International Academic Institute for Science and Technology

International Academic Journal of Humanities Vol. 2, No. 2, 2015, pp.52-61.
ISSN 2454-2245

International Academic Journal of Humanities

www.iaiest.com

Status and Responsibilities of the President in Islamic Republic of Iran

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Abstract

The president of any country has special place and responsibilities according to the necessity and importance of presidential position and is responsible for the proper execution of his duties in order to develop and enrich his followed country. In fact these responsibilities emanating from functions and powers of the president and put him within constitution domain in accountability position of his performance. Due to the position of president which is extremely important in most countries, it is considered sensible to put regulatory standards on the performance of president. Therefore, the president should note that he is responsible for his actions. President of Islamic Republic of Iran has also serious responsibilities considering taking this position that we deal with them in this paper.

Keywords: President, the Position of President, the Responsibilities of The President.

Chapter 1: the position of the president

Although the government of Islamic Republic of Iran is republic like the most governments of the same age, but it should be noted that there are some differences. This issue can be seen about the position of president and other pillars of the political systems. Although some people know president as a symbol of Islamic Republic of Iran, but others consider him only as a top executive agent of the government that

both these theories have some defects. Exercising of authority will be applied by government and in most systems some individuals are considered as the structure of sovereignty from queen and king to the presidents which are different in terms of government system. This structure of sovereignty has ceremonial state or executive responsibility and also has many authorities in exercising of power. The Queen of England, King of Denmark, President of Germany, Emperor of Japan and etc can be pointed out as the symbols of ceremonial sovereignty. However, in these systems the aforesaid authorities are the symbol of sovereignty but they have no serious and major power and when a decision is taken in the relationship between the governments the main and substantial entities of sovereignty intervene such as prime minister and grand vizier.

In Islamic Republic of Iran, according to the articleone hundred and thirteenth of constitution "after the Supreme Leader, the president is the highest official status of the country" and has the responsibility for implementing the constitution and the leadership of executive power except for matter directly related to the Supreme Leader.

Responsibility for implementing the constitution:

Constitutional law states the ideals of a nation and therefore its implementation is one of their main demands. In every political system, constitution is known as the highest official document and the ID of that system and often the head of executive power is responsible for its administration. In Islamic Republic of Iran, according to the article one hundred and thirteenth, this responsibility is carried out by the president: "after the Supreme Leader, the president is the highest official status and has the responsibility for implementing the constitution and the leadership of executive power except for matter directly related to the Supreme Leader.

Constitution is important from two points of view:

First, the foundation of the system in all aspects of country provided and arranged within itand it organizes all competencies. Second, it is the determiner of rights and duties for both powerful governor in one behalf and typically weak members on the other behalf. It is the creator of all abilities and superior authorities on which created based on this. On the other hand, it expresses the rights of people that are necessary for the rulers. The constitution of Islamic Republic of Iran, represent the rights of people and order of incumbency and also includes the rules of Islamic system, social justice, national solidarity, cultural, economic, social and political patterns, as well as the principles of judicial security and personal and social freedom. So, everyone is required to obey the law of public utility. The correct implementation of this universal and fundamental law can be ensured only through regular monitoring of principles. Constitution of Islamic Republic of Iran has been separated in legislative and executive point of view for the protection of this important legislation: Guardian council is responsible for legislative protection which will act through monitoring the sanctioned laws of Parliament in accordance with canon and constitution. The article ninety-first of constitution states that: "in order to protecting Islamic orders and constitution in terms of lack of contradiction of sanctioned laws of Parliament, a council called Guardian

Council will be organized with the following combination". Guardian Council examines the sanctioned laws of Parliament with approval supervisory and if it is inconsistent with canon and constitution it will be returned to the Council for reformation[1*]. Executive safeguarding in terms of responsibility for implementing the constitution is the duty of president. Therefore, the president is responsible for monitoring the constitutional implementation but what is the scope of these responsibilities? And what are the presidents' authorities in this job? Hence there are two views in this regard, one view that extend the scope of this responsibility to all power and institutions of governance and the other restricts it to the scope of executive power. Those who believe in broader responsibility for executive administration in implementation of constitution, argument thatthis phrase is not bound by the constitution. They say, according to the article one hundred and thirteenth, president is charged with the responsibility of implementing the constitution absolutely, generally and unconditionally. According to the article one hundred and twentieth, the president in the text of oath bound himself to carry out his responsibilities canonically and legally and as it is apparent from the text of oath his oath is not specific to the domain of executive power. The proponents of this theory offer no reason but general acceptation of the principle of one hundred and thirteenth and of course answer to a problem.

According to their point of view, the only possible drawback was the violation of independence of powers and they have tried to explain it through the separation of executive department status from the highest official status after Supreme Leader and say:

Performing this task in relation to legislative and judicial power is not counted as the interference of executive power in other faculties and is not inconsistent with the principle of power separation because constitutional law charged the president for these duties and responsibilities not only as the president but also as the highest official status after the Supreme Leader[2†].

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1. Hedayat Nia, F., reviewing the bill of amending the law of delimitation of functions and powers of the presidency, RavaqAndishe, No. 15, pp.55.

a) Esmaeili, M., the role of president in implementation of constitution. Tehran: Imam Sadeq University research Journal, No. 24, 2004, pp. 19-20.
b) Mehrpour, H., President and responsibility of implementation of constitution. Information dissemination, Tehran, first edition, 2001, pp. 47.
c) Article 75 of the constitution draft: president is the highest official status in the internal affairs, international relations and implementation of constitution in the country

    a. Regarding that the president is:

d) The directly elected representative of people and one of the most prominent symbols of national sovereignty.
e) The highest official status in the country after Supreme leader.
f) Approved by the Supreme Leader.

According to the article one hundred and thirteenth of constitution there are two statuses for president included the highest official status of the country after Supreme Leader and the head of executive power. In the status of executive power, the president located within the heads of legislature and judiciary and each one perform their duties based on independence and relative separation of powers and should not interfere with each other's' role. However, in the status of high-ranking official status after Supreme Leader, president supervises the work of other branches to do not violate constitution. It can be said that presidency is the reduced rank of leadership[3.] The primary executive responsibility of constitution by president can be seen in the principle of seventy-fifth draft of constitution[4] that he was predicted as the highest official status of the country. But after approving the article one hundred and thirteenth, the president is the highest official status after Supreme Leader. Thus, according to the status of Supreme Leader, the president cannot be responsible entirely for implementation of constitution. However, there are plausible justifiable reasons for this liability.

According to above-mentioned instances, the president is the most appropriate position for the fulfillment of constitutional implementation after Supreme Leader[5]. Therefore, both Supreme Leader and president are responsible for implementation of constitution. The most important responsibility for president is the enforcement of constitution and this task is related not only to executive power but also legislative and judicial power to act in the framework of constitution and president should consider the acts of these two faculties as far as the constitution is concerned. Also president should act urgently in case of discontinuance or non-execution of main constitutional principles or deviating from it, hence he can warn other faculties. Sometimes this group cited the perceptions and behaviors of Guardian Council for confirming their opinion. They believe that Guardian Council as an official commentator of the constitution had such perception about discussed subject. Articles 13 to 16 of assigning the limits of duties, authorities and responsibilities of the president in Islamic Republic of Iran, approved by Guardian Council in Aban 1986, clearly implies on generality of presidents' responsibility except the legislative power and present some regulations;

1. In order to protecting the constitution of Islamic Republic of Iran and implementation of article one hundred and thirteenth, president is responsible for implementing the constitution through monitoring, obtaining information, investigating, following-up, examination and necessary actions. The provisions of this article allow the president to use a lot of tools to guarantee the implementation of constitution.
2. In the case of breach, violation or non-execution of constitution, the president can somehow deem himself to act through warning, prosecution and referring the records of offenders to the judicial courts.

However, such warnings don't have legal effects but have political and propagandistic value. In this regard, the president can regulate the statistics of discontinuance, non-execution and breach and violation cases of constitution once a year with decisions taken and inform the parliament[6‡]. Designing such

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g) The chief of executive power.

a) Mehrpour, H., president and executing the constitution, previous, pp.. 48-51.

statistics in parliament provides the way for assessment of respect to the constitution. Then, reflection of parliamentary debates and social and press reactions, undoubtedly has guiding and cultural effects in order to strengthen the public opinion in the rule of law, specially the constitution (which is the supporter of peoples' right and freedom). Against the vast responsibility theory, some other lawyers believe that the president is only responsible for implementation of constitution in executive power[7], except in matters directly related to leadership. In short, the reasoning of this group is that first, article one hundred and thirteenth expresses the duties and powers of the head of executive power and it cannot be considered absolute and general; aside from the fact that in this article all responsibilities of president are stipulated explicitly. Second, on the assumption of accepting the initial rise of mentioned article in a range of wider than the head of executive power, inevitably it should be stipulated with other principles such as the separation and independence of powers or the authorities of Supreme Leader. The explanation of above saying is that: article one hundred and thirteenth is a kind of principle that has been placed in ninth chapter of constitution and under the executive branch therefore it should be interpreted in this area. While constitutional low accept the separation and independence of triple forces,[§] it also open a separate chapter for each of them and mention their functions and duties, so it is natural that in this case , no principle should be interpret out of the scope of its discussion. In addition, all the responsibilities of the president in article one hundred and thirteenth are limited to those matters directly related to the leadership. In this article the president has two responsibilities.

He is responsible for "executing the constitution" and "executive power" except in matters directly related to leadership but as it can be seen, both responsibilities are limited to matters directly related to leadership. In other words, these stipulations are not just related to executive power but it bounds the responsibility for executing the constitution. Therefore, president is responsible for implementation of constitution except in matters directly related to leadership. A literary witness is presented to the above quotes. In terms of literary, the expression of responsibility for executing constitution and presidential executive power turning to each other. If the statement of executing the constitution turns to the whole phrase of "the head of executive power" except in matters directly related to leadership, then by assuming to delete the turned word, focused phrase, without the letter "to" has no literal accuracy. So, by accepting that the phrase of head of executive power turned into the responsibility for executing constitution, then this phrase would be an exception to second phrase except for matters directly related to leadership and it means that since in executive power some matters are directly related to leadership and some others are related to president, therefore, in parts which is chaired by president, he is also responsible for implementation of constitution as the leaders of other sources are responsible for implementation of

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b) In case of violation of constitution in the public power systems, the president has the right of warning to the triple forces.

c) Article 16 of the law on delimitation of presidents' power.
d) Kabi, A., constitution and its sanctions, Qom: Seminary Studies and Research centers, Qom, first edition, 2001, pp. 34-48.

constitution in related branch[8]. As it can be seen, the followers of massive or limited responsibility for constitutional execution toward the executive power have provided some evidence to prove their theory. But their theory is not free from draws and faults. This particular and difficult situation is due to the contradiction noted in formulation of article one hundred and thirteenth. It cannot be denied that the purpose of responsibility for implementing the constitution in primary formulation and suggestion of this articles really a pervasive responsibility and related to implementation of all constitutional law, but after the final formulation of constitution the president is no longer the highest official status in country so there should be a wide revision in the implementation of constitution.[**]

And this task failed to do due to the certain social and political condition of that time, regional conflicts, international conspiracy, and acute internal conflict with provisional government and finally high and understandable acceleration which used for completing the work of parliament and final examination for the constitution of Islamic Republic of Iran.

As a result, this statement remains widespread but all its tools and accessories removed. It seems to explain the meaning and scope of this responsibility, like any other responsibility, following rules cannot be ignored:

1. Responsibility in any meaning and measure should provide preliminaries, tools and the guarantee for necessary implementations for the responsible person. According to the rights of law, responsibility is subordinate to the authority and seeking the responsibility without giving the necessary authority to the person is an impossible task.
2. Responsibility without accountability is meaningless. Responsibility is different from dignity and privilege and responsible person should be interrogated about his functions and duties. As the sanction is logical and necessary for exercising the authorities, interrogation and punishment of responsible person who neglected carrying out his duties, despite having the necessary facilities, is obvious and rational.

By considering these two rational certain and doubtless rules, how the responsibility of president can be interpret in implementation of constitution? Undoubtedly, his responsibility for enforcement of constitution is acceptable in his area of presidency to executive power; because exercising the executive power will be done by president or ministers and according to article one hundred and thirty fourth "the presidency of council of ministers is by president that control the work of ministers and coordinate the decisions of ministers and cabinet by adopting the necessary measures and determine the programs and policies of government and implement the rules by collaboration of ministers" or under the article one hundred and thirty seventh "each of the ministers are responsible for their duties". Also, constitutional low in article one hundred and thirty sixth take into account the highest sanctions for president and emphasize that he can depose ministers. But placing the responsibility of implementation of constitution

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a) Najafi Asfaadi, M., Mohseni, Farid, Previos, pp. 318.

in all forces to president is not compatible with any of these two rules. First, president does not have necessary tools and sanctions for implementation of constitution in other forces. The least essential tool in this regard is monitoring their performance which is not predicted for president especially after the revision of 1989. His interference and actions in the domain of other forces is incompatible with independence of forces that is not negligible with any explanation. Even the serious followers of broad responsibility theory who tried to treat the highest ranking status as a reason for themselves after leadership, inevitably confessed that this broad responsibility is so that it sustained no damage to general principles and independence of forces. Second, granting this responsibility to president in other forces is inconsistent with second rule.Because, the president cannot be interrogated, impeached or questioned due to the non-execution or failure to exercising the principles of constitution in parliament or one of the courts of justice. According to aforementioned cases, the responsibility of constitutional enforcement, in the exact meaning of responsibility enforcement, is inconsistent with constitution and general criteria of law.

Chapter 2: responsibilities of the president

A. Legal responsibilities of the president

If the president as the supreme authority of the country performs some tasks that impair the rights and freedom of people in political and administrative duties, then his responsibility is indictable politically and retributively. If the president accused some common crimes such as bribery and embezzlement, it has criminal liability and is not immune from judicial prosecution and his accusation will be investigated like other normal people. Constitution has divided the crimes of president into two categories:

1. Violation of legal obligations: if the acts of president and his violation of constitutional duties enumerate the meaning of one of mentioned crimes. According to article one hundred and tenth, the investigation of this violation like other violations is the duty of Supreme Court.
2. Ordinary crimes: According to article one hundred and forty-fourth investigating the accusations of president, assistants and ministers will be carried out by informing parliament in public court.

B. Financial responsibilities of the president

It has been stipulated in article one hundred and forty-second;

“Finance of Supreme Leader, president, assistants, ministers and their spouse and children will be investigated by judiciary before and after the service which not to increase contrary to the law”. Article one hundred and forty-second has given this responsibility to the judiciary. Although it includes leadership, but it is very important because the budget and the main parts of revenues and expenditures of country are in jurisdiction of president and his colleagues. In addition, their financial affairs in any

form and at any time can be checked by inspectional organization and the court of audit in the case of violation or abuse in order to investigate in judicial courts or political agencies[9††].

C. Political responsibilities of the president

Before the reformation of constitution, the president was only responsible for nation but by the reforms took place in the constitution and lead to removal of prime minister, now president is responsible against other pillars of the political systems alongside his duties and powers to the law.

1. The responsibility of the president to the nation:

The president is directly elected by direct vote of people. People vote for him by confidence to his promises and plans. If president fails to practice and execute his promises and plans after being elected, he will be responsible to the nation and public dissatisfaction lead to not re-elected and eventually fading from political scene.

2. The responsibility of the president to the supreme leader:

The supreme Leader of Islamic Republic of Iran has a great status and in fact gives legitimacy to the system. The supreme leader as a highest status, authorize the decree of president and as long as the leader supports the president, he cannot dismiss him with all powers and authorities in parliament[10]. Indeed, it can be argued that after proposing the dismissal of president by parliament or by virtue of his conviction by the Supreme Court, leader can prevent or agree with his dismissal. Thus, according to the above argument president has responsibility to the leader.

3. The responsibility of the president to the parliament:

Among the responsibilities that have been predicted in constitution is the responsibility of the president toward the council of ministers and his legal powers and duties in assembly. However, based on the article one hundred and thirty-seventh, each of the ministers are in charge of their duties to the assembly but because they elected by the president and introduced to the parliament through him and he is the head of council of ministers, so he is responsible for the actions of ministers. According to article eighty-eighth "president is required to attend in parliament and answer the questions if he asked by at least a quarter of whole representatives of parliament for questioning about his tasks and actions". Also according to article eighty-ninth the president is required to present enough explanations about the subjects under consideration if heinterpolated by at least one-third of representatives of parliament for questioning about implementing the duties of executive power and directing the executive affairs and if the majority of two-third of all representatives vote for inadequacy of the president then the circumstances will be informed to leadership for carrying out the article one hundred and tenth[‡‡].

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a) [††]- Articles fifty-fifth and one hundred fourth of Irans' constitution

1. Madani, J., fundamental law and political institution, previous, pp. 316.

Conclusion

According to constitution of Islamic Republic of Iran, after the Supreme Leader, the president is the highest official status of the country and has the responsibility for implementing the constitution and the leadership of executive power except for matters directly related to the Supreme Leader. According to what is being said, the president is the second official status in the country and is the head of executive power and cabinet. Also, president is known as a symbol of sovereignty in Islamic Republic of Iran due to attending in international conferences and high-level diplomatic visits and accepting the credentials of foreign ambassadors at international level. The president of Islamic Republic of Iran is responsible according to his duties and authorities and he is responsible to the nation, supreme leader and parliament according to constitutional law. His responsibility in front of people is keeping his promises and performing his election programs that in the case of failing to perform his promises people will not select him for re-incumbency of presidency. Also, his responsibility in front of leadership can be seen in the dismissal signature by Supreme Leader and in the parliament it appears in questioning and interpolating the ministers and president. The president also has responsibility in judicial and financial affairs and in the case of infringement the executive power is responsible to investigate through Supreme Court.

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