

Classical Principles of Public Economic Law in the Sixth Economic, Social, and Cultural Development Plan of Iran: Good but not Enough

المبادئ الكلاسيكية للقانون الاقتصادي العام في الخطة السادسة للتنمية الاقتصادية والاجتماعية

والثقافية لإيران: جيدة ولكن ليست كافية

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Abstract:

Nowadays, adhering to the classical principles of public economic law including the supporting of property, proportionality, equality, and economic competition is accepted as a fundamental strategy for achieving development. Such principles are defined in light of strategic laws such as the five-year economic and social development plan. The development plans law of Iran encounters the developments in light of the first to the third waves on the one hand and the question of how the sixth development plan law coexists with the classical principles of public economic law on the other hand. This study sought to answer this question with a hypothesis that the sixth economic, social and cultural development plan law of Iran can coexist with the above-mentioned questions. This study analyzed the waves of development, and then presented the development paradigms in light of schools. After that, it introduced the classical principles of public economic law, and finally, the relationship and shortcomings of the plan law to such principles were explained.

Keywords:

Classical principles of public economic law, development plan law, development law waves

المخلص:

يتم في الوقت الحاضر قبول الالتزام بالمبادئ الكلاسيكية للقانون الاقتصادي العام بما في ذلك دعم الملكية والتناسب والمساواة والمنافسة الاقتصادية كاستراتيجية أساسية لتحقيق التنمية. ويتم تحديد هذه المبادئ في ضوء القوانين الإستراتيجية مثل الخطة الخماسية للتنمية الاقتصادية والاجتماعية. ويواجه قانون خطط التنمية الإيراني التطورات في ضوء الموجات الأولى إلى الثالثة من جهة، ومسألة كيفية تعايش قانون خطة التنمية السادسة مع المبادئ الكلاسيكية لقانون الاقتصاد العام من جهة أخرى، وتسعى هذه الدراسة للإجابة على هذا السؤال بفرضية أن قانون خطة التنمية الاقتصادية والاجتماعية والثقافية السادس لإيران يمكن أن يتعايش مع الأسئلة المذكورة أعلاه. حيث تم تحليل موجات التطور، ثم التعرض لنماذج التنمية في ضوء المدارس، ثم تم ادخال المبادئ الكلاسيكية لقانون الاقتصاد العام، وأخيراً، تم شرح علاقة ونواقص قانون الخطة بهذه المبادئ.

الكلمات المفتاحية: القانون الاقتصادي العام، خطة التنمية، موجات قانون التنمية.

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1. Introduction:

Law has played a role in the development and realization of development plans over different eras¹. Historically, such a relationship and evolution can be stated simultaneously with the developments of development law plans in three periods or waves. During the early period (first wave), law in the field of development in form of public economic rights was considered as a kind of tool for eliminating the traditional barriers and changing the economic behavior. Public economic law was turned into a mechanism for responding to the needs of governments for creating a formal structure of controlling large economic services. Changing the economic behavior was considered for adapting to national plans in line with political goals. The governance of "growth" in this period was completely assumed and "development" was provided to the developing government². In the first wave, the intellectual developments of neo-liberal (development and law) being focused on development through market performance and property and emphasizing the improvement of financial balance, promotion of free trade, reduction of government intervention, and reinforcement of private interactions, as well as the correction of structures were faced.

However, this wave of market intellectualism which had affected the public economic law (supporting the individual property) introduced public economic law than achieving development through market intellectualism as inefficient in terms of the shortcomings followed by the above-mentioned policies among the global followers and severe economic crises (Asian financial crisis, some Latin American countries).

Accordingly, the interventions of public economic law in guaranteeing, reinforcing, and supporting classical economic principles such as property and equality focusing on economic growth and limiting "development" and paying attention exclusively to economic growth and poverty reduction, were highly criticized³. These shortcomings led to other developments in form of the third wave. This third wave introduces a kind of demand for the new understanding of development plans such as development like economic growth and also moves public economic policies including classical and interventionist towards institutionalism to guide developmental policies in the development plan laws.

Accordingly, public economic law at this level was regarded in line with development for maintaining the state, market, and firm to flourish the classical principles of economic law such as the principles of property, proportionality, equality, competition for the realization of development in human (or development as liberalization, equality) in developed or developing countries⁴.

By considering the above-mentioned developments, it should be noted that despite the acceptance of economic law in principles 43,44,48,49,51 of the Constitution of Iran and the sixth economic, cultural and social development plan law of Iran, the coordination of development plan laws with classical principles announced by public economic law is the subject of debate.

Thus, the sixth economic, social, and cultural development plan law of Iran pays attention to endogenous economic development (principle 69 of the above-mentioned law) in forms of provincial, regional, and local economic growth in principle 31 of the above-mentioned law), symmetry of national production and correction of laws and regulations as well as the promotion of economic security, property laws and investment support, quality improvement and production growth (principle 12, paragraph B of principle 12 and Note of paragraph B), the growth of state-owned firms, growth of the national development fund (principle 16) and economic policy-making 13 and 14, as well as prescription of state-economic firms (principle 20).

Principles 57 and 68 of the above-mentioned law strengthens the government intervention for increasing the economic resilience, protection, support, assistance, and social security. However, creating incentives among people ⁵ and the coexistence, strengthening, and coordination of these classical principles of public economic law by the development plan law with the developments of the third wave of development law are still questioned. This study discusses the classical principles of public economic law (including the supporting of property, strengthening economic liberalization, and ensuring proportionality and equality in the development plan) by relying on theoretical foundations related to the development and policies of public economic law.

Using the descriptive-analytical method and methodology related to the basics, this study describes the future goals and future questions⁶ to discuss the unknowns of the sixth economic, cultural and social development plan law of Iran and its legal gaps. How can development plans in Iran be in line with the classical principles of public economic law and the three global waves of development law? This study is based on the primary hypothesis and the sub-hypothesis. The primary hypothesis: The principles of public economic law can direct development plans in Iran to be in line with the three developments of development waves in the world. In addition, the sub-hypothesis: Directing the development strategy based on the principles of public economic law towards institutionalism (government, market, firm) is possible. This study first analyzes the development waves and then raise the development paradigms in light of

schools. After that, it introduces the classical principles of public economic law. Finally, the relationship and shortcomings of the plan law are explained than the above- mentioned principles.

2. Paradigms of development schools

In the field of development, it is generally common to discuss theoretical foundations and economic theories and search the role of these theories in the structure of development policy policies. This study believes that many development theories have changed their place into a paradigm these days, the above-mentioned paradigm can be observed in form of the paradigm of development schools, the latest intellectual developments of which can be linked to the classical principles of economic law, especially in the institutional structure. In other words, the paradigm of development schools will show the place and classical principles of public economic law in development plans appropriately.

It should be noted that the worldview of development plan, including the classical principles of economy⁷, has had five paradigms so far, so that each paradigm has been considered in the development economy at its right time. However, not all of them have been considered in developing countries including Iran. This section discusses the relationship between schools (linear growth, structural change, human development, structuralism, Washington consensus, and post- Washington consensus) than the role of development plans in adhering to classical economic principles.

2.1. Linear growth school

In the linear growth school being first proposed in Rostow ⁸'s model, development was supposed to have the stages that developing countries must go through⁹. According to Rostow's model, the transition from underdevelopment status to development of countries can be described by the stages that all economies must go through. Based on this model, developed countries have passed the development take-off stage while underdeveloped countries which are in the pre-condition stage, must all enforce some rules to reach the development take-off stage.

The main rule for achieving the development take-off stage is triggering domestic and foreign savings for creating the required investment for development. This transition towards development was explained through investment by the Harrod- Domar model¹⁰. Thus, the necessary condition in linear growth school for development is the accumulation of capital. The purpose is to develop individuals' abilities in such a way that to make human life full of

creativity and satisfaction¹¹. Undoubtedly, the material resources such as increasing per capita production can lead to the increase of individuals' abilities while the increase of production should be considered appropriate too.

2.2. Structural change school

The structural change theory puts an emphasis on the fact that the underdeveloped economies must change their economic structure from a highly agricultural-oriented status to a more modern one. The features of the more modern status include urbanization, industrialization, and serviceability of economy. The analytical tools of this school include the neo-classical economic theories and applied econometrics methods. In this perspective, it is not a sufficient condition for the development of physical capital, while it refers to two groups of internal and external constraints for development. Internal constraints include the current economic resources such as physical capital, population, and government policies while external constraints involve the access to foreign capitals, international trade, and technology¹². The focus of theories in this school is on considering public economic law in light of competition and free trade.

2.3. Human development school

In this school, the driving force of development in countries is their human capital affecting the productivity of both factors related to labor production and physical capital¹³. In this perspective, the development of countries is attributed to the elements such as labor experience, education related to production, hygiene, and health. In other words, health, hygiene, and education are not regarded as the output of development while they are the inputs and the factors of development¹⁴.

2.4. Dependency theory (Center-periphery)

According to the theorists of dependency school, the surplus outflow from underdeveloped countries to rich and developed countries is a major barrier to the development of poor countries. The advocates of this school use the political-economic relationship of poor countries with underdeveloped firms to intensify the dependency because of the dominance of developed countries in underdeveloped countries and the monitoring mechanism of international capitalism system.

The advocates of dependency theory refer to multi-national firms as new-emerging imperialism units. In addition, the advocates of this school believe that multi-national firms play an instrumental role in transferring economic surplus from periphery to center. Thus, such firms are harmful for developing the surrounding countries and based on them, foreign investors, whether private or

public, are the tools of influence in developed countries¹⁵. Based on this attitude, development plans must move towards the strengthening of competition and free trade.

2.5. Structuralism school

In response to the experience and developments created by the first wave process in underdeveloped countries, a set of theories based on Marxist ideas was presented. Based on the type of events in Marxism and neo-Marxism ideas, this theoretical model and epistemological set are introduced as structuralism, the main basis of which focuses on social structure and the type of relationship between social classes in line with the analysis of structural events at the international and national planning levels.

In the plans of structuralism, a kind of economic and social justice is always asked for the share of low-income sections of society from national income is normally considered with components such as income distribution among the people, job creation opportunities, and consideration of goals clearly. According to structuralism scholars, development is not like economic growth and income distribution and class gap reduction are considered¹⁶. Such a view focuses on the strengthening of equality and the distribution system is used for maximizing the utility of public economic law.

2.6. Washington Consensus

Corresponding to the increase of Thatcherism in Britain and Reaganism in the US, this school emerged in the area of development. The story of the Washington Consensus dates back to 1989 when the American Institute of International Economics decided to hold a conference where economists from 10 Latin American countries presented their papers on the economic events happening in their countries. Williamson presented a principle at this conference, for outlining the reform policies that everyone in Washington considered necessary for Latin America, thus it was known as Washington consensus¹⁷. A number of 10 reform policies known as the Washington Consensus involve budgetary discipline, revised public spending priorities, tax reforms, interest rate liberalization, competitive exchange rate, free trade, liberalization of foreign direct investment in the country, privatization, deregulation, and property law¹⁸.

2.7. Institutionalism

Institutions are the constraints imposed by individuals on political, economic, and social interactions in order to create discipline and minimize uncertainty. Institutions form the structure of incentives in the economy which can lead to economic growth or welfare reduction¹⁹. This school, sometimes

called “the School of Social Infrastructure”, aims to minimize economic rent-seeking and boost production and investment while such a thing will not happen unless social infrastructure is reformed. The institutional reforms proposed in this school for development involve the financial approach of the government in the area of taxation, which aims at boosting production, improving the business environment, reforming the rent-seeking²⁰ state and efficient law²¹, as well as reforming political institutions.

However, the fifth paradigm, which was not addressed in Iran fundamentally, addresses the foundations of western development²² and since we do not discuss it in Iran, we will not address its implications²³. Therefore, the institutional principle of property, which is one of the classic principles of public economic law, has turned into a school. Today, the development of a development plan law is a function of this principle in any country. The institutional approach can reinforce the foundations of distribution and reforms in the resource sector in addition to creating a coexistence between firms, markets, and government and the role of regulation with institutions according to the classical principles of public economic law.

3. Types of public economic law principles

The principles of public economic law are divided into two categories of classical and guiding. However, since the present study aimed to consider classical principles, such principles are mentioned.

3.1. Free trade

Free trade is one of the most significant assumptions of modern economics in the extensive economic cycle and market exchanges. However, exchange or economic liberalization has been valued in most constitutions. Today, free trade is recognized as a right which is natural and fundamental in public economic law. The classical principles of economic law to free trade are freedom in all areas related to development such as freedom of choice, freedom of trade, freedom of pricing products and services, free firm management and competition, etc. In case of these principles in public economic law, the limiting principles of this principle with trans-regulatory governments, deregulation, and self-regulation try to modify this kind of constraint as described in parallel with the limitations of the system.

In other words, economic principles face some limitations such as public interest and public interest. The challenge of this principle is with the public forces in the economic system where the economic regime is based on the collectivism ideas. Jurists direct public economic law to some extent for

considering developments in economic systems or economic law. Today, free trade has changed as one of the classical principles of economic life, but its position in the Iranian development plan law is still discussed (as described in the sixth plan law) as mentioned in the next section.

3.2. Equality

Equality is one of the oldest classical principles of public economic law, but it has a very significant position among the principles of subject law at the same time. Today, the realization of "equality" in all areas is the first priority of law. Therefore, this principle is the fundamental norm in the new constitutions²⁴. The constitution of the Islamic Republic of Iran is at the forefront of the laws hierarchy and as a result is the basic source of equality. The introduction of the law declares the denial of monopoly, tyranny, and exploitation. Monopolies normally lead to the equality of all citizens for using social facilities. The law of equality can be applied to all of the members of the society in classical principles of public economic law.

Paragraph 9 of principle 3 of the Constitution of the Islamic Republic of Iran states: The government of the Islamic Republic of Iran is required to achieve all of its goals using all of its material and spiritual facilities for achieving the goals mentioned in the second principle. This law puts an emphasis on equality in some respects. An obvious example of this paragraph can be equality in achieving public professions. On the other hand, paragraph 14 of the same principle provides the comprehensive rights of men and women and public equality in the law. Therefore, the other two aspects of equality, i.e. equality to the law and equality to justice are determined in the Constitution of the Islamic Republic of Iran. It should be noted that this paragraph emphasizes the equality between men and women specifically. However, the fundamental principle of equality in the constitution of the Islamic Republic of Iran is the twentieth principle:

"All members of the society, including men and women, are equally protected by the law and enjoy all human, political, economic, social and cultural rights in line with Islamic norms."

In this principle, the Constitution puts an emphasis on the equality of all citizens to the law and develops this protection to all of the envisaged rights for them²⁵. While accepting the principle of equality, the principles of the Iranian constitution are bound to observe the Islamic rules as mentioned above²⁶.

Thus, it will be committed wherever Islamic regulations make special legal distinctions, including differences between men and women or Muslim and non-Muslim in the Islamic Republic of Iran. In general, equality is one of the

significant principles of the Constitution of the Islamic Republic of Iran and the final protection of citizens' rights and can be also used in the field of their economic rights²⁷. However, the basic question in the classical principles of public economic law is to define equality in economic law and accept this definition in the legal policies of the Islamic Republic of Iran regardless of explaining the basic position of this principle in the principles of the constitution as described above.

The equality of the philosophy related to the classical principles of public economic law is whether this right, which is supposed to create equal opportunity, is equal to the concept of equality with the principle of economic efficiency, including the optimal efficiency of Pareto, Kaldor-Hicks efficiency, and the expected equality of Richard Posner's theory aimed at maximizing desirability. Citizens' equality in the classical principles of economic law is regarded in distributive justice, while violating equality, where efficiency and effectiveness are more and lead to the increase of public wealth, forms the main subject of public economic law.

In terms of analyzing the classical principles, the authors explained its recognition as the principles of fundamental rights, but also tried to conceptualize it in public economic law for achieving a balance to maximize the utility of the parties. For instance, equality has a very close relationship with the classical principle of property stating that equality at the stage of concluding, enforcing, and negotiating is a necessary requirement and by assuming inequality in bargaining, the desired goals of the principle of property cannot be realized. Information and transparency as the principles derived from free trade can be an example in economic law for increasing transaction costs and threatening expected performance. The authors believe that the classical principles of equality must facilitate the achievement of the right exchange. Examining whether equality in applying the plan and policies law of equality to the use of the doctrine of irrationality is essential, or whether the condition of graph and contrary to the basic conscience can prevent the violation of equality in public economic law or not.

3.3. Proportionality

This principle is of great importance in terms of affecting the rights of citizens and causing limitations in the process of making decisions and approvals of public forces. There must be a difference between the obtained results, the used tools, and the made decision. Accordingly, taking any kind of decision or action which is excluded from the intended purpose or any strict and unnecessary

action is forbidden. Many principles exist in the Iranian constitution related to the classical principles of public economic law, which often cause a balance between right-centered issues on the one hand and limiting values on the other hand. Like the ninth, twentieth, and twenty-fourth principles, the important thing here is whether the actions and opinions of the Guardian Council on whether it uses proportionality and its elements as an expression of opinion explicitly or implicitly, especially in the area of public economic law where the government and the legislature are concerned. They use various economic strategies and tools for achieving the desirable goals. It is emphasized that such tools are typically related to inequality and discrimination or have some restrictions on economic rights and liberalization. Undoubtedly, the Guardian Council has always regarded the proportionality of tools and strategies for maintaining the guarantee of governance and religious values.

As a result, if a regulation contains a minimization in the power of the government, especially in the area of institutions related to the supreme leader, it invalidates the regulation because of non-proportionality, such as the budget of the Radio and Television, etc., or the fifth economic and social development plan law that the consensus predicted some arrangements for the General Assembly of Central Bank to focus more on independence from the government (the executive)²⁸.

3.4. Property

Today, property in the institutional economy and the institutional approach to development is identified as the most essential institution, which can increase public wealth from several perspectives in the economic sphere, so that it is regarded as a precondition for development among the writers of economic law. Property with its multiple models can facilitate exchange, as what we expect from public economic law to facilitate the property process as an institutional principle. Defining the property law, Desoto stated " property means all personal and real rights which give the holder an exclusive right to them. In other words, it is the power to enjoy such rights freely, to get rid of them freely, depriving them, or by restricting others"²⁹.

The limitations related to the private and public property in Iran, similar to many other countries, are a function of government-economy interaction. However, the definition of property means having and being accountable in the area of classical principles in order to determine both the amount of intervention and the most significant cost preventing the achievement of the goals related to the development plan law. The most significant historical document in Iran

specifies this principled interaction, the constitution, and its introduction for determining the basic and long-term goals in terms of economic goals.

Property has been dealt with in different principles of the Constitution of the Islamic Republic of Iran. Most authors considered principle 22 of the Constitution as the most critical basis for property in the Constitution of the Islamic Republic of Iran³⁰. Some other lawyers have regarded this principle as the absolute guarantee of the right to property in Iranian law and have considered it for guaranteeing the rights of all Iranians, Muslims and non-Muslims, and even the citizens who are not identified as official minority³¹. The right to private property is recognized in principle 46 of the Constitution of Iran. If property is obtained through legitimate means, its negation is unjustified for any reason. Thus, the Guardian Council has specified the public sectors at the beginning of principle 44 of the Constitution and such a scope cannot be extended³².

In addition to principle 22, principle 47 is one of the principles guaranteeing the access to property in the constitution of Iran. Although the Guardian Council has not cited principle 22 for protecting property, it has specifically cited principle 47 as eight times for guaranteeing property rights³³. Recognizing property cannot be merely the source of development and the goals in public economic law. Our analysis raises this question in the area of classical principles than property that “are the processes of becoming proprietor in line with property?” do the above-mentioned processes reduce the exchange cost. The expected property and the classical principles of public economic law pay more attention on becoming proprietor to meet the expectations of this principle from property, which are speed in assignment, facilitation of transfer, and facilitation of exploiting property and being accountable for the cost of property and also achieving the development goals as a principle of classical public economic law in light of the development plan law.

3.5. Competition:

Making efforts for encouraging an equal access to activities and having access to resources require a legal mechanism ,which provides the ability of distributing resources and access to all sectors of human resources, involving the shortage of distribution and allocation, equality of opportunity, intervention and non- intervention, and reduction of free ride and other exclusive profiteering which can be monitored, controlled, and directed.

One of the effective legal mechanisms is competition law by which the government can eliminate the inequalities where private law, as the facilitator of resource-related policies, fails at responding with public policies and policy-

making based on the principles of competition law and encourage competition for welfare and equality. In other words, the cooperation between private law and public law can be interpreted in the face of competition law and then rush towards private law because competition law cannot correct market shortcomings and failures. Basically, such a responsibility is not the responsibility of private law, thus it is up to the government to discipline this area.

Thus, we need some tools which have the features of public law and are consistent with the economic policies of society. As a result, the rules of public economic law are purely the legal instruments which correct market failures and shortcomings and competition law is one of the tools of public economic law. Competition is a dynamic process based on the functioning of the market system. If the conditions are provided, free entry and exit to the market, free trade and contracts, efficient monetary system, market transparency, full information, etc. will lead to desirable results. All competition issues are mostly about the market power. That is why "cartels" (anti-competitive agreements) are forbidden and monopolistic positions are regarded as suspicious³⁴.

In addition, competition laws have unique goals and functions, particularly in regulating public order as well as increasing efficiency and development of economic justice³⁵. One of the desirable effects of competition is increasing efficiency. Paragraph 11 of principle 1 in the law about the amendment of the fourth development plan defines competition as follows: "A market situation where a number of independent producers, buyers, and sellers produce, buy, or sell products or services and none of the producers, buyers, or sellers have the power of determining a price in the market or there is no restriction on the firms entering or leaving the market. However, the bill in paragraph 7 of principle 3 states that "Competition refers to a market situation where a number of independent producers, buyers, and sellers produce, buy, or sell a similar product or service, so that none of the producers, buyers, or sellers have the power of determining the price and quantity in the market." It can be observed that the liberalization of firms to enter and leave is an issue which was not predicted in the bill but was correctly included in the law.

4. Classical principles of public economic law in development plan:

The position of classical principles of public economic law (protection of property, liberalization and economic equality, specialization, proportionality, competition) in Iran, the Constitution still encounters some ambiguities and legal unknowns in spite of the acceptance of economic law in principles 43,44,48,

49,51 in terms of proportionality with global developments (third wave developments). The position of conformity with the new concept of development in form of development plan in Iran can be analyzed. The historical trend of the first development plan indicates that the principles of public economic law were highly focused on the strategy of economic liberation (the first plan of constructive development), as well as economic development in the first development plan (1993-2009).

In the second plan (1995-1999), stabilizing the macro policies of the first plan and the growth and sustainable development of the economy were emphasized. In the third plan (2000-2004), the classical and intervening principles of public economic law can be observed in form of competitive economic development through the movement towards economic liberalization, deregulation, privatization, and structural reforms.

The fourth plan (2005-2009) aimed at achieving it and the growth of the national economy has been discussed. In the fifth development plan (2011-2015), there was a different perspective only in terms of approach and less change was justified. Analyzing the plans indicated that the enjoyment of public economic law in all plans has been often based on the wave of the developing government and the minimal role of market neoliberalism in development. Public economic law was at the service of the government and the market for achieving economic "growth" or "economic development." The position of classical principles of public economic law (protection of property against public interest, liberalization, and equality or economic proportionality by focusing on overcoming growth and achieving development) in the sixth development plan law of (2017 -2021) for achieving the new concept of development which includes increasing capabilities, development as liberalization, and prosperity are still in debate in terms of efficiency and coordination.

The sixth plan law puts an emphasis on endogenous economic development (principle 69) in provincial, regional, and local economic growth forms (principle 31), the symmetry of national production and laws and regulations reforms, the promotion of economic security, property, and investment protection, promotion of the quality and growth of production (principle 12, paragraph B , principle 12 and Note of paragraph B), the growth of state-owned firms, the growth of the national development fund (principle 16) and economic policies 13 and 14, the prescription of state-owned firms (principle 20) should be noted. Principles 57 and 68 put an emphasis on government

intervention for increasing the economic resilience and protection, support, assistance and social insurances!

5. Shortcomings of the development plan law on the classical principles of public economic law:

Development was identified as a human right in the 1983 Solidarity Declaration. Thus, this right has been carefully regarded in terms of domestic planning at the national and global levels. Development is like a tree having different branches which are like the principles of public economic law. In order to observe the comprehensive and balanced growth of this tree, all branches must grow proportionally in a balanced way. Therefore, we can observe a comprehensive balance between all principles of public economic law in developed countries, while these principles have not been developed in the same way in developing countries.

In Iran, it was approved by the parliament in form of development plans and we have the sixth plan law in front of us in order to enforce this right. In the meanwhile, the relationships caused by this right and the open economy should be provided by downsizing the government. However, it was not possible to enforce this law without amending principle 44 because of the existence of principles 43 and 44 and the prominent position of the state economy and cooperative economy. Therefore, a positive step was taken for enforcing this law in light of this principles with the new interpretation of principle 44 by the Guardian Council and the action of the Parliament for approving the enforcement of principle 44. It should be noted that the above mentioned principles being considered in public economic law face some challenges for enforcing it accurately because of the assignments caused by the private process.

As described above, the shortcomings and capabilities of development plans in Iran are still consistent with principles of public economic law and the three global waves of development law and are the subject of debate. With the aim of developing and demanding it in the public economic policies, its shortcomings can be identified for achieving multiple solutions, so that the relationship between development plans and the principles of public economic law, as well as the three global waves of development law should be coordinated.

Shortcomings of the protection of the principles of public economic law in terms of compliance with the developments of the third wave

From the perspective of observing the classical principles and compliance with the developments of the third wave of development law, development plans can be divided as follows: The principles of public economic law being more

focused on the strategy of economic liberation (the first plan of constructive development) and economic development in the first development plan (1993-2009).

The second plan (1995-1999) put an emphasis on stabilizing the macro policies of the first plan, as well as the growth and sustainable development of the economy. In the third plan (2000-2001), the classical and interventionist principles of public economic law can be observed in form of competitive economic development through the movement towards economic liberalization, deregulation, privatization, as well as structural reforms. In the fourth plan (2005-2009), the efforts on realizing it and the growth of the national economy could be debatable. In the fifth development plan (2011-2015), there was only a different perspective from the fourth plan in terms of approach and less change was justified. The studies on plans showed that the enjoyment of public economic law in all plans has been often based on the wave of the developing government and also the minimal role of market neoliberalism in development. Public economic law has been in service of the government and the market for achieving economic "growth" or "economic development."

The position of classical principles of public economic law (protection of property against public interest, liberalization, and equality or economic proportionality with an emphasis on growth and development) in the sixth development plan law (2017 -2021) while the new understanding of development going beyond economic growth has been neglected in the sixth plan law. The classic and intervening approach to public economic law in the sixth plan law for being consistent with the third world wave in the field of economic development (government, market, enterprise) is still in fluctuation! Although the second plan attempted to address the principles of public economic law in several principles, such as paying attention to endogenous economic development (principle 69) in form of provincial, regional, and local economic growth (principle 31), the symmetry of national production and reform of laws and as well as the economic security, property and investment protection law, improvement of the quality and growth of production (principles 12, Paragraph B of principle 12 and Note of paragraph B), the development of state-owned firms, the growth of the national development fund (principle 16), economic policy 13 and 14, and finally the appointment of economic state-owned firms (principle) 20.

In addition, principles 57 and 68 focus on government intervention for increasing economic resilience and protection, support, assistance, and social insurances. However, such considerations could not diminish the growth-oriented

domination, while the technocratic idea of development, heavily relying on the material and technical axis of development in this plan very while it is not clear to what extent the intellectual and value developments help the basics of property and equality and economic liberalization for achieving the new concept of development (increasing capability, equality, and liberalization)!

Conclusion

Evaluating the sixth development plan law indicates that the classical principles of public economic law, despite their place in the Iranian legal system, face some problems since the property and property process fails at the maximization of public wealth because it has no effective mechanism for directing individual assets to capital. Such a legal negligence was not eliminated in the sixth development plan law. Although proportionality, as one of the classic principles of public economic law, is used in different parts of the sixth development plan, the public, social, economic, cultural affairs have a place in the development plans. However, it is not obvious if proportionality been considered with the required expertise or not? Seemingly, the development plan law cannot maintain the opportunity for competition in such a way that exists in the present allocation system in order to maintain proportionality, and equality, and competition.

In addition, equality in all cultural, social, and political aspects of the plan cannot encourage economic competition based on the principle of equality. Thus, the leaders of this relationship in the position of competition have most areas of government economics and the ruling power. Therefore, the sixth plan law makes the strengthening and guaranteeing of the classical principles of public economic law and development in a new concept to face some problems or makes the current development plan of public economic law entering the third wave of development (increasing capabilities through classical principles including equality, proportionality, and property) to face difficulties due to the technocratic idea of development relying on the material and technical axis of development in this plan.

Furthermore, it is not obvious to what extent intellectual and value developments can help the foundations of property, equality, and economic liberalization to achieve the new concept of development (increasing capability, equality and liberalization)! For answering the main question of the present study, it should be noted that the sixth development plan law is not consistent with the classical principles of public economic law and the three global-legal waves of economic development.

The development plan law in Iran leads us to the first wave of development, which is using economic law as a tool for government to the third wave of development law due to non-compliance with the principle of transparency and private property or the presence of supervisory bodies without a development-oriented approach. As a result, we face some shortcomings on the use of classical principles to the concept of public economic law. Such shortcomings can limit the competitiveness of individuals. Thus as mentioned above, the development plan law is suggested to be harmonized with the development paradigms and expected philosophy of public economic law requiring a new definition of free trade, proportionality, competition, equality, and property by considering "efficiency."

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² - *In order to create an efficient government and the governance of public sector associations, the government used the classical and intervening principles of public economic law to its favor because it believed that the private sector could not support the market and in foreign capitals may be efficient in market developments, but its attraction was difficult. Thus, the national government had to intervene in economic development by creating additional plans and services in order to achieve economic development. These principles emerged in different eras and waves.*

³ - David Terbak,et.al. *New economic development laws; A critical approach*, translated by Mohammad Sadeghi, Hormozgan, Hormozgan University Press, pp. 8-10

⁴ - *Ibid*

⁵ - *Incentive for development, God says we will not change the destiny of any nation unless that nation wants (the Holy Quran). In other words, there will be no movement requiring unity and cohesion until there is an incentive. David McClelland, one of the advocates of the theory of the strong effect of success in economic development has conducted a lot of historical studies on the economic development of countries and concluded that the need for success as an aspect of human personality to achieve a better position leads to economic development. He studied the history of economic development in several countries during 1925 -1950 when the countries which required the most success were those having the fastest economic development, contrary to the countries which lacked such an incentive. According to McClelland, this incentive does not exist in all human beings and societies. Thus, the incentive for success needs varies from person to person, ethnic to ethnic, culture to culture, and society to society. In addition, he had some studies in ancient societies presenting the same results, i.e. a strong correlation between the need for success and economic development. If we want to use this result for economic development in the third world countries, we must foster the incentive for the need for success and creativity through mass media and culture building among people. By disseminating such incentives, the necessary stimuli for any economic planning and development will be developed.*

⁶ - In fact, conducting this study is significant because the necessary solutions can be used for reducing the legal gaps and developing comprehensive and reform laws in accordance with the structure of leading development by providing its results to the relevant authorities and national institutions. In addition, balanced development training should be created in line with the principles of public economic law

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