

Economizing the Tools to Confront the Externality in Wastes Management Act

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Abstract

Introduction

The concept of negative externality is one of interdisciplinary phrases that has been discussed in the field of economic sciences since the last decade of the 19th century. In the following decades, this concept gradually entered the law literature. Although, in nature, it lies within the economic discussions, its main relationship to the field of law is because of the fact that this issue is linked to individuals' "ownership and responsibility" and negative externality is a clear example of individuals' responsibility that is necessary to be reflected upon to economize the means of fighting with it.

In Iran, one of the few documents that has mentioned the issue of negative externality is the "Wastes Management Act". In this document and its executive regulations, the legislator has considered the legal arrangements for confrontation with negative externality and has mentioned the tools for this purpose.

Theoretical Framework

The theoretical basis of using the tools can be discussed from two economic and legal perspectives. From an economic perspective, the justification for using tools should be sought in the word "economizing". From the legal perspective, on the other hand, the basic justification for the use of tools ought to be searched in the concept of "right".

Methodology

In the present article, economizing the tools of fighting against externality in the "Waste Management Act" was investigated from the perspective of public law using a descriptive – analytical method.

Results and Discussion

The concept of externality has two aspects: positive externality or external benefit and negative externality or external cost. In the present article, the negative aspect of externality has been discussed. Negative externality is the external consequence of the conditions caused by production or consumption, which is incurred upon a third

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party in the form of costs, without being reflected in the market price of the goods or services and without the third party having been satisfied with this situation. But what is the relationship between negative externality and legal issues? The answer is that if an action is related to individual, collective and social rights and leads to the violation of these rights in any way, in this case this issue lies within the scopes of law.

As it was mentioned above, In Iran, the most common document in the field of common or public goods related to negative externality is the Waste Management Act and its executive regulations. There are three types of tools to deal with negative externality: voluntary, compulsory and combinatory, which can be briefly named the "VCC" model. Voluntary tools include "family and community", "volunteer organizations" and "private markets". A detailed examination of this act and its executive regulations revealed no voluntary tools.

Compulsory tools include "regulations", "government corporations" and "direct supply". It can be observed that using the regulatory tool has been used in various forms and it can have a considerable effect on general policy makings. The "direct supply" tool has been used in a limited form. But "government corporations" tool has not been explicitly mentioned.

The Most common forms of the combinatory tool include: "information and advice", "subsidies", "auction of property rights" and "taxes". "Information and advice" tool has been used at a reasonable level although its implementation method may be a matter of controversy. On the one hand, the use of the subsidies tools has not been adequately addressed and, on the other hand, the legislature has not paid any attention to the tool of property rights auction. Finally, that green tax tool has not been seriously attended to by the legislature.

Conclusions:

The results from this study indicate that although the mentioned act is the most important measure taken by the legislator for identifying the negative externality in the Iranian legal system. At first glance, it seemed that because this act is the latest legislative action for confronting the effects of negative externality, it has been approved in response to the current needs of the society. However, it was found in the present article that this act has not been successful at least in the area of application of tools.

Accordingly, it should be stated that, first of all, in this act, in the framework of the Iranian legal system, the concept of responsibility has been founded upon responsibility based on fault and, as a result, suffering parties of negative externalities will have a difficult and, sometimes, impossible task in proving "causality". Second, by understanding the new realities of social life, the law-maker should think of some mechanisms to economize the tools and use new tools for facing the negative externalities. Third, the law-maker could properly use appropriate tools for changing "waste" from "garbage" to an "economic good" using the master key of "recycling".

Suggestions

It seems that considering the two economic and legal perspectives, some suggestions can be made in the area of voluntary and combinatory tools as follows:

– Development and extension of private markets tools: In the area of voluntary tools and within the framework of economic logic, the best mechanism for waste recycling garbage is "economic valuation" for the wastes. The most important

combinatory tool supporting private market tools is the Green Taxes.

– Changing the approach towards the two institutions of ownership and civil liability.

Key Words: Externality, Economizing, Responsibility, Wastes Management Act and Tools of Regulation

JEL: K13 and K19

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