Basics juridical of municipality's enrichment in Iranian legal system

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A B S T R A C T

Municipalities as one of the most important institutions of the right in land acquisition it is recognized in Iranian legal system. Possession this institution terms of the basis, is subject has been discussed less. Indeed question it is that what fundamentals of Municipal enrichment terms legal? When it will attempt to land acquisition a buildings citizens will be basics jurisprudence. From the perspective of legal root authority municipal can be derived from authority the Islamic State the party leader been delegated and his power is delegated to the subordinate bodies. Hence, it can be said that as conflict between public interest and private benefit, the first priority is to the latter and public services so that we can expect from citizens of the state. In this paper, author manner descriptive - analytical study says relationship the following together.

Introduction

Urban Life in light of the modern state new requirements has brought with it for citizens. The field government and diplomacy also as if many other aspects have been transformation and evolution at contemporary societies. Power in the World Today is lost meaning of its past. Word replaced it namely authority, is means application legitimate power by the government. So is different power with authority assumption existence state Law in the place certain territories, there is political authority and specific populations. The authority nowadays is scattered in the various sectors and various branches forces of a country including legislative, the executive and the judiciary.

On the operational side, various institutions in Iran should state in light of an Islamic and the people do authority until meanwhile ensuring the rights of the people, not challenged leadership. One of these sectors, which directly the daily lives of people are in contact every day, is municipalities’ entity. Municipalities as a non-public institution is have a variety of options for the city. One of the most important authorities is the right to land ownership. Under various laws today this institution in Iran office of the City and public service in keeping with the public interest, is justified at land acquisition.

However, in this rules statute, it is important because of and indeed fundamentals of Municipal enrichment. On the one hand, citizenry the Islamic Society have the your rights to enjoyment of the right to land ownership that this right is in the light privacy their but on the other observe the general interests of society. The Islamic State about efficiency of property rights, appearance is in conflict with personal interests of the people.

Ownership:

Ownership one of the most important legal institutions that long there is in the history of humankind and perhaps norms related to is the oldest legal norms. Of the development of legal systems, there is a direct relationship with evolution of legal norms relating thereto in the legal community, and diverse cultures. During a long time, interest appropriating, the various has caused deep and wide variations life individual and human.

Ownership in the word is dummy source means owner of and ownership (Moeen, 1378, 1012). Although the ownership of words have different meanings but the legal definition of property rights that is, encompass the conquest of what considered the literal it seems appropriate for the property. From the perspective of jurisprudence, the property has been interpreted variously such as object so that it will benefit both of them asking both, the owner of the owned, owner reign of the owned is or the special bond is the origin of the monarchy. Assign the object to the object, credit owner surrounded by the owned or credit owner of the owned dynasty. Object is assigned to a specific object because use and occupancy or caused optional toys like contracts or non-discretionary, such as inheritance (Gorji, 1375, 303).

Regardless of the differences in terms of jurists and lawyers be seen the definition property, must be acknowledged that the difference, no substantive difference and one thing is all content and form definitions and
Owner'ship in Islamic Legal System:

Based on rule overcome, authority full owner confirmed at exploitation and seizure at their property. Ownership at law and our rights means legal relationship between people and property. By virtue of this relationship, owner absolute and complete domination and control over their own and this property is prevented occupied by others. Jurist about nature of ownership have detailed discussions, past issues credit or abstract property concept analysis, something that is very important in terms of jurisprudence, is legal basis of ownership.

Is the ownership of situation warrants or assignment? Is the state of sutra and fraud by Legislator or must be extracted and abstracted the second sutra it? Is the objective and absolute property right or moral right to commit? For the answer to all these questions, of course, there is not possible in this short space. The author after a brief about the property states most important cases in this regard. Is the ownership a religious order to them and share pour forging or must be extracted and abstracted of second sutra it? Is the ownership absolute objective truth or tying the religious right? The answer to all these questions it may or may not in this short space. Hence, author after a brief description about the Ownership states most important case in this regard. Ownership as one of the most important legal institutions long has had a significant impact on transformation systems and legal cultures. The Shiite many of legal rules are sponsor this institution (Vizheh, 1388, 205).

Based on Islamic teachings, owner and real is existence of God: Whatever in heavens and whatever is in earth all property is god and returns all creatures is toward him. Hence all acquisitions about other than God, is credit and its authenticity depends to divine approval. On the other hand, god also the ultimate goal of creation of the heavens and earth is known humans, sublimation, and his growth: He is the all in earth created for you. Hence capture in nature and operation is to continuity human life, right god. So people are bound to enjoyment of this right to sublimation and collection to higher degrees human and also have limitations in exploitation of it. From view, Islamic teachings natural form of ownership, not limited to private property, but as parallel also has been identified private property and public domain. Martyr Sadr writes about it. However, in Islamic society, basic features none of capitalist societies and socialist does not apply as religion Islam Civil with Capitalism no consensus in this context that private property is source of all property. In addition, socialism not agree in the every thing will be established, condomininium and public. However, Islam in different ways at the same time the property is recognized and required and thus dual ownership situation has instead to recognize any one of them. (Mirmousavi and Haghighat, 1389, 303).

Municipalities’ status in the Iranian legal system:

Municipalities are the decentralized administrative units of local that is a legal entity to manage their local affairs. Lack of independent financial and administrative powers, municipalities a system of governance that is formed the two units called city council and municipalities administration the first faculty supervisor and decision maker the latter its enforcement. (Tabatabai, Motameni, 1379, 117). Municipalities are executive arm or executive council and established to department of local Affairs urban areas. A municipal institution can be defined thus:

A Legal Organization namely established that the charter has recorded separate legal entity, established by law, and notice. The establishment or legal organization with a population of a given territory, is name and official stamp and last forever, and has been in order to regulate the domestic affairs of a region, by officers elected on behalf of the residents of that area (Novin, 1386, 73). Legally municipality may adopt the same law that has been established and will be liquidated; but in practice can be seen that there has been little action to dissolve or modify a municipal institution.

Basics juridical municipalities’ enrichment (change in the basis of power after constitution adopted 1358):

Jurisprudence returned to discuss regime change in the foundation and infrastructure. Rights regime change in Iran and the creation and subsequent changes in the on situation is changed and binding on the legitimacy of institutions. Before the law was binding pale jurisprudence based Emami had no power and legitimacy justified. However, the basis of changes in the form and content of the constitution of the underlying foundation had changed. Changes in governmental institutions are related to many issues including municipal enrichment. Islamic Revolution in Iran was formed on 22 February 1357 on the Islamic values and principles, popular
uprisings leadership Marja Shia Muslims and the establishment of the Islamic Republic based on these three elements to create numerous discussions and ideas in the field of view, especially the division of the world's governments and political systems.

The Administration project:
Political thought Shi in topic political leadership has raised different titles in different Islamic sciences. In three-science mysticism, theology and jurisprudence community leaders are discussed as "provincial" and other sciences other titles have mentioned for it. At science of Spirituality, the administration has divided the three types divine, human and property. The purpose of administration mystic the absolute is same specific human administration. The administration divorced is highest rank administration of human and from administration of God's absolute minutiae. The word Shia administration frequently is used to means leadership. Based on this administration is a matter of faith and theology and not scientific and legal issues, however, in this paper, the author it attempts to explain science. Plan administration leader the legal texts in cases where implementation one Islamic ruling is subject to presence governing righteous and the scope of his authority.

To view Shia jurists in the era of the Imams (AS) are the only true Adel Imam (AS) occultation of the infallible Imams (as) many jurists, fair jurist have introduced just an example, legal issues that can then be searched for this topic is friday Prayers suits, charity collection and Fifth, jihad enjoining good and forbidding the evil, ironically, the run around and sanctions, perform the execution, wills, Inheritance, Tax and land acquisition and (Borji, 1380, 3). Administration in all cases where the applied jurisprudence as the situation warrants, is considered credit Law and the supervisor is divided into twofold specific and general.

Typology of the Islamic Republic System:
Based on the theory the age long absence the Prophet Mohammad Azam should head of government must be a fair jurist, qualified to have the necessary qualifications and practical science for leadership, and is designated the experts elected by the people. Such leadership responsibilities of all guardianship and community leader is responsible for and ensure no diversion of government bodies is of authentic tasks their Islamic.

In the present study, the author to endeavor to response appropriate for this question finds that principles of municipal ownership what is the relationship with public power and the theory of velayat-e faqih. Author topics suggest with default the power in the municipality rooted the theory of public power that leadership crystallization and finds other centers and device provider public service. First, must find a suitable answer to this question is that what rational justification is there for people to obey the "supreme leader" and his power over the people? Namely, where is the primary source of political legitimacy "supreme leader." in reply to the question so far, two well-known theories have been the Islamic scholars and especially Shia scholars and jurists?

The first theory related to those jurists god, as the source of legitimacy believes fair jurist and qualified has been appointed through the general setup of the Imams (AS). That is the appointment public has the right to apply provincial legislator of the sacred. Based on in this theory, the role of the as part of the proposed is on provincial imams. Namely accepting people and obey the faqih pulse is applied to it, only to achieve the objective of his province. Otherwise, it leader proceedings the authority and legitimacy of their province has acquired the district of divine appointment (Borji, 1380, 145). According to the second theory, origin supreme legitimacy, are people namely votes. This species is not only be involved the concrete realization of foreign clerical, But votes. Essentially is condition of supreme authority. In other words, faqih just and comprehensive all requirements for leadership must meet another requirement is province to their jurisdiction has been established, the legitimacy of governments will, and the condition is the choice by the people.

Between legitimacy theory with double legitimization, it proponents argue that legitimacy theory god made man of his social destiny, political rights and the rule of the province. It has been appointed by god to people the supreme authority of the province and its legitimacy from the people is simply, but the theory of dual legitimacy, fair jurist and qualified in addition to being its legitimacy people are mediated, directly the province of God, be delegated to them by God. The idea of divine legitimacy supreme authority for the actions of his Administration, you do not have to be elected a claim that theory of legitimacy, supreme People's Choice authority for the actions of his administration apart from the choice of the people, no need to justify another. However, the dual legitimacy, leader must qualify in addition to being elected the legislator must be also be appointed and a mere faqih has right for actions administration (Borji, 1380, 184).

Relationship subject to municipalities’ enrichment:
After faqih theory and its justification, the issue related to if you like the series, public institutions, NGOs, for a discussion of the legitimacy of and binding strength is this institution. The Iranian legal system in the list of approved non-public institutions in 1377 there is no mention of authority of the leader and his abdication on these entities. The question that arises if it is in the public law jurisdiction institutions should be appointed under the Act, the person or entity to occur in the rule of law, in the Silence and non-state law how to root enrichment
municipal authority. Search the supreme power. Analysis needs to law are listed answers to the question. 

After the victory of the Islamic Revolution, various institutions emerged the roots of the revolutionary
events and or in some events of the system, and place besides traditional formal institutions. Some of these
institutions like the Iranian revolutionary guards committee and Jihad they were attracted to the administration
of the country and others, while maintaining the autonomy, with their own reasons, were monitored leader
(Hashemi, 1378, 367). These institutions have taken place in the list of non-governmental organizations and
public institutions, the Law of 1373. In the meantime, institutions are merely mentioned that are directly or
indirectly yet with the economy. In this regard, two points are noteworthy:

- The institutions of economic under the leadership encompass many industrial units, agriculture and services.
  They are as it exists in the private sector and the rows of items that sole the Fourth Principle the government has
  the constant public interest, are not affected, the there are no prohibitive for the sale and transfer them private
  sector and will not be harmed desired interest.
- Note two to the single article of Law list of non-governmental organizations and public institutions: "Law
  enforcement agencies and public institutions that are under the Guardianship of the Jurist would be by
  permission of His holiness.

  Names of economic institutions under the leadership in list of non-governmental organizations and public
  institutions of this Act are as follows:
  - Veterans Foundation of Islamic Revolution
  - Imam Khomeini Relief Committee
  - Foundation for Islamic Revolution martyr
  - Housing Foundation of Islamic Revolution
  - Khordad Foundation

The institutions most established to benevolent intentions. Like help and assistance to the poor, needy and
disabled veterans and martyrs’ families who are entitled to support, Due to war-related disabilities or loss of a
parent, but because these institutions are typically services entrusted to carry out capital and important economic
units, fall into the category of public sector economics. As can be seen the administration of about municipality
there is no by the legislature. Indeed from administration of legislator cannot be applicable restrictions set forth
in note 2 to the single article the municipality. Now a question that arises the owning entity it is legal terms, no
prescription law in this case, so he went to existing infrastructure jurisprudence and he looked according to
enrichment. If the legislator was legally prescribed could examine juridical according to the prescribed by the
legislature.

The enrichment-based analysis will examine in light of the supreme authority. On the one hand, as regards
the West in democracies the successor is theocratic governments saw and the Western scholars it seemed
impossible between the two, i.e., theocracy and democracy. On the other hand, considering the non-negligible
role and the religion of the people in the Pahlavi regime and the establishment and perpetuation of the regime,
with some contradictions and contrasts were pundits. Finally, this phenomenon was predicted as unstable
eventually will prevail one over another removing people from the scene in a way that will make create an
authoritarian system based on religion. Islamic republic consisting of two categories, discussion of current
issues related to Islam is a system that nature of is linked to talk enrichment municipality. Indeed the question is
what is the effect of the nature of islam in governance and finally end of discussion namely the municipality and
acquisition. In summary, we can say the secular state or an Islamic state that have gone into Secularism general
powers of government, which has its roots in the ratings and public opinion is considered decisions based public
among municipalities (Gorji, 1390, 143 to the next).

However, the question is that is located in the Western public authority that has been established because of
state the vote of the people? This topic suggests a fundamental question and that if the rule is opposition vote
and a majority of people the law can not be established in the early stages. If the for example, opinion majority
of people about municipalities this is not owned right, public power entities faced with challenge and it cannot
be considered right of ownership. Seems despite the comments that have been provided in this regard, cannot in
general root and basis of decision-making exercise of public power entities like municipal search the vote of the
people only. In this case, in many cases, vote of the people likely breach of their private interests in conflict
with the municipality will precede the private benefit the first considers observance the public interest.

Imam Khomeini believed that according to hadith scholar "Aliqha Hsvn Islam", it is to protect the regime
and Islamic jurists (Kulayni, 1381, 38), His administration is counterfeiting the rating letter argued
administration of the Holy Imams, like administration of the Prophet. The Imams (AS) is absolute and universal
accordingly leader of the Administration government, authority based on to preserve the Islamic community,
rules state that the is not as primary and secondary rules as though supreme has ruled that individuals, and
compulsorily required in certain age sent the war. These provisions do not fit within the primary and secondary
rules and credit conditions are office administration, while beyond side the commandments of God have the
ability to forge and are preceded them (Mohammadi Gilani, BEA-65).
The absolute guardianship that god has given Holy Prophet (SAW) from god decrees that in the view of Imam Precedence over all sub-commands of God. Imam Khomeini says government is a branch of supreme Prophet Muhammad (PBUH) one of the basic precepts of Islam and takes precedence over all provisions of sub-
even, prayer, fasting and pilgrimage (Khomeini, 1386, 170 and 171). In view of Imam all powers of the Prophet and Imams state Government and politics also leader has them. He does not differentiate between these three reasonable (Khomeini, 1368, 471). It is also believe that clerical and administrative provisions of the first sentence are where provisions governing prior ruling is on the other sentences (Khomeini, 1386, 174). Answers that Imam Khomeini some principles were implemented to solve social problems implies that he knows where the province demands interest system. In terms of the general settings and the need to preserve or dispose of materials that are corrupters the secondary should be implemented in accordance with the provisions of temporary. In fact, enforcement of policies related to Islam and the ways that holy legislator is not satisfied leave them. What is the Imam used all counsel is to protect the regime and maintenance of the system is conceivable in two areas.

First, to maintain the system, safeguarding the Islamic rule and the second is to prevent the damage to enemies (Saberian, 1385, 73). Imam Khomeini in its progressive ideas absolute Guardianship of the Jurist has discussed in governance that in association with general power of thought municipality and acquisition of basic terms. According to Imam Khomeini's version of this theory, absolute provincial jurists it is the province God has entrusted to the prophet and Imams and the most important commandments of God and takes precedence over all of God's commandments. Government authority is not confined in the context of God's commandments (Safian Esfahani, 1391, 54). Government one of the basic rules of precedence over all secondary commandments, even prayer, fasting and pilgrimage, the state's legal contract that is closed to the public, when it contracts, it is against the interests of the country and Islam is canceled unilaterally. Can rule out anything else, whether liturgical or non-liturgical, which opposes the flow of materials to avoid as long as such (Safian, Esfahani, 1391, 54).

The government cannot stop the pilgrimage to the worship of God when he advised against Islamic countries. Since, the pilgrimage is required the currency of the country of departure. On the other hand, can undermine unfriendly political relations between the two countries to be government, in principle, be able to consider the interests of fiscal and monetary policies based on certain rules and regulations with regard to diplomatic action to the temporary closure of pilgrimage ritual. (Hashemi, 1386, 66). For example, if the property be legitimate to assume someone's property but property so that the judge, jurist, but found that if it is not so, for Muslims can seize and confiscate property. In addition, the holy lawgiver is respected, but it would be contrary to the interests of Muslims and Islam see that this property is limited; this property may undermine the legitimate to a certain extent, and the confiscation of his supreme command (Khomeini, 1386, 61).

The idea is to keep the regime on the other individual and public interests. So far cases, the public interest and in practice has gradually been reduced to expediency. The most that can be said is partially based security and order of the circuit. This is of course rooted in the values and important from the point of political power and government that emerged from it. First, because of the not other components of the theory Islamic jurists as regards the interests of behaviors, it is obvious that the judge's ruling are filled with interest or public interest theory. Namely, government in this area who is authorized to citing theory “Patent policy” or “Soltanieh sentences” (22) the legislative acts based on respect the public interest or the interest of the islamic state. (Safian, Esfahani, 1391, 55). It seems that the basis of the legal system of Islam and the Islamic Republic's infrastructure for public power and the authority of the state and its associated devices is predicted in discussing the acquisition reasonable grounds that there is more than acceptable the rights for the West it merely seeks to provide a public the vote of the people. In Islamic law based on the possession of a public authority in the form of so-called scholars and practitioners seek theocratic government. The basis of all Islamic jurists is not constant over time and should be a fundamental change in the theory.

Conclusions:

Over the governments in modern societies are forced to use their public power. Use this power must now be accompanied by justification, in other words, “self-improvement”. The power inherent in their nature and can take a variety of effects. For example, in the domestic arena to the strength of the material and the physical act of writing, the main drawback is the use of public power. The modern administrative law can not be measured and analyzed in terms of a theory based on the government's actions. Public power system would be justified to serve the citizens of view of the public interest. In this paper, the general power of the state was studied in only one case and that too only in the enrichment of the municipal entity.

As it was explained, municipal authority in the matter of land acquisition and other civilian institutions are summarized in terms of a basis in law, the legislation and the nature of the theory of velayat-e faqih and governance that is rooted in the paranormal. Unlike a general power to seek the roots of European law in constitutional rights and that the democratically enacted laws, the rights of the Iranian origins of the power of the people are strong foundations jurisprudences. According to the founder of the Islamic Republic of Iran
branch of the government of god and the prophet is which the people have approved. Person named at the top of the leader with clear authority under the terms of the hierarchy, are entities that subset. People have accepted the democratic way of government in a general election, the conflict between public interest and private interest, the first priority to the latter.

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