Legal Approaches for Improvement of Business Environment in Iran

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ABSTRACT
Including tasks of government is provide the appropriate conditions and atmosphere for business. This makes the economic boom in government is formed that there is economic, political, cultural stability and so on. Improving the business environment required a holistic vision. In this study legal solutions to improve the business climate in Iran is discussed that has been in two parts: The first part explores the concepts and business conditions and the second part examines the legal solutions to improve the business environment using the academic index. According to the studies in this research: International centers have introduced mainly 10 of index for the business climate. According to them, the business environment has been studied in Iran.

Keywords: Legal Approaches, Improvement of Business, Environment.

INTRODUCTION
Governments play the main role in adopting laws and regulations in different economic, social ... areas. In every country, governments adopt specific rules and regulations and make every effort to ensure that such rules are observed. Some governments intervene in all existing aspects and, thus, adopt too many rules, engage in all issues and take the lead from the private sector. Too much involvement of governments reduces the efficiency in the economy. The private sector can better continue with its activities provided that it was given more freedom and the government adopted less interventionist laws1.

The government factor is measured against the laws on public budget, government by-laws and instructions, government's intervention in the expenditures, taxes, etc. all of which having an undeniable impact on the economy. It is foreseen that those

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countries with lower levels of public expenditures and taxes show better levels of growth compared to the countries with higher levels of expenditures and taxes. Moreover, the more cumbersome bureaucratic rules are adopted, the more would be the distance of this country from global competition. This is due to the fact that corporations cannot easily compete in such conditions and their level of competitiveness would be reduced.

With adopting tax policies, governments play the most important role in the economy. Thus, by adjusting the tax rates and increasing or reducing taxes for different sectors of the economy, they can create a balance in the economy. A study of the tax rates in different countries can be a yardstick to create a ranking of business environment in different countries.

The government should be able to create a transparent data framework, an efficient legal system and a fair competitive mechanism for economic activities in order to achieve four important objectives in the society's economy: maintaining security and integrity of market mechanisms, creating comprehensive competition, protecting consumers and access of the poor and marginalized groups to the capital.

An important point on the critical legislative task of the government rests in the creation of close links between government, private sector actors and business owners. Trade unions and associations should be considered as the main pillar in the legislative action of the governments because, in addition to their theoretical knowledge, they also enjoy practical experiences in comprehensively understanding all effective elements in improving the business environment. This paper aims to review the legal approaches for the improvement of business environment in Iran.

Part one: Principles and laws on improvement of business environment

Section one: Index on the entry of new business and obtaining permits

Entry of a new business includes all procedures that an entrepreneur and investor should complete in order to establish a firm, from the registration of the company to the official readiness to the starting to operate a commercial or industrial business. In this index, challenges related to meeting the requirements for a new business activity (i.e. company registration process), include procedures that an entrepreneur should pass to start a new legitimate economic activity. The main criteria in this study, are, thus, the average time and costs for these procedures, and minimum capital required for initiating the activity. The official and legal requirements for launching a business activity include the procedure for legal registration, selection of a name, paying taxes and other fees, as well as other procedures, foreseen by law, for the official launch of an activity. In Iran, the procedures for a new business includes the obtaining of all permits, completion of forms and confirmation from relevant government agencies required for the official and legal start of the activity.
At the beginning of a business, the problems of the entrepreneurs increase with the rise in time span and administrative costs for the establishment of the business, and it is possible that these problems may increase whenever the government officials’ role, personal discretion and prevalence of clandestine relations for facilitating the procedures are involved. Difficult company registration process for new businesses make the entry of new businesses less possible for the potential entrepreneurs and leads to unofficial economy.

As soon as an entrepreneur or investor manages to register a new business, he/she has to comply with regulations to operationalize the activity. The ease or difficulty of interaction with official authorities who issue permits for construction of a warehouse for industrial purposes is part of the legal requirements of this process which, in turn, depends on the procedures for obtaining queries and permits from the construction sector. This includes technical and other permits, completion of forms, observation of inspection instructions, safety regulations, as well as other procedures for registration with water, electricity, and gas authorities.

**Section two: Recruitment and dismissal of labor force**

Complicated systems of laws and institutions have been devised in different countries for the protection of the rights of the laborers and ensuring minimum living standards for the people. Experience shows that numerous and more difficult labor laws reduces the partnership of the labor force and increases unemployment rate especially among the youth. In addition to fundamental civil law protections, the labor market regulation systems in different countries cover three other legal domains:

- Employment laws which relate to individual employment contracts.
- Law on employee and employer relations which deals with the bargaining, agreement and enforcement of contracts between employees and employers and organization of trade unions.
- Social security laws dealing with the social needs and conditions which significantly affect the life quality of the people, including those related to the problems of the ageing, the disabled, death, illness and unemployment.

These laws can be analyzed from the perspective of three institutional theories: effectiveness theory, political power theory and legal theory.

According to the political power theory, the institutions are established by the people in power for the sake of their own interests against those outside the sphere of power. Based on this theory, the approach of a country is adopted through a titular voting, convergent with the ruling authority, which prevents the redistribution of resources. According to the legal theory, the approach of a country towards the rules and regulations takes shape on the basis of its legal traditions. The basic legal structures of majority of countries are inspired by those of the pioneer countries in
this area, i.e. Britain, France, Germany or the like. In general, the civil and customary legal traditions adopt different strategies against the failure of market, especially in terms of creating a balance in the labor market⁴.

**Section three: Registration of ownership and obtaining credit**

The index of registration of ownership rights refers to the number of procedures and the costs of ownership registration, i.e. the whole process of buying the land and the building, and transfer of ownership rights from one person to another. The ownership registration process requires that the following stages be completed: preliminary inquiry about the real property in question through relevant real property registry agencies; obtaining certificate of tax settlement; list of taxation status of the real property in question; obtaining the building reconstruction fee; employment certificate; insurance settlement certificate; and social security certificate from relevant agencies. Afterwards, the buyer of the real property should pay the land transfer tax and refer to official notary offices to obtain the ownership deed certificate, and register his/her deed⁴.

The extent of the knowledge of people on the credits and the status of registration and data transfer relates to the credits and legal rights of the debtor and creditor. This index is measured on the basis of the theories on the power of the creditors or the legal protection for the creditors and the credit data registry institutes which play a significant role in encouraging creditors to pay loans.

The credit index includes two bellow areas:

A- Legal rights
Loans, bankruptcy and guarantees establish the rights of the creditor and debtor and the conditions for granting credits⁵.

B- Credit information
This concept shows the registration status, sharing and quality of individual credit information (both natural and legal persons), and exchange of such information among (public and private) financial institutes, and the extent of access by the public and private sectors to the loans’ information and status of the credit information registration⁶.

**Section four: Tax payment and ease of business**

This topic includes all taxes and other compulsory payments by a medium-size company during a fiscal year to the government and retirement pension funds, as indicated in the accounting books of the company, and has an impact on the declared income of the company. An assessment of the number of procedures, the required time for the payment and the overall tax rate should be considered as part of the taxation laws.
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All phases for the export of goods, from obtaining commercial license card to final export of goods and all stages of import of goods and the factors expediting or delaying these stages and the relevant costs are considered as trade regulations.

The status of the country's trade system in terms of exports and imports are determined on the basis of the costs for the import and export of goods (US Dollar per container), the number of documents exchanged for this purpose and the time to be spent for the import and export of goods.

The use of modern tools and modalities such as recognition of electronic signature in the import and export documents, recognition of emails, and facilitating the inspection, assessment and release procedures could further play a role in the improvement of this index in the trade systems of countries.

Part two: Iran’s plans to improve business environment
Section one: (Iranian) government’s policy-making over the past 30 years to improve business environment

1- Government's first protective plan from 1979 to 1981
Title of the plan: Employment of the unemployed people in 10-member groups, adopted by the Revolutionary Council
This project focused on cooperatives. As the owners and managers of a number of enterprises had fled from the country after the Islamic Revolution (1979) and had abandoned the factories, it was decided, under this plan, that the 10-member groups from among the individuals working in such factories be organized by the provincial Governor Generals to re-launch the work of the factories. It was also decided that the revenues of one-day petroleum export should be allocated to fund non-profit loans to be granted to these groups.
This plan was terminated in 1981 for the following reasons:
- These 10-member groups were disproportionate and lacked sufficient expertise;
- The non-profit loans were not returned;
- The banks stopped paying the loans.

2- Second protective plan from 1981 to 1990
Title of the plan: Point 3 policy
According to this plan, the government obligated the banks to pay loans to small and medium size enterprises, under the condition that the project itself could serve as the guarantee for the loan. This plan was terminated in the year 1990.
The main reasons for the termination and failure of the plan were as follows:
- Continuation of war and the related problems for the country
- Employment rise was about 10% of the anticipated rate

3- Third protective plan from 1990 to 1993
Title of the plan: Self-employment plan from the employment opportunity fund prescribed by the Annual Budget Law
According to this project, loans of about five million to ten million Rials were supposed to be paid to any person who created a self-employed job opportunity for himself. However, the Ministry of Labor came to conclusion that the Ministry itself should obtain the loans, devise and launch the plan and then grant it to the individuals seeking such employment. However, this plan was not successful.

4- Fourth protective plan, 1993-2001
Title of the plan: Point 52 policy
This plan which was known as ‘quasi-compulsory plan’ was dedicated to large public and private enterprises and continued until the end of President Hashemi’s ‘reconstruction government’.

5- Fifth protective plan from 2001 to 2004
Title of the project: Loans from administered funds
As the tile indicated, the sources of this plan were not obligatory. This plan was funded by a combination of oil revenues and bank loans and was not limited to bank resources. It was based on an arrangement whereby the government deposited some funds with the bank which, in turn, added some other resources to it, and then granted loans to the manufacturers and job creators.
Due to difficult conditions for such loans, only two percent of the whole resources were utilized by 2004 and it did not bring about the anticipated output.

6- Sixth protective plan, 2004-5
Title of the plan: Emergency employment plan under article 56 of the Third Development Plan
According to this plan, any enterprise that recruited a number of job seeking workers was eligible to receive non-profit loans with 2% interest rate per year. At the time of this plan, the official interest rate for the bank loans was 22%.
Estimates on the success of the plan differed. According to the most optimistic estimates, 50% of the anticipated employment was created in that year, while the pessimistic estimates stood at 30%. However, as the interest rate for these loans were far below the official interest rates of the banks, this plan created corruption problems, it was, therefore, terminated.

7- Seventh protective under the ninth administration [i.e. Pres. Ahmadinejad] from 2005
Title of the plan: Small fast-yielding enterprises
The characteristics of the small fast-yielding enterprises’ plan, which during the ninth administration replaced the emergency employment plan, were as follows:

- Maximum amount of the loan: 10 billion Rials
- Interest rate: 14 to 16 percent;
- Loans to be paid only to the enterprises with a maximum of 50 employees.
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Changes were, later, made to this plan, even to its title. Thus, the title was amended to ‘small and medium size enterprises’; thereby the medium-size enterprises were included in this plan. As a result, the maximum amount of the loans was also increased. There are different views on the success or failure of this plan. While the Ministry of Labor believed that the plan had a record of 70% success, some experts estimated that the plan was only 50% to 30% successful. Anyhow, the plan was stopped due to the opposition of the banks that claimed that the banking dues have increased.

As it was observed, all these plans were based on bank loans which were controlled by the government. Technical expertise played a very minor role in these plans, and this was the main reason for the failure of the above plans.

Section two: Enactment of rules and regulations to protect business

Over the past few years and due to international reports on the improvement of business environment, this issue has also been taken into account in Iran. The measures so far taken in Iran are mainly of legislative nature which are specified below:

1- Macro-policies on Principle 44 of the Constitution
   - In the Macro-policies on Principle 44 of the Constitution, as communicated by the Supreme Leader, specific emphasis has been placed on the improvement of business environment.

2- Law on Enforcement of Macro-policies on Principle 44 of the Constitution
   - Article 7 of the law makes reference to facilitation and expediting investment and issuance of permits through omission of unnecessary permits and quick responsiveness.
   - Article 91 emphasizes on preparation of drafts for improvement of job-creating conditions and removal of obstacles on the way of business.

3- Fourth Development Plan
   - Article 41 obliges the government to adopt various policies to improve business environment.
   - Article 37 emphasizes the improvement of competitiveness.

4- Fifth Development Plan
   - In Chapter five (on economy), a section is dedicated to the improvement of business environment with emphasis on stability in macro-economics, improvement of information and communications, legal, scientific, technological, ... infrastructures.

5- Other measures
   - Enactment of the Law Negating the Obligation to Deposit Real Property Guarantees for the purpose of improvement of investment and promotion of employment in the manufacturing and export projects- 2001
Section three: Measures and improvements in the World Bank indexes

According to the World Bank report covering measures from January 2009 to May 2010, Iran has managed to improve certain elements of business environment. Such measures that resulted in the two step rise in Iran's ranking include, inter alia, the following:

- At the business entry stage (registration of company); the applicants for registration of companies may conduct a search on the website of the Corporations Registration Bureau and select their favored name. This option has expedited the process for selection of the company's name.

- At the credit field; one of the important measures related to the establishment and launch of Iran's credit ranking advisory company which is run non-governmentally. One of the features of this company that drew World Bank's attention and improved Iran's ranking, was that all credit information of the customers- including both positive and negative information- is registered in the company's database. Registration of negative information reduces the credit ranking of the customers and, thereby, warns the banks on granting loans to bad customers.

- On enforcement of contracts; the Judiciary has launched a website allowing the visitors to register their requests electronically. They can, thus, follow up their request and be updated with the latest status of the decisions made thereon. This system has simplified and facilitated the follow up of the settlement of disputes, through judicial system, concerning the enforcement of contracts.\(^{12}\)

CONCLUSION

In the past decade; Many countries for achieving economic freedom and developing economic activities turned to improving the business climate in addition to privatization because they realized that privatization development and improve business environment can be opportunistic for wealth-makers and entrepreneurs individually or together. However, it is clear that considering to these two categories at the same time would be more efficient. Due to the growth of the private sector in improved business environment, the potential benefits of the opportunities made
possible and the natural result is effective improvement in terms of micro and macroeconomics.

In the Iranian legal system, measures to improve the business climate is predicted that this strategy is reflected in the government's political and economic development programs from third to fifth.

REFERENCES