



The Critical Essay on the Privatization of Education from the Perspective of the Constitution of the Islamic Republic of Iran

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Abstract

Today, the provision of public services is regarded as a central element in legitimizing governments. Accordingly, fulfilling society's basic needs is among the state's responsibilities, and the government is obligated to provide public services to all citizens in an equal and non-discriminatory manner. A prominent example of such services is the guarantee of the right to education for a nation's citizens. Under the Constitution of the Islamic Republic of Iran, the state is obligated to pursue the objectives outlined in Article 2—such as the foundational principles of the Islamic Republic, reliance on human sciences, the rejection of oppression, the realization of justice, and the preservation of national independence and unity—by employing all its resources to achieve, *inter alia*:

“... 2- Raising the general level of public awareness in all areas;

3- Free education and physical training for everyone at all levels, and the expansion and facilitation of higher education;

4- Promotion of research, innovation, and creativity in all scientific and technical fields;

9- Elimination of unjust discrimination and provision of equitable opportunities for all in every domain...” Furthermore, Article 20 of the Constitution guarantees equality for all members of the nation in enjoying human, political, economic, social, and cultural rights. In contrast, Article 30 mandates the government to provide free educational facilities for all citizens from elementary to the end of secondary education, and to expand higher education free of charge up to the point of national self-sufficiency. According to Article 30, education must be free. Nevertheless, in 1988, the "Law on the Establishment of Nonprofit (Non-Governmental) Schools" was enacted, and due to the non-free nature of such schools, it sparked significant controversy.

The establishment of nonprofit schools represents a form of privatization of education. Although this development has contributed to the quantitative growth of the educational system and has met the rising demand from applicants, it has also generated adverse consequences. One of the key negative impacts of privatization is the economic



burden it places on middle and lower-socioeconomic classes, resulting in the stratification of education in favor of the affluent and a decline in the quality of education in public schools.

Some scholars argue that although the spirit of Article 30 does not imply a monopoly on educational models or restrict individuals' freedom to establish or attend non-state schools, the sharp income disparities between the upper and lower deciles of society render the majority unable to afford private education for their children. This leads to widespread educational deprivation and contributes to discriminatory education systems, socio-economic class divisions, political, economic, social, and cultural dislocation, and ultimately undermines the educational security of society due to the exclusion of disadvantaged groups.

Nonetheless, the government could, through cost-saving measures afforded by the creation of nonprofit schools, improve the quality of public education and mitigate the resultant inequalities. It could even directly allocate educational subsidies to families, granting them the choice to use such subsidies in either public or private schools.

At present, nonprofit schools—and more broadly, private educational institutions—have de facto created class-based divisions and various forms of deprivation for large segments of the population. First, due to the inability of low-income families to afford high tuition fees, their children are denied access to superior educational environments. Observing wealthy students enjoying these facilities can instill a sense of failure and disillusionment among less privileged youth. A subsequent deprivation arises during university entrance exams: students from private schools, who benefit from higher-quality educational resources and experienced teachers, naturally achieve better outcomes. The unequal conditions between public and private school students prevent fair competition, hindering access to higher education for the underprivileged.

This stands in stark contrast to the legislator's intent, which, inspired by the ideals of the Islamic Revolution, requires the state—under paragraphs 9 and 12 of Article 3 of the Constitution—to eliminate unjust discrimination, eradicate poverty, and remove all forms of deprivation.

The central question of this article is whether the privatization of education aligns with the principles of the Constitution of the Islamic Republic of Iran. The working hypothesis is that the privatization of education is inconsistent with the egalitarian spirit of the Constitution. In support of this hypothesis, the first section examines the constitutional duties of the Islamic Republic with regard to education. The second section evaluates the status and dimensions of education within Iran's legal framework. The third section addresses the necessity and rationale behind the establishment of nonprofit schools. In the fourth section, the article provides a critical analysis of the Guardian Council's interpretation of Article 30 of the Constitution and the Law on the Establishment of Nonprofit Schools. The article concludes with a summary of the findings.

Keywords: Right to Education, Unjust Discrimination, Constitution of the Islamic Republic of Iran, Private Schools – Public Schools, Privatization, Free Education.



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