The Role of the President on the Implementation of the Constitution: a Comparative Study of Fundamental Rights in Iran, France and Afghanistan

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Abstract

In countries with a presidential system, the president has tremendous impact on efficiency and better implementation of the constitution. Providing authority for the president to implement and spread the culture, the implementation of the rights and freedoms of people against government forces are some appropriate criterion to implement the constitution. But the examination of the Iranian constitution and relevant ordinary laws, are sowing some shortcomings in this regard that it is worthy to carefully considerate to fix these flaws. But obviously with this suggestion to appreciate the term monitoring of the one hundred and thirteenth principle, monitoring the implementation of the constitution in all institutions and organs of government is the President responsibility. As well as implementation of the principles are the president responsibility (these principles are including: 2,3,8,911,14,19 to 42) that they are not in the scope of any of the institutions and powers in the constitution or their implementation by the president does not enter any damage to the separation of powers and even in has the message of the people's rights. In the case of France in this research, analysis of the legal system of the country resulted in this conclusion that although the French president has privileged status and authority, he has to implement the constitution and to monitor the various government agencies. But in Afghanistan, the president has the responsibility of monitoring the implementation of the law and the constitution of this country has been emphasized on it. But unlike France, in Iran and Afghanistan the role of the President in implementing the constitution will depend on political strategies more than anything. In this paper, in addition to using the library resources, comparative study of France and Afghanistan and descriptive analysis, some recommendations are also provided, these recommendations are: public education of the constitution, accepting the citations to the constitution, honoring all the principles of the constitution, amending legislation.

Keywords: Constitution, Supervision, President, Enforcement Guarantee and Implementation of the Constitution.
Introduction

Civil society is the human society, the society that has been established by humans and for human as the masterpiece of creation. The duty of law is to regulate relations between individuals and the duty of public law in particular is regulating relations between governors and obedient, and of course to guarantee the obedient rights.

One of the main objectives of the constitution is realization of democracy and a civil society that it should be established based on of the people volition and democracy system to fulfill it. Normally most instances of human rights and freedoms are defined in the constitutions of countries. In this regard, it seems that the greatest care and the implementation of the rights of individuals can be started with the implementation of the constitution to safely make people more familiar with their rights. So the Executive ant its chief role is notable. As it usually has the highest authority and power, and the unawareness about the rights and freedoms and the scope of their power and eventually violation of limits and their power will lead to violation of fundamental rights. The constitution has special attention on civil rights, so that the difference in color, race and language will not a cause in their access to this right. And the government is obliged to respect the rights of citizenship for all people. Therefore, the powers and duties of the President in the implementation of this National Convention are very important. This study sought to evaluate this fact. And from the standpoint of comparing, it is tried to answer the question: Whether the role and political responsibility of Iran, French and Afghan presidents in the implementation of the constitution is the same?

But the implementation of the constitution as a national covenant is one of the most controversial issues of the country's basic rights. The scope of power is clear in the constitution and the protection and implementation of human rights and freedoms of nation will be provided with this restriction. In fact, "The objective of constitutionalism, limitation of authority on the one hand and human rights on the other hand are emphasized in Constitution, and the Constitution role is to regulate the relationship between political power and the freedom of people, but the regulation of the relations is based on three principles of popular sovereignty, rule of law and supremacy of human rights and the sustainable development is provided". With this comparative introduction the role of the President In implementation of the constitution will be checked in constitution of Iran, France (due to being a role model and to extract the Iranian legal system of this country) and Afghanistan (due to proximity and a great similarity with the Iranian legal system).

A Comparative Study of powers, duties and monitoring powers of the of concerned countries presidents in implementation of the constitution

In Afghanistan, the president has the responsibility of monitoring the implementation of law according to the constitution, and this commitment has been emphasized in different places of Constitution. According to the constitution, the care of the implementation of the constitution is not limited to executive power and the two other branches (Legislature and judeiary) are also included.

But the Constitution has not noted the implementation method of this competence. And the quality of its implementation has to be explained in the ordinary law. On the other hand, members of the Special Commission will be determined by the president in accordance with the Constitution that is responsible for monitoring the adaptation of the constitution.

It is natural that president is independently responsible for monitoring the implementation of the Constitution. The mentioned Commission has also the same duty. The purpose of the legislation is not clear here, is it precautionary or preventive measures? Or is it because of
unawareness about the parallel duties of mentioned institution and the president? In this situation, in some cases incompatibility will occur between the President and the Commission views and monitoring the implementation of the Constitution which will be a major challenge. What should be done in this case? There is no solution in the Constitution for this consequence unless the presidential authority in the implementation of the Constitution and the Commission monitoring is determined in accordance with the law in ordinary laws, so that any conflict will be prohibited.

But in Iran, this duty is explicitly placed at the disposal of the President under Article 113. This principle is an important principle of constitution and is one of the principles that has been changed in 1368. It should be noted that before the reforms of 1368, more powers were given to him because he had to lead the relations of three branches. But this duty was given to the leader after the reforms. It was the turning point to begin the changes and different interpretations of the president responsibility for implementing the constitution. Although this issue was considered since the beginning of the revolution, in our opinion, responsibility for the implementation and enforcement of constitution is the most important duty of the President that has been expressed in the various principles of the constitution. Because in Article 121, the President sworn in the presence of the Holy Qur'an to guard it and certainly there are Inaugural Prayer effects after it. Of course, the implementation of the constitution is limited to the administrative aspects. Because the legislative process and the adjustment of adopted legislation with the constitution is the Guardian Council responsibility. But the important discussion is to recognize the scope of responsibility of the President on the implementation of the constitution and the way of implementation and relevant instruments, which was expressed in detail in the section on Iran. As for France, according to the fifth principle of the French constitution which states that: "The president is monitoring the observance of the constitution." One hundred and thirteenth principle in constitution of the Islamic Republic of Iran states the president is responsible for the implementation of the constitution. But the foundational mechanism and consequences of this solemn duty is different in France, Iran and Afghanistan; because the similarity and symmetry within Iran, Afghanistan and France is only verbal or at least very superficial. If the issue of the implementation of the constitution got practical, it would be a basic and important issue that is related to the good relations of power and regulation of relations between the Cabinet and senior officials. The situation of two countries, France and Afghanistan, are fundamentally different. Practical procedure confirms that the French president has more freedom of action on the implementation of the constitution than the president of Iran and Afghanistan.

Article 5 of the French Constitution states that: "The President of the Republic shall see that the Constitution is observed. He shall ensure, by his arbitration, the proper functioning of the public authorities and the continuity of the State .He shall be the guarantor of national independence, territorial integrity and observance of treaties."

France's constitutional law that makes the President responsible for monitoring observance of the Constitution, gave the president broad and important powers. The President of the Republic shall be commander-in-chief of the armed forces (Article 15). The Presidents can declare the National Assembly dissolved (Article 12). The president will give those adopted legislation that has been sent to him for explanation back to Parliament for revision and Parliament must give effect on the request of the president. Three of the nine members of the Constitutional Council will be defined by the president. The president of the Constitutional Council is appointed by the president. According to Article 64, the president ensures the independence of the judiciary and according to Article 68, the president is not responsible for
the actions that he has done in the scope of his duty. Except in the case of a huge and obvious treason that in this case he would be prosecuted by the public vote and a majority of both Congress and he would be sentenced by the Supreme Court of Justice. French president with having such status and powers as provided by Article 5 is supervising and monitoring the implementation of the Constitution and the legal performance of various government agencies. Regardless of whether on the basis of Article 19 of the Constitution about actions of the president, the signature of the Prime Minister or the related Minister is needed beside the president signature in making decision. But regarding to the exceptions list, it is founded that this fact does not have serious impact on his independence in enforcing the essential powers. In other words, the Constitution of 1958 anticipated fundamental and important independent competencies such as, control over observance of the constitution and etc. (Article 5), appointing the Prime Minister and other members of government (Article 8), presidency of the Council of Ministers (Article 9), adoption of bills and legal plans by reference on a referendum (Article 11), dissolution of the National Assembly (Article 12), utilizing the extraordinary powers in critical situations (Article 16), Presidency of the Army (Article 15), Presidency of the Supreme Judicial Council (Article 65), Determining a third of the members of the Constitutional Council (Article 56) have placed the president in a high position within the executive branch and among other powers and great institutions. "

The fifth principle of the French constitution which stipulates

The President of the Republic shall see that the Constitution is observed. One hundred and thirteenth principle in constitution of the Islamic Republic of Iran states the president is responsible for the implementation of the constitution. Now the question is that whether the subject of implementation of the constitution in France can be studied with the mentioned mindset? Can the fundamentals mechanism and consequences of the issue of France be observed in Iran? The answer to these questions is no, because the similarity and symmetry within Iran and France is only verbal or at least it is very superficial. If the issue of the implementation of the constitution got practical, it would be a basic and important issue that is related to the good relations of power and regulation of relations between the Cabinet and senior officials. The situation of two countries, France and Afghanistan, are fundamentally different. The power of the President was much more improved in the French Fifth Republic. In fact to get rid of the impasse of the Fourth Republic that parliament interfered in everything with broad powers in the executive branches and caused instability and insecurity in the executive branch, the Fifth Republic was established on the basis of the president power. The President of France has a huge impact on the legislative process, and this effect gives him the chance to prevent the constitution violating in the legislature stages. This chance does not exist in Iran President. In accordance with Article 10 of the constitution, the president endorsed the rules within fifteen days after submission the approval to the government. And according to the sixty-first Article, if president recognizes that the parliament approval is in contrary to the constitution, he can give it back to parliament for review, therefore, the President has the opportunity to review and control the Parliament legislation. So in the most important field of the possible violation to the constitution, the legislative arena, the President has the authority to prevent the violation of the constitution. It has been considered that in France, legislation by Parliament has an exceptional case, and most of regulations and rules of the country are as the bylaws instructions. These provisions that will be approved under the supervision of the President are the rule of law in the country's legal culture and they are important. Even under the forty-first principle of the constitution, the government is allowed to reject it, if the proposals or amendments to
parliament are not fit within the law (Article 34) or if they are in contrary with the thirty-eighth principle. Thus, on the one hand the president of France has an effective role in the legislative process (Submission of proposals and endorsement of laws) and on the other hand with the great executive authority that he has, he is capable of resolving any aggression and violation of the constitution, without any legal challenge. President in the performing of jurisdiction place and performance of his duties could not been asked by any authority but about committing treason. Except endorsement by the President, since most of the parliament legislations have been approved through proposed legislation of the government, and the government is governed by the president, the president controls his performance. Another issue that may sharply limit violations of constitution through legislation is that in French, the Parliament authority in legislation is not a general and absolute competence and parliament has legislative power only about enumerated cases in Article 34 of the constitution. Most of the country's current issues are executed through government legislation that is called "rules". Thirty-seventh article of the French constitution has mandated that those issues that are not within the scope of the law are rules. Moreover, according to thirty-eighth Article of the constitution:

"The Government may ask Parliament for authorization for a limited period in order to carry out its program to take measures by ordinances that are normally a matter for statute"

It has been considered that in France, legislation by Parliament has an exceptional case, and most of regulations and rules of the country are as the bylaws instructions. These provisions that will be approved under the supervision of the President are the rule of law in the country's legal culture and they are important. Even under the forty-first principle of the constitution, the government is allowed to reject it, if the proposals or amendments to parliament are not fit within the law (Article 34) or if they are in contrary with the thirty-eighth principle. Thus, on the one hand the president of France has an effective role in the legislative process (Submission of proposals and endorsement of laws) and on the other hand with the great executive authority that he has, he is capable of resolving any aggression and violation of the constitution, without any legal challenge. President in the performing of jurisdiction place and performance of his duties could not been asked by any authority but about committing treason. It is essential to note that in France during the discussion about the implementation of the constitution, it is better to pay attention to non-legal issues such as: monitoring and controlling the civil society organizations such as parties, unions and the press and sharp and watching eyes of visionaries and politicians instead of legal texts and provisions and content of the relevant legal rules. In other words, the implementation of the constitution is not a legal process but it is popular culture which of course it has been achieved followed by a long-term historical experience. Historical origins and the circumstances and conditions that lead to the creation of the constitution in any country is a major part of the importance of the constitution formation, so the fundamentals and the implementation of the constitution can largely be found in this issue. Expectations, orientations and approaches for each of the basic rules are influenced by historical, political and social atmosphere of that rule. The Constitution of Afghanistan has considered the form of government as "the Islamic Republic, independent, unitary and indivisible" in the first Article, which is composed of two Islamic and Republic elements. People are in the core in stability of government based on two elements. The governor should gain the support from the influential members of the community and majority of people. It is necessary for the governors to consult with community representatives in the agreements and after necessary consultation processes and make decisions they have to act with considering the interest of the people. Afghanistan's new political system is a pure presidential system. With a president,
two vice-presidents, a bicameral legislature and an independent judiciary that are elected by direct popular vote. President is both the head of state and the head of government and is not subject to vote of no confidence by Parliament (With the exception of habeas corpus or indictment). President selects his cabinet, although the president's cabinets are subjected to be approved by both of the legislature's congresses. The executive is dominated by the powerful president. The legislature consists of the House of Commons that is called "Wolesi Jirga" and has 249 members that at least 69 of its members are women and a Senate that is divided equally between the elected representatives of States, representatives of the departments and representatives of the president. The judicial system is composed of the Supreme Court that its members are selected by the president and they have been confirmed by the House of Commons. Lower court judges that are elected by the Supreme Court, they will be confirmed by president. This Constitution has sought to create significant separation and balance between the three branches of the central government. Constitutional mechanisms organized the power relations in such a way that although they have power and speed of action, they would have more safety and health. On one hand, by giving the president the control of the affairs, his power in making decisions and the implementation have been increased and on the other hand by adherence to the theory of the cooperation, a strong control has been put over the its performance and by strengthening the position of the National Assembly the power of executive has been prevented. In modern democracies and based on Constitutional Law, the executive branch is the most powerful governmental entity among the other three governmental organizations and its competencies and functions are much more different from the competencies of the legislative and judicial power. Exactly the same thing is true about the president and the executive branch in Afghanistan. Diversity of executive powers and competencies - especially the president - is such that it is very hard to describe the specific actions. For this reason, there are some expressions about the president’s powers in the constitutional law in order to include the wide and varied president's powers "The president is the head of government of the Islamic Republic of Afghanistan and he applies his competencies in the fields of executive, legislative and the judiciary branches in accordance with the provisions of the Constitution." Therefore, separation of powers that has been accepted in the Constitution of Afghanistan has been granted comprehensive and without restriction to accomplish this task in the direction of discussions. In a word, the king's performance, the duties and competencies of the chancellor and president functions in other countries, are granted to the president in Afghanistan. The Afghan president has the responsibility of monitoring the implementation of the law according to the constitution and this commitment is emphasized in different places of the Constitution. According to the Constitution, the care of the implementation of the constitution is not limited to executive power but the two other branches are also included. There is nothing in the Constitution about the condition to execute this competence and the quality of its implementation has to be explained in the common law. On the other hand, the members of the special commission will be appointed by the president according to the constitution which is responsible for monitoring the implementation of the Constitution. It is natural that the president is independently responsible for monitoring the implementation of the Constitution. Mentioned Commission has the same duty. The purpose of the legislation is not clear here, is it precautionary or preventive measures? Or is it because of unawareness about the parallel duties of mentioned institution and the president? In this situation, in some cases incompatibility will occur between the President and the Commission views and monitoring the implementation of the Constitution which will be a major challenge. What should be done in this case? There is no solution in the Constitution for this consequence unless the
presidential authority in the implementation of the Constitution and the Commission monitoring is determined in accordance with the law in ordinary laws, so that any conflict will be prohibited.

**Comparative study of administrative principles of constitution in the executive scope of the concerned countries**

Another aspect of protection of the constitution is to protect the constitution in executive scope. Executive scope has more important and higher status in the sphere of governance, because all the ideals, values and orientations in the constitution would emerge in the executive scope. Executive scope is the sphere that political power will be manifested regardless of all theoretical and philosophical foundations. So judgment related to whether the principles and values that are enshrined in the constitution and whether the governors and the authorities are committed to the constitution, all should be found in the executive scope. Executive scope is where authorities violates the constitution and explain their faults in thousand ways. In all three countries this concern is the same. In all three countries the possibility of violating the constitution executive scope has not been overlooked and efforts have been made to remove the constitution aggression. As was mentioned in the three studied systems, the president is considered responsible for the implementation of the constitution. This responsibility interpreted that the President has to prevent the constitution if he saw a violation of the constitution. In French and Afghanistan, executive responsibility of President won't face with special problems and obstacles due to the high position of the president as the head of the country and the fact that he guarantees the regular performance and the continuity of government, but in Iranian system, the executive responsibilities of the president will sometimes face with legal and political challenges according to the president's position as the second official. The nineteenth century and the first half of the twentieth century was the time that the constitution in France was challenged on several occasions and every time, it would resolved by amendment, complementary or writing a new constitution and a special interpretation. As nowadays the political and legal procedures and rules in these countries is part of the popular culture, Conflicts and struggles of thought and action on many issues have been expired. It is enough to note that there was always struggle between monarchy and republic throughout the nineteenth century in France, and the difference of monarchies and republics, and drafting of the constitution for each system was something common and ordinary. But after the second half of the twentieth century many things found stability and tranquility in France. But in Iran and Afghanistan new experience of law and lack of commitment to the law caused the traditional power to continue after the constitutional. Therefore in many respects investigation should be began in the establishment of the Islamic Republic began, the system was unique and very original because it bases on a religion and religious teachings have influences on all aspects of individual and collective life. In addition, the Islamic Republic was established on the basis of people's participation and paid attention to the people's impact on the organization and power structure. In a word, the establishment of the Islamic Republic was the collecti....
constitution. The constitution in France was the product of a democratization process during two centuries. In fact rise and fall and ups and downs were reached to perfection in this country after the Fifth Republic and finally the constitution of France is narrating a wide range of attitudes and approaches, tyranny contention, cruelty contention, Westernization and modernization that sometimes it is challenging at odds with the values and religious identity of Iranian society. Now the subject of the implementation of the constitution in these countries has been distinct based on these experiences and histories. While in Iran and to some extent in Afghanistan, Islamic rules are the main concern in the field of legislation and execution and political philosophy of the government in Iran guides the law to comply with Shari'ah standards.

Based on the philosophy of humanism and secularism in France, all the things have to meet individual requirements. Therefore government's political philosophy and ideology of any political systems it gives a certain interpretation to law and its protection. Another thing is that the subject of commitment to the law is enforcement guarantee according to the law. As in France on one hand became public culture due to more experience and commitment to the rule of law and on the other hand independent and civil institutions such as political parties, trade unions, independent media and the press and public pressure has led the implementation of constitution become a cultural and social fact. But in Iran and Afghanistan most of the legal mechanisms established by the law are considered to protect and implement the constitution.

Protection principles and implementation of the constitution in the concerned countries, most can be studied about each of their political and social circumstances. Although some similarities are undeniable, the constitution in each of these countries is the foundation of the legal and political systems with their specific values, approaches and objectives. It is obvious that one of the fundamental principles of the protection of the constitution is to preserve and strengthen this system. In other words, the principles that are enshrined in the constitution are the most important guarantee to sustain the regime and to protect it from the rules and expressions, to safeguard the systems, mechanisms and procedures that are enshrined in it. Aside from the common point if take a look at the content of the described systems, we will notice the differences in the processes, structures and enshrined values of these systems. The jirga is considered as a political and social key in Afghanistan and it has a good efficiency. The Loya Jirga is grand assembly of tribal and social figures in Afghanistan and it takes place in critical cases. In most cases it is called by the king or president and its members can be elected or appointed. Since the time that Afghanistan developed "constitution", it has experienced different political systems. Among the political systems, Republic can be named as the system that is highly adapted with the political participation. Republic attempts to resolve the constitutionalism issue by on adapting the order and plurality through compromising with the different groups by allowing them to participate in government or the competitive election of government by all of them. The Constitution of Afghanistan, in Article I, has considered the government as "the Islamic Republic, independent, unitary and indivisible which is composed of two Islamic and Republic elements. People are in the core in stability of government based on two elements. The governor should gain the support from the influential members of the community and majority of people. It is necessary for the governors to consult with community representatives in the agreements and after necessary consultation processes and make decisions they have to act with considering the interests of people. In France, all those thoughts and ideas of thinkers and scholars of the school of natural law, each vote on sovereignty and the government was manifested as the constitution of that country. National sovereignty, the distribution of power and the separation of powers,
delimitation of duties and powers, powers and governing authorities, rejection of the monarchy and establishment of the Republic with all the characteristics such as values and ideals that were originally developed in more philosophical ideas and political thought after the Renaissance and then it has been constituted in the France constitution. Throughout the nineteenth century monarchy and republic of French society were facing with challenges. Attempts to quantify the principles of democracy and the consolidation of republic, as well as the protection of individual rights and freedoms are the basis for all the efforts and movements. Constitution of the Fifth Republic of France (1958) which was developed after two years of experience in the French constitution, expresses the same principles and values that was the source of the constitution in France. It is clear that in all three countries, values and philosophical and political and social and cultural characteristics of each country that is binding on individual and collective life of its people is embodied in the principles of the country constitution. The constitution is protected and respected because it implies these values. What we said was the political and social aspects but from a legal perspective, the constitution is respected in all three countries and it has a high status and credit in the hierarchy of legal rules and the rules that has been stipulated in the constitution. Other legal rules that have been reflected in the form of ordinary laws, judicial procedures, traditions and government regulations must comply with the constitution. This is stipulated in the constitution of each country and the mechanisms of this adaptation have also been anticipated. Stability and consistency of a stable society completely depends on the consistency of the legal system of that society and consistency of the legal system of a society depends on the stability of its basic rules. From the perspective of this stability and consistency of the rules set forth in the constitution as the supreme and fundamental rules, the must be implemented and be protected. Except from what we said preservation of national unity, the rule of law and resulting benefits are other reasons that justify the protection and implementation of the constitution. But regarding to assessment of the implementation of the constitution in France, Afghanistan and Iran, this conclusion can be offered that: first, the position and influence of public opinion and the media and civil society organizations and independent political supervision should always be kept in mind and commitment to the implementation of the constitution or a violation of the constitution must be linked with this issue. Secondly, background and history of implementation of the constitution of any country has a major impact on the way of constitution implementation in countries. This means that France has a long history in the rule of the constitution because of challenges and ups and downs that have been happening to constitution.

Conclusion

As the conclusion of this study some results have been obtained that can be summarized in order of their importance in Iran, France and Afghanistan:

Iran

(A) Changes in the executive branch after the review were the reasons to increase the duties of the President in the implementation of the constitution and make it important. Approvals of the review Council in 1368 tends to change the Iranian regime to presidential system in order solve the problems of the executive. However political system of our country cannot be considered a presidential system, because many of the characteristics of the presidential system does not exist in the Islamic Republic of Iran. But the tendency that exists in the constitution in 1358 toward the parliamentary system changed to the presidential system and this fact make the role of
the President in implementing the constitution more important. Responsibility for implementing the constitution and regulate relations of powers in the constitution of 1358, which was resulted from the position that was given to the President at the beginning of Article 113, and introduced him as the first official character after leadership, is considerable.

(B) According to Article 113 of the constitution the President is responsible for the implementation of the constitution.

(C) Setting up the monitor and track commission of the implementation of the constitution by the government of Mr. Khatami, which confirms the practical attempt of a president in implementation of this solemn duty.

(D) Presidential status confirms the importance of delegating this role to him. As in the structure of the Islamic Republic of Iran, the President has the highest official of the country, after the Supreme Leader. This is stipulated in Article one hundred and thirteenth of the constitution and it also has been announced in many other rules. According to Article 91 and 113 of the constitution, the implementation of the constitution, in both the executive and legislative implementation have been done by the Guardian Council and the President respectively. In fact Guardian Council plays the role to prevent the invasion of the limits of the constitution and the President also creates appropriate strategies for proper implementation of those measures. In our opinion responsibility for implementing the constitution is the most important duty of the President that has been mentioned in various principles of the constitution. Because in Article 121, the President in the presence of the Holy Qur'an sworn to guard it and certainly there are Inaugural Prayer effects after it. Certainly the implementation of the constitution is limited to executive aspects. Because the legislative process and the adaptation of adopted legislation with the constitution is the Guardian Council responsibility. Most of lawyers believe that the president has the authority to implement the constitution and he has tools to act in case of violation or non-implementation of the constitution. The law about delimitation of functions and powers and responsibilities of the president that has been adopted in 1984/09/04 confirms this fact. There is also a theory dated on 11/8/1978 by the Guardian Council that states according to Article 113 the President has the right to warn and notify that it does not have conflict with paragraph 3 of Article 156. The president is responsible to apply all his power and influence to implement the constitution and prevent violations in each of the three branches, even the legislature and the judiciary. This is not counted as the confusion of powers and incompatibility with the principle of separation of powers. Because the constitution provides the president responsible for this duty not as the President but as the highest official in the country after the leader. The constitution stipulates this duty on the President. So he has responsibility and authority over the heads of the other two branches which mainly represent the responsibility for implementing the constitution. Although his status as head of the executive puts him in levels of the legislature and judiciary heads and they should not interfere in each other's roles. In fact, the constitution gives him this authority because of his status and official position that he has. The law that has been set limits, powers and responsibilities of the President in November 1984 and the second chapter of this law as the responsibilities of the President on the implementation of the constitution, four articles dedicated to this topic and also some practical solutions has been expressed to implement the constitution. Guardian Council during approving the law about the duties and powers and responsibilities of the president on 09.04.1984 has
granted broad powers to the President to implement the constitution. As well as this authority is not mean to discredit the constitution, because the separation of powers in our country is relative and based on cooperation and interaction between forces, therefore, the President has no conflict with the principle of separation of powers in this regard. Consequently, it seems that by stipulation of Article 113 and 121 of the constitution and approving the law about the duties and powers and responsibilities of the president in 1984, based on the implementation of the constitution by the President, there is no reason to be worried about the implementation of the constitution by the President, and by increasing the situation of the law in the country to help him, so in my opinion the other aberrant interpretations are appealing to Ijtihad against the Nas. And if they are concerned about this, this category of lawyers should remind that even constitution has banned such a review in the absence of the President and it has confirmed the role of the President on the implementation of the constitution.

France
Article 5 of the French Constitution states that: "The President of the Republic shall see that the Constitution is observed. He shall ensure, by his arbitration, the proper functioning of the public authorities and the continuity of the State. He shall be the guarantor of national independence, territorial integrity and observance of treaties." The role of the French president in the implementation of the constitution becomes clear according to this provision. According to this fact that firstly, the President of the Republic shall be commander-in-chief of the armed forces (Article 15) and secondly, the Presidents can declare the National Assembly dissolved (Article 12) and thirdly, the president can sent back legislation to parliament for review and Parliament must give effect to the request of the president. Fourthly, three of the nine members of the Constitutional Council are defined by the president. And fifthly, the President of the Constitutional Council is appointed by president. Therefore the President of France can play an important role in the implementation of the constitution. Also considering that unlike most parliamentary systems in Europe, the concentration of power in the Prime Minister in France was predicted. Broad powers were considered for the president in a way that practically the cabinet responsibility was against the president's and also the 1958 Constitution of France predicted independent, fundamental and important competencies such as, control over observance of the constitution and etc. (Article 5), appointing the Prime Minister and other members of government (Article 8), presidency of the Council of Ministers (Article 9), adoption of bills and legal plans by reference on a referendum (Article 11), dissolution of the National Assembly (Article 12), utilizing the extraordinary powers in critical situations (Article 16), Presidency of the Army (Article 15), Presidency of the Supreme Judicial Council (Article 65), Determining a third of the members of the Constitutional Council (Article 56) have placed the president in a high position within the executive branch and among other powers and great institutions. Therefore according to the Article 5, the president of France by having such status, he is monitoring the implementation of the Constitution and the duty of different public institutions.

Afghanistan
Considering that firstly, new political system of Afghanistan is a pure presidential system. With a president, two vice-presidents, a bicameral legislature and an independent judiciary that are elected by direct popular vote. President is both the head of state and the head of
government and is not subject to vote of no confidence by Parliament (With the exception of habeas corpus or indictment). Secondly, President selects his cabinet, although the president's cabinets are subjected to be approved by both of the legislature's congresses. Fourthly, the executive is dominated by the powerful president. Therefore these cases express the dignity of the presidency in Afghanistan. As well as granting of powers such as entrance of president representatives to the Senate and the election of members of the Supreme Court by the President, and finally by giving the president the control of the affairs, his power in making decisions and the implementation have been increased and on the other hand by adherence to the theory of the cooperation, a strong control has been put over the its performance and by strengthening the position of the National Assembly the power of executive has been prevented. As the president is at the head of the Islamic Republic of Afghanistan, he applies his competence in the field of executive and legislative and the judiciary branches in accordance with the provisions of this Constitution. The king's performance, the duties and competencies of the chancellor and president functions in other countries, are granted to the president in Afghanistan. So the president of Afghanistan can do many things. The president competencies in executive affairs confirm its special role in the implementation of the constitution, these competencies are including: 1. Take care of implementing the Constitution, 2. The determination of policies of the country, 3. The commander in chief of the armed forces and a declaration of war and peace, 4. make appropriate decisions to defense the territorial integrity and preservation of independence, 5. sending armed forces to abroad, 6. The declaration of emergency situation and its termination, 7. Appointments the top executive position, accept their resignation and dismissal, 8. Other executive competencies including commutation such as forgiveness in penalties, grant Medals, awards and honorary titles, the establishment of a commission to improve governance, 9. Determination of the members of the Supreme Court, judges of the Attorney General, 10. The president agreement with the death penalty (hanging) and Legislative competencies of president also confirmed the special role in the implementation of the country's constitution, these competencies are: 1. Endorsement of legislative decrees and the suspended veto right, 2. Endorsement of the resolutions of Parliament, 3. Determination of a third member of the Loya Jirga, 4. The temporary assignment of competencies of the National Assembly to the government, 5. Referendum and 6. Inauguration of the National Council meeting

**In summary:** According to the constitution (Article 113), Iran's president is responsible for monitoring the implementation of the law and the Constitution and laws are emphasized on this commitment in different places. According to the Constitution, the implementation of the Constitution is not limited to executive power but the two other branches are also included. As well as the duty of regulated monitoring of the implementation of the constitution in all institutions and organs of government is the President right. As well as implementation of the principles are the president responsibility (these principles are including: 2,3,8,911,14,19 to 42) that they are not in the scope of any of the institutions and powers in the constitution or their implementation by the president does not enter any damage to the separation of powers and even in has the message of the people's rights. In the case of France, although the French president has privileged status and authority, he has to implement the constitution and to monitor the various government agencies. But in Afghanistan, the president has the responsibility of monitoring the implementation of the law and the constitution of this country has been emphasized on it. But unlike France, in Iran and Afghanistan the role of the President in implementing the constitution will depend on political strategies more than
anything and he should try to increase the morale of circuit laws and to adopt legal approach instead of political approach.

Suggestions
Some parliamentarians, presidents and pundits of Iran have offered some strategies. These cases are such as formation of an inspection committee and approval of ordinary laws, warning the constitution by the authorities, formation of the tracking commission and monitoring the implementation of the constitution but it cannot be accepted that the executive status of the constitution is respected. The provided solutions didn't have the required efficiency and there were some fundamental uncertainties about the legal nature and the authority of the President in implementation of the constitution what discussed about it. To response to the ambiguities, the proposals are as follows:

A. Cultural protection of the constitution: Any society needs to be aware in order to grow. Our community has suffered from violations of the rules rather than the lack of rules. Therefore, supporting the public opinion and the public's desire to implement the principles of the constitution will be much more effective that the political and legal solutions.

B. Public education and promoting the principles of constitution: In this regard, it is suggested that the principles of constitution have to be taught at guidance school and through mass media to analyze the exchanged ideas about the constitution.

C. Acceptance of citations to the constitution in lawsuits: Unfortunately, in our country for lawsuits and legal legislation of lawyers, judges do not care about the constitution and they only care about ordinary laws. It is amazing that all lawyers around the world have same opinion about constitution, so it is worthy to make the constitution practically by valuing the principles of the constitution. And only In this case we can ensure that the constitution is supported with people supervision and courts initiative to distinguish the right.

D. Honoring all the principles of the constitution: Some people have been trying to reduce these principles by positing some important principles. For example, some people count the fourth principle as an important one, but this should not weaken the other principles such as prohibition of torture, prohibition of the Inquisition and etc. Due to the high status of the constitution, all power and people should be responsible for the implementation and only the monitoring the implementation of the constitution is the responsibility of the President.

E. Amending legislation in order to implement the principle of one hundred and thirteenth of the constitution: The delimitation of the duties and powers of the president was mentioned and the advantages and disadvantages were studied. Anyway in order to resolve ambiguities in the principle one hundred and thirteen, according to the difficulty of the revision, the best way in the current situation is to adopt ordinary legislation. It is recommended to give the President the public prosecutor to the principles of constitution in order to implement better the one hundred and thirteenth and one hundred and twenty-first principles.

F. Designing the Court to protect the constitution: This approach was described in detail in previous topic, we believe that the establishment of this Court is essential by fixing its flaws and especially to highlight the role of the president in this Court as the public prosecutor, and with the guidance and the consultation of Leadership.

G. Emphasis on the status of the President, according to the second official (regardless of his presidency on the executive branch): According to the one
hundred and thirteenth principle of the constitution, the president is the highest authority after the supreme leader and he is the head of executive branch except on matters relating to leadership and he is responsible for the implementation of the constitution. Thus constitution rely on the President to implement the constitution is more related to his official position and considers him responsible for implementation of the constitution. Therefore, strengthening his position with respect to the fact that he is elected by the people and he also is the head of the executive branch.
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