing the size of government sectors and increasing the presence of non-governmental sectors in the national economy requires the development of these sectors.

The goal of empowering non-governmental sectors is it to increase their capacity and power in the country's economic atmosphere. One of the main factors in empowering the private sector is it to pay attention to business environment and economic laws and policies in support of national production. Given the importance of empowering the private sector in the success of the privatization policy, it is necessary to pay more attention to this issue; the empowerment of the private sector and related legal obligations and the implementation of the general policies of the Article 44 of IRI Constitution , have been limited in Iran's Fourth Plan of Economic, Social and Cultural Development, and even these restrictions have not been resolved on the Fifth and Sixth Development Plans, therefore, the lack of legal standards has caused, which relevant experts and related authorities cannot empower the private sector as well (Nademi, 2013, p.3077).

It is obvious that if the private sector is not able to compete, the transfer of state-owned enterprises will be done slowly. The quasi-state companies' entry into assignments is not legally prohibited, but as it often leads to monopoly and Rentier Capitalism, it contradicts the nature of privatization; because, despite these powerful political institutions, which have a lot of power and influence in governing bodies, private sector is not able to compete; usually these quasi-state institutions in Iran are leaping behind the law, and their senior officials usually hire some people to form secondary companies to participate in the assignments of the Iranian Privatization Organization, which is in the form of negotiation, auctions, stock exchanges and OTC.

3. Assignment of ownership without management change at the end of the first decade of the third century AD, some projects were largely subdivided into national and public ownership, and management was transferred less. Which, this was also due to the lack of proper management of the ninth and tenth governments of the Islamic Republic of Iran; and so far,

the management of these privatized companies is still in the hands of the government. This is a government intervention (Interventionism) phenomenon in underdeveloped or developing countries. The obvious example of such transfers is: “Equity Distribution Shares Plan or Justice Shares" This privatization approach, in which management remains in the hands of the government, cannot lead to privatized agencies' efficiency. The problem of interventionism is one of the biggest barriers to achieving the goals of privatization in developing countries, including Iran, which requires serious attention.

VIII. Recommendations and Conclusions

Unfortunately, evidence and statistics indicate the insufficient or lack of performance of governments in developing countries in the privatization process; as an example, in recent years, privatization has been in the opposite direction of the private sector, which has been increasing in the size of the government and reducing the trend of assigned shares in the stock market; also, the on-assignment of management to the private sector in the privatization process has been one of the weak points in the implementation of Article 44 of the Constitution of Iran; moreover, the government and other sovereign institutions such as the legislature and the judiciary have not taken significant steps towards empowering the private sector.

The main reason for the failure of privatization in Iran is related to the type of attitude and targeting; while in developed countries, the goal of privatization is closed to increasing production and increasing productivity, creativity, innovation, and motivation of employees in state-owned enterprises.

On the other hand, in Iran, the goal of privatization is not only to create a new source of income for the state, but also to create opportunities for increasing the wealth of political power holders, which means moving to Rentier Capitalism. The main element of the privatization, o the first step of this process, is the institutional and structural reforms of the economy and politics for developing countries, including Iran, which, if not addressed to them, the next steps will not succeed. One of the problems due to the lack of attention to structural reforms can be the inability of the private sector to carry out its economic activities, and this can lead to getting unemployed for workers from transferred companies to private sector; or another scenario, which is the product of structural weakness in politics and economics, is that in the absence of independent and demanded political parties in Iran, it has caused political power holders to earn illegal and immoral property and money through the phenomenon of Privatization. Some of these political power owners have become owners of state-owned companies in the pretext of privatization, and then after consolidation of their ownership, they usually expel workers to gain more profit; this action undermines social justice and pushes the society to instability;

therefore, it is essential that immediate action be taken to amend the legal provisions of the privatization process

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