

INVESTIGATING THE: SOLE PROPRIETORSHIP FIRMS IN IRAN AND EGYPT LAW

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Abstract

One of the innovations of the Trade Act in the countries is prediction of relatively comprehensive regulations on the types of businesses. When the parties intend to transfer its rights and obligations from one country to another, the provisions of the contract can be seen in many have the utmost importance. Egyptian law and jurisprudence has not a single position about solo firms, though it has get its trade laws from France like Iran, and it is accepted in the form of private property. In Iranian law, rules and regulations and in particular trade bill is silent about this issue. What can be inferred from the provisions of the law in this area is that the rights and obligations of a solo company in the commercial activities, as a result, single companies like other companies will have a legal to own.

Keywords: *Sole Proprietorship, Rights, Firms*

Introduction

"The company is the object of numerous community ownership rights that are promoting" shared ownership Or dissemination of the owners of multiple properties in detail, without being part of it can be described as belonging to one of the partners. The basic purpose of forming a company is limiting the liability and absorbing small capitals, in the law of defining the firm it is defined in Article 571 which states that the company is the object of numerous owners of Community which should to be disseminated and also in Article 572 - the company is optional or enforcement of civil communication company with business partners always remain on the contrary that there are only company with legal personality. The Commercial entity of a business company is considered a contractual nature; the formation of each of the companies mentioned in this law is impossible without the existence of at least two partners. (Damirchili, 2002: 315). This approach, which is a traditional attitude, has no place in the law of Europe and America. In Egyptian law, commercial companies and organizations are known more as an economic and commercial system rather than a contract between partners. This led in Egypt, commercial entities with ownership in a corporation or partnership can be registered as a legal entity. According to this view, the company has a set of legal rules that with acquisition of legal personality, can engage in commercial activity. In this sense, individuals to join or create a company do not need to have a contract, but merely it is enough expressing their demand and their willingness to form such an organization or being its members. The single company is also

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available in some countries, like in Germany and Britain. But with our rights and countries like France, which the principle of property unity is accepted, does not fit because the acceptance of the company with a partner is depended to acceptance of non-unity of properties although in accordance with Article 1966, France, the focus of the shares in the hands of a person will lead to company breakup. With studying the researches we can found that there is not any mention to the name of a single company phenomenon in both territories have been extensively studied first, The presence of natural persons (human subjects) in the field of international law which is human rights subject, and second, the presence of foreign legal entities such as foreign private companies that invested in Third World countries and according to the validity of its contracts with government institutions and organizations, However, the topic of this study, is the domain of single firms in commercial law. In the meantime, Iran and Egypt are studied.

Sole proprietorship firms

In forming solo companies which is known as system theory for forming a company is not means to collect capital of several partners. It is meant to establish an organized commercial entity that is following commercial goals. Based on this perspective, the number of partners is not an issue as the pillars of the company. Hence, the formation of a business is not required to have more than one person. System theory does not speak of the agreement of few people to set up a company but speaks about at least one person's will for forming a commercial organization. In other words, the system theory is the opposite of the company's conventional theory that recently earned its place in the Iranian Law (Eskini, 2000: 150). In Iran trade laws, the basis for all types of new businesses forming is not mutual agreement. This bill despite Article 94 which assumes at least 2 partners for Limited Liability Company is required, in the materials 479 and 480, the formation of such a company is allowed with a single ownership. Thus, the reason of permission for the single incorporation formation is acceptance of the system theory by the commercial law in the new structure of our business law. By comparison of civil enterprise with business firms, we can say that by day-to-day their legal foundations are being apart from each other. In past, both of them were contractual in nature, but now the business company's being organizational is the difference of it from civil ones. Single companies arise for the purpose of ease of paying taxes, organize personal property, personal property to secure the commitments and liabilities of the company, company incorporation brand, and ultimately facilitate trade. In Iran's the new law the formation of these companies is allowable only in limited liability companies and other corporate entities, have embraced the concept of a contract. Even in the share company, buying and selling shares or subscription to a signature and acceptance of the contract has been taken by the founders of the company who have signed the Statute. (Erfani, 2010: 170). There are also single companies in Egypt and like Iran, encounter many problems, one of the single Company registering advantages is the tax benefits. In accordance with Article 47 of the Law amending the Law on direct taxes is subject to 25% corporate income tax and the income of natural persons under Article 131 will be up to 35 percent. Thus one pays lower taxes by registering a single company legally. Another advantage of the single entities registration is benefits of legal personalities. For example, in coins exchange at commodity stock, natural persons have number limits but legal persons limitations of 10% of the registered capital and only the restrictions is dependent on the capital (<http://www.mehrnews.com/>). In this study, with the investigation of trade laws of Iran and Egypt and the role of trade in corporate framework, will be considered solo firms importance in the two countries laws, whether solo have concordance firms with law and the rights of the two countries? What is and the differences and similarities between Iran and Egypt by recording commercial firms all will be the subject of investigation and legal analysis (Erfani and Mahmood, 2012) paid to The role of management in general corporations and their legal obligations (in the law of Iran, France and USA). Because the management of public corporations in the world, which formed the

backbone of the national economy, plays an important role in the promotion and enhancement of activity, production and employment in the country and in the capital market boom. He at first talks about authority of the directors in the laws of France, Iran and USA and discusses civil and criminal responsibility of them and then offered suggestions about the shortcomings of the existing law. In another study Niknezhad (2011) has paid to the legal status of corporate managers in Islamic jurisprudence, Iran and the United Kingdom laws. He believes that defining the legal status of the company's directors, has great importance to determine the business managers jurisdiction. Rahmani (2009) in an article had paid to the principles of majority rule in corporate law of England, and Iran in a comparative study. This paper presents a comparative study involving the right of the United Kingdom and Iran. In this study, by studying the cultural, political and economic backgrounds, tries to responds to the question of why these two countries have been different in its corporate governance model, Eskini (2009) discussed in an article entitled Reflections on the structure and nature of corporate bonds in public and private institutions and companies.

Avil and colleagues (2007) in a study paid to the general principles of firm's law for transitioning economies. In a study which Pasban (2005) had done to review the inspection system in Iran in commercial companies, he believes that commercial company inspection has two important features; First, only to corporations institution inspection was mandated and other companies, except for limited liability companies with one exception, joint stock company, , are allowed to have a legal inspector. The second feature is that the for inspection agency companies doing business in Iran, the only way of monitoring and oversight of the company's forecast is not recognized from outside. In contrast, the British legal system has two methods of monitoring and forecasting, monitoring and supervision of the company from the outside. Supervision from the inside is like inspection methods in Iran. However, due to the exemption of small companies from presentation of the financial statements to the General Assembly and in commercial firms in the UK, they are exempt from having the inspector, while monitoring from outside is imposed by the Ministry of Commerce, and is done to preserve the rights of society, third parties and minority shareholders. This paper attempts to examine changes in inspection institutions of commercial enterprises and analyze both the legal system of England and Iran.

1- sole proprietorship firms in Iran laws

It may be argued that, due to legal developments in the field of corporate capitalism and economic enterprises, Traditional divisions in which the company is divided into two parts of civil and business companies; is not Responsive to the realities of today's developments. Because some institutions and companies that have engaged in economic activity and registered in Registration Authority and non-commercial firms, are not classified among civic organizations and businesses. By considering the above point, we may present other classification as economic enterprises and civil companies. However, due to financial firms (firms - institutes) have two examples of businesses and civil companies, the mentioned criteria had not comprehensiveness and creates confusion in determining the acceptable boundaries between civil and economic group of companies. For example, according to the note 2 of Article 54 of the Law of Cooperatives Islamic Republic of Iran, although a business cooperative enterprise is not commercial company, however, considering their multiple goals which mentioned in the first article of the same law, they are included in the economic companies. Given the nature and function of existing companies and despite the silence of the legislature to provide a comprehensive definition of the institution, we classify the firms as the civil and commercial companies. In the Article 20 of the Law on commercial trade are counted with titles such as EA, Ltd, a partnership, a relative, mixed and mixed non-stock corporations and cooperatives.

The First question that needs answering in division of businesses companies serves to benchmark criterion for determining a commercial enterprise. Whether criteria such as company subject and the type of its activities that fit the criteria for this purpose, Or that in addition to the general rules defined in Articles 1 and 2 of commerce merchant that exercise most to individuals, Inevitably should have considered specific rules related to other forms and formats required by law? Applying the first criterion namely the object and purpose, accompanies with problems. Because Article 2 of the Commercial Code Amendment Act 1347 provides: "corporate Company is a trading company, even if its operation is not a business." The concept of this article, rejected this evidence and only legal form of the company's is the representative of the business in the seven types and also paragraph 4 of Article 3 of the same Law in addition to assuming commercial "All transactions of commercial companies," the credibility of the company's business results from Article 2 of the reform bill is also approved. The legislator in Article 94 (the definition of limited liability company), 116 (concerning the definition of partnership (141) in the definition of mix non-stock company), 183 (relating to the definition of the relative company) had applied the phrase "for the trade issues" as an element of the definition these companies. It should be remembered that the six mentioned companies, regardless of the issue and its goal which is trade and are subject to the regulations governing trade and commercial relations violation.

The situation is different in the case of cooperatives. Because it seems legislator of seventh Chapter of the Commercial Code, unlike other six commercial companies, didn't plans to introduce the cooperative company as having a special framework.

Because according to the article 193 of that law;

"Cooperative either production or consumption may be in compliance with the consent of the corporation or partnership organized under the special provisions has been established." And article 194 predicted: "If the cooperative company established production or consumption in accordance with the principles..."

With respect to the provisions of the listed Articles it seems that provisions relating to cooperative trade not only will not help but creates confusion, In particular, the cooperative can be established in accordance with the principles of the company.

In particular, the cooperative can be established in accordance with the principles of the corporate company. However, the Cooperative Companies Law Act 1350 and the subsequent "Economic Cooperation Act of 1370, the Iranian" certain special rules were imposed on companies. So that it can no longer call this type of company subject to the provisions of the Commercial Code. In addition to the recent legislation and implementing Article 44 of the constitution of the Islamic Republic of Iran Ministry of Cooperation was established.

Article 1 of This Law divides the cooperative goals in seven divisions that none oversees the business affairs, but overall social and economic outcomes and the distribution of wealth is in mind. The law was given direct permission to the government intervention in the affairs of the cooperative, as defined in Article 69 all companies were required for Within 6 months of its Statute, to uniform their Statute with the sample Statute of the Ministry of Cooperatives, otherwise they will be deprived of the benefits of co-operatives. Further, the establishment of co-operative, licensing and supervision of the formation will be on the promise of Ministry of Cooperatives. According to the above description, the cooperative ministry permits registration of cooperatives in the context of the objectives set forth in Article I of the seven mentioned goals. However, in order to protect the rights of creditors pursuant to Clause 54 of the Act, only the cooperative treatment is subject to the provisions of the Commercial Code. Thus, the legislator removed cooperative from grouping of businesses companies and subject to the provisions of the Commercial Code, except in Liquidation and exclusively put to the subject of the cooperation agreement, Since the separation between commercial and non-commercial purposes of cooperatives with regard to the multiple cooperatives in the cooperative law, may

be difficult in practice and individuals take advantage of the co-operative business, Therefore, it is better to ensure cooperatives which purpose and goals are subject of engagement in commercial practice, be considered the subject of the regulations governing the business. According to the above explanations and regardless of the difficulties of defining the status of cooperatives in this division, the most suitable criteria for the classification of commercial companies is one of the both assets and character of Partners and The importance of personal capital or credit, particularly in determining the extent of their responsibilities to partners. In other words, getting the company to be one of the group's first, we should determine whether first, the originality and importance is the capital or personal credibility of the partners Secondly, it should be clear about and how much the responsibility of the Partners is, The companies can be divided into three "capital companies " personal business " and " mixed companies ". The first group of corporations and limited liability companies and partnerships relative to the second group and the mixed joint stock companies and other shares in the third group.

Mixed companies on the one hand to the validity of partners, shareholders and on the other hand to credit of partners and their liability in partnership, are considered a joint stock or limited liability respectively. In this type of company, because of the direct relationship responsibility with the company's management, corporate governance is in the responsibility of the partners.

According to the parliament's approval, trade bill runs for 5 years as a trial. Still, the Guardian Council final approval for is necessary. In accordance with Article 479 of the bill "Company with limited liability is a company to be formed by one or more persons and " And in accordance with Article 481 registering of such companies can be done with any amount of money. There are single Companies in some countries like America and a single company's registration advantage is benefits of the tax. In accordance with Article 47 of the Law amending the Law on direct taxes, the corporate's income is subject to 25% tax and individuals revenue in accordance with Article 131 is up to 35 percent. Thus by registering a single company legally one is able to pay lower taxes. Another advantage of a single entities registration is the legal personality's benefits. For example, a futures exchange coins in commodity stock are limited number to individuals However, legal entities have up to 10% of registered capital limitations and restrictions only is the capital dependent.

2- Sole proprietorship firms in Egypt Rights

Foreign companies or individuals who wish to establish a business presence in Egypt have several options available to them, in a single company in the Egyptian law; a company is divided into single person And responsibilities of each of the shares is limited to the value of the shares he or she owns. Single company in Egypt Rights can be categorized in several ways, the most important criteria for the division is the warranty that guarantees the payment of it, which in the first type, the founder of the company should pay his share of the capital commitments of the statute and regulations, if there is a commitment to pay. In This legal system, corporation being commercial or noncommercial or partnership is determined by two ways. Single Company pursuant to Section 1-227, "is the company may be formed by one or more personal than just to have responsibilities to their own revenue. If the company has only one shareholder, the shareholder is called unit shareholder. The unit shareholder has the all powers of the general meeting of shareholders of its partners. "

If a company is formed in one of the above formats, regardless of the goal it is commercial. But sometimes it seems difficult to separate business enterprise from partnerships, especially because the company made at a partnership format. In addition, in this partnership, the separation of civil and commercial companies, in some cases is much more difficult. So it should be considered in addition to the establishment to the goals too. B) Companies and business establishments on the basis of objective: a company is Goal-based which is based on

the commercial trade law repeatedly and continuously engaged in commercial operation. The phrase "doing business" in Article 632 of the same Act, it is counted as a list of various actions. The courts in their opinions added other titles to the mentioned issues including the 1967 purchase of land law with the intention of selling is a commercial action.

Conclusion

Trade law, covers many of the issues of the current economy of a country. Of important Matters of law, is authorized the establishment of a single company its justification in this work is such that Limited liability companies, are usually consists of family members and in fact, are solitary and businessmen in order to comply with the minimum number of participants, formed the company with their family members who are not qualified to perform the transaction who entered into the board. This single company also is important for removal of the problem of interference with private property and commercial trader or investor from exposure to environmental obligations, private and commercial problems. On the other hand, it is not necessary to facilitate trade relations that investor or trader who does not have the expertise, had to take responsibility of the company's management.

Unlike most experts believe in Iran, Egypt, participation in Egyptian laws are not equal institution is not adaptable to individual companies. Egypt laws puts complexity to this institution and has recently witnessed fundamental changes in the passage of legislation, So that the primary substance of the law in 1947 with the institution participation in the next laws, and especially the law of 2000 is not similar. In the mentioned legal system, "the participation in a company's dimension a relationship and not a single organization is defined with a separate legal entity."

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