

## **Examination of Contracts of Assignment of Mines in the Administrative Structure of the Ministry of Industry, Mine and Trade with a look at the Similar Offices in Legal Systems of France and Canada**

Mines are considered national wealth and, from the perspective of Islamic jurisprudence, are part of the Anfal and their management is the monopoly of the Islamic ruler. Considering this important principle, the Mines Law was passed in 1377 and, from a legal perspective, the methods of its exploitation were formalized. Like any project with government ownership, such as road construction, urban affairs, electricity transmission, etc., the mechanism of private sector presence in mines has been defined, which generally refers to administrative regulations; because the Mines Law discusses this in general and the extensive interpretation of its provisions and the regulation of related executive regulations have been carried out with the efforts of the executive branch. Some authors have criticized direct contracting in mines and considered it a source of corruption. In another study, the transfer of mines has been considered ambiguous, which provides the basis for large windfall profits. In a country like France, there is a possibility of private and public sector participation in the exploitation of mines. Also, in a scientific study, the direct entry of third world governments into mining activities was criticized. Elsewhere, the need for economic balance by implementing mine transfer was emphasized. In order to reform the mine transfer mechanism, coinciding with the outbreak of the Corona disease in early 2020, a plan was approved by the Ministry of Semat, which has not been fully implemented yet. According to this innovative plan, mines were transferred to the private sector with a contract: construction, commissioning, transfer, and the expectations that were previously envisaged for contractors in other projects were officially mentioned so that investors would be encouraged to enter such projects while expanding ancillary industries. A similar model has been implemented in France and Canada and is considered successful. The research question is: What are the strengths and weaknesses of the new mining concession plan and what are the administrative solutions for its proper implementation? It is assumed that the comprehensiveness of this plan is one of its strengths, but the difference in the powers of the Ministry of Interior, the lack of attention to the rights of contractors, and finally, the lack of a standard contract form are among the weaknesses in the implementation of this plan, which need to be resolved by the efforts of the authorities. In this study, mining concession is first studied from an administrative perspective, then the administrative challenges of this area are examined, and while comparing it with similar models in Canada and France, a proposed model for resolving these problems is presented.

The research question was: What are the strengths and weaknesses of the new mining concession plan and what are the administrative solutions for its proper implementation? It is assumed that the comprehensiveness of this plan is considered one of its strengths, but the difference in the powers of the Ministry of Security, the lack of attention to the rights of contractors, and finally, the lack of providing a standard contract form are among the weaknesses in the implementation of this plan, which need to be resolved by the efforts of the authorities. The research hypothesis can be confirmed. The new mechanism of the Ministry of Security is completely innovative and, in return for the special privileges it has granted to contractors, requires them to take certain measures that will create added value and more employment in the country's sanctions situation; but so far, its contract form has not been regulated and no response has been given to the ambiguities in this regard. Unfortunately, with the statement of the Legal Deputy of the 12th government, the implementation of this mechanism was interrupted, and this is while this contract model is implemented with the full consent of the contractor and the important principle of consent is not distorted in any way; However, no attempt was made to resolve this simple challenge. According to the resolution of the government council in 1379, the Ministry of Mineral Resources has full authority to take over the mines and this procedure cannot be criticized on the pretext of lack of supervision by the government council and lack of coordination. Responding to inquiries from other institutions is also considered a necessity within the framework of the law; however, an economic criterion for determining the exploitation period has not been specified, which requires that a regulation be clarified in this regard in consultation with economic experts.