A Comparative Study of the Competency and Authorities of Legislatures in Iran, France and America

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Abstract

In the countries, Iran, France and America, which are studied in this article, separation of powers is accepted and general structure of the governments consist of the legislature, executive and judiciary branches. In Islamic Republic of Iran, executive branch is one pillar, so that president as the chief executive is in charge of council of ministers; and council of ministers have to gain vote of confidence from legislature branch. Moreover, ministers are politically in charge in front of the president and the parliament. The president is politically in charge in front of Islamic Consultative Assembly and the supreme leader; and he is directly appointed by vote of people. In this regard, he has extensive executive and political authorities. Legislation is duty of Islamic Consultative Assembly. In France, executive branch is two pillar which includes of chief executive in one hand and prime minister and council of ministers on the other hand. The cabinet of president is officially accepted by confidence vote of Member of Parliament; and it is politically in charge in front of legislative branch. President as chief executive of executive branch is directly selected by people vote, but does not have any political responsibility. He has numerous authorities; for instance, chairman of the state, introducing and dismissal of ministers, suspended veto of legislations of parliament and even dissolving national assembly are some of the president authorities. He also can provide the plan of vote of no confidence through interpellation. In United States, power is divided between president and congress. In this country, branches of powers are totally separated. Executive branch is one pillar and president and ministers are not politically in charge in front of congress and ministers are only in charge in front of the president. Executive branch can dissolve the congress. Congress on United States which consists of house of representative and senate which have common responsibilities and authorities such as legislation, revision of constitution and executive supervision.

Keywords: Assembly, Legislation, Supervision, Comparative Law, Legislative Authorities.
Introduction
Constitution of each country is the supreme legal text which is officially recognized in governance area and regions of that country, and determines special frameworks and mechanisms for determining limitation and defining laws and duties. Basic rights and political rights of people are provided in constitution text; and their duties and responsibilities in front of ruling body are presented. Although many juristic believe that government makes laws, we cannot ignore role of inflectional elements on determining and making constitutional laws, such as religion, culture and social values. Comparison of different legal systems is not a new work. Aristotle studied 153 state laws of old Greek to write book of “policy”. In 1775 Philadelphia congress of America was held which announced independency of 13 American colonies from United Kingdom. Congress includes two assembly of House of Representatives and senates which are selected by people. United States congress is the body of legislation in this country. According to first constitution of United States is originated from people, they enforce their power by their selected individuals, and whenever they want, they can retake power from government. Although principle of separation of branches is not explicitly mentioned, the principle is interesting for politicians and the public (Ghasemi, 1985). France has political system based on parliamentary regime. Parliamentary regime of the country like presidential regime of United State doesn’t have the process of separation of powers strictly and decisively. Based on constitution, legislature in Islamic Republic is Islamic consultative assembly. Declaring compatibility or non-compatibility of decisions of Islamic consultative assembly with religious laws and constitution, guardian council authenticates them.

Literature review
1. Madani (2009) in the book of basic right and political institutions in Islamic republic of Iran stated that assembly in Islamic Republic of Iran is significantly important and it is basic of many of decisions, legislations and planning, and guide the government and people.
2. Ghazi (2004) in the book of basic right and political institutions declared that United States congress is legislature of the government that consists of house of representative and senate. A bill is legal when it is approved by the two assembly and it is signed by the president.
3. Moslehzadeh (2005) in article of democracy in Iran and democracy in America said that the highest official can’t sign the parliament decrees and send it back to parliament for more discussion, but in Iran political officials don’t have such authorities.
4. Model of Separation of Powers in France Government System
In current constitution of France (1985), power separation in not a principle. But by defining responsibilities of each power, separation of powers is done. Moreover, recreation of human and citizen rights a part France constitution. In law of 3th June of 1985 which is legislate for setting new constitution, there are 5 principle that shall obey in constitution of 1958: democracy, liberal
democracy, and parliamentary regime, rule of law and France society (public participation). Two of them are related to powers separation: liberal democracy principle in which executive branch and legislative branch are efficiently separated, and rule of power principle based on which “judicial authority” shall be independent. France constitution grants legislation authority to parliament. Prime minister directs government operation and ensures law enforcement. President ensures dependency of legislative branch. He will be vice president by the Supreme Judicial Council. Judges cannot be dismissed. Principle 65 and organic rules prevent interference of other branches of power in legislative power through involving various officials in selection of Supreme Judicial Council. Council of constitution approves that constitution and principle 64 accepted powers separation and dependency of legislative branch from other power branches.

Model of Separation of Powers in France Government System
In United States which is controlled by presidential system, president has veto right of congress; that is he can use this right and to dismissed and invalidate congress approved laws. On the other hand, senate and president cooperate in some area of political affairs, and this exception and other exception lead to balance of powers separation. Some politicians believe that this balance is related to nature of federal system and mechanism of political authorities, and they relate this relative success to compatibility of the system with mood of American people. However, if we consider social position of president in this country and compare his authorities to congress authorities, we find out that president is superior to other powers. In spite of acceptance of powers separation principle in United States, absolute powers separation in not accepted in practice. Instead, in this system powers are relatively separated and powers penetrate to another power. Therefore, in spite of the fact that legislation power cannot dismiss the president and also president cannot dissolve legislation power (congress), but these two institutions have various means for opposition against each other.

Responsibilities and Authorities of Legislative branch of power in Iran
Legislative branch has general freedom and rules significantly in Iran political system; and based on written basic criteria, has an important role in political system of the country. Legislative is God-given rights and it is manifestation of will of common people in which destiny of people is determined, and their life program is implemented by means of thinking, researching, negotiation and voting. Acts of legislative in constitution of Islamic Republic of Iran are predicted as:

A. Acts of legislative is come into force by Islamic Consultative Assembly whose decisions after some processes and support of Guardian council.

B. Legislation by voting: In Iran legislative is two pillar, first pillar is parliament with 290 representative that are directly selected by people through hidden vote and second pillar is Guardian council that consists of 6 Juris consult who are appointed by supreme leader and 6 lawyer who are introduced by head of judiciary and enter to parliament by being selected by member of parliament.
**Islamic Consultative Assembly**

Islamic Consultative Assembly is an important pillar in legislative in Iran and its member are selected in an election by people based on population of cities for 4 years. Its structure consists of:

A. Board of direction: chairman, 2 vice chairman and 6 secretary and 3 supplier

B. Commission: to scrutiny, modify and complete plans and bills presented by parliament. Parliament distribute the representative to various commissions based on specialty and experiences.

**Responsibilities and authorities of Islamic Consultative Assembly**

Islamic Consultative Assembly has extensive responsibilities and authorities in Islamic Republic of Iran, such as legislating and supervision.

**Legislation**

**A. Purview of legislation**

“Islamic Consultative Assembly can legislate in all areas determined in constitution.”

Secondly, competency of parliament is optional and although its competency is general, it can legislate in all areas.

**B. Legislative process**

Legislation is started in Islamic Consultative Assembly through presenting legal plans and bills of 15 representatives of parliament and government.

**Supervision competency of Islamic Consultative Assembly**

Islamic Consultative Assembly that consists of representatives of people should be aware and supervise and observe performance of authorities and government, so that rights and freedom of people not be violated. Nevertheless, this dimension of parliament’s performance is important for constitution of Islamic Republic of Iran.

**Responsibilities and authorities of legislative in France**

In France, national sovereignty belong to people and people indirectly govern the country by means of people. Therefore parliament consists of people representative and it should be of importance in this system. In 1958 based on new constitution (fifth republic), parliament includes two national assembly and senate. Basis of constitution was creation of parliament system which is similar to presidential system. In fifth republic, parliament statues became week. May be it is because of various authorities of parliament in forth republic, that led to collapse of government, power of parliament over authorities of head of legislative is weekend. This led to creation of constitution of 1985 which consists of parliament and constitution council. Parliament that includes national assembly and senate is product of two parliamentary assembly that still exists as a result of some philosophies such Mentes. Constitution council in 1799 was approved in constitution as “Guardian senate” and in 1946 had the name of “commission on constitution” and finally was named “council of constitution” of supervision power.
Responsibilities and authorities of legislative in United States
Based on chapter 1 and principle 1 of constitution of United States, all authorities of legislation is granted to congress that consists of senate and house of representative. In fact, congress is legislative of United States and senate is symbol of representative of the country. That is, number of senators of each state is based on their population. For instance, Novada state with 200000 population and New York with 20 million population have 2 senators. House of representative, that is manifestation of national unity and representative of whole population of United States, is legislative of United States that consists of a supervising legislation as congress including senate and house of representative, which in political system of United States and France is “Guardian Council” and council constitution has the role of protection and supervision of laws. Second pillar is legislative that in federal system of United States is granted to Supreme Court that is a 100 percent Judicial Body.

Comparative study of Legislation Regulations and the Countries
Constitution is accepted as a superior law in these three country; therefore, decisions of legislative assembly should not be against constitution. Because constitution mentions general principles, laws are rarely against constitutions. Hence, constitution of Islamic republic of Iran grants the authority to Expediency Council to verdicts about issues related to competency of government in Islamic Consultative Assembly and Guardian Council. Thus, if Guardian Council consider a law against constitution and Islamic Consultative Assembly regarding competency of the government do not approve the law, but Expediency Council approve its competency, the law will be considered legal. This point shows that constitution is afloat. In United States, because the government system is federal, based on first section of first article of constitution, legislation is limited in determined issues. Since some authorities belong to state assemblies. Except authorities that is granted to federal assembly. Authorities submitted to federal assemblies is limited to foreign relationships, business, monetary and financial system. In France, legislation and decree is separated. The issues that can be legislated is explicitly mentioned in constitution and other issues are submitted to decree. Therefore, legislative competencies in France is limited. Characteristics of decree is speed of ratification, modification and its conversion in time and coordination with needs of organization. While ratification of a law is slow and its modification and conversion requires time. Aim of France constitution 1985 was limitation of parliament and prevention of violation of executive authorities. Islamic republic is based on Islamic ideology and the laws approved in parliament cannot be against Islam. Thus, the only limitation in passing law is opposition to Islamic rights. Regardless of ideological limitation, Islamic consultative assembly has the right of legislation. Because legislation is extensive and decree is not clear, many issues are submitted to decree and they are approved as law in Islamic consultative assembly. So ratification of these laws reduces authorities, activities and decisions of executive.

Conclusion
By comparative study of legislation of Iran, France and America, we can conclude that:
A. Legislative system of each country is a part of political, social and cultural system of the country and has been shaped based on general principle of that system and it has its own
meaning and concept. These principle is the basis of structure of legislation system of the country and it is not applicable in other countries. So, general principle applied in these countries is not solely applicable the other country. For instance, American legislative system that is based on population and land, take congress authorities, legislative principle of state assemblies and creation of law through congress members’ plans. These principle roots in federal system and complete separation of powers. Because Iran and France do not have these system, these principles are not applicable in these countries. Since United State has presidential system. In France, limitation of authorities of parliament, government support of approve of laws, limiting legislation to prevent violation of executive are principles roots in presidential system of France and relative separation of powers. Its aim is superiority and power of executive. In Iran, Sovereignty of Islam rights, preventing from ratification of laws against Islam and limitation of authorities of Islamic consultative assembly roots in Islamic system of our country.

B. Advantages and flaws of legislation procedure in the three county
1. Advantages of legislation procedure in United States are consistency of legislation, solidarity in laws, maintaining legislation experience, reduction of laws volume and preventing from violation of executive. Its flaws are lack of passing special laws required for executive organization, non-compatibility with emergencies, lack of strong and essential supervision on congress decisions and inability in settlement of dispute between parliaments.

2. Advantages of legislation procedure in France are limitation of legislation in France, ratification of required laws for executive, reduction of laws volume, determining laws limitation, relative supervision on passing law, rapid settlement of dispute between parliaments, prevention from violation of executive by parliament. Its flaws are impact of executive on procedure of legislation, parliament obedience of executive opinion for legislation, opinion independency of Islamic consultative assembly, rapid ratification of law and resolving dispute of Islamic consultative assembly and Guardian council, inconsistency and incoherence of legal text, irregular increasing in laws, unclear border of law and act, and violation of executive by ratification of usual laws.

C. Special results of effective element in legislative systems are:
1. Two parliament system leads to balanced and consistent legislation and increased accuracy in ratification of legal text and more consistency and coordination of laws.

2. Large number of representatives increases size of assemblies and decreases their efficiency, and prolongs the process of passing laws.

3. Short term representation decreases dominance of representative over legislation and decreases their inefficacy, and long term representative weakens relationship of representative and people and increases distance between them.

4. Election of board of assembly for long term legislation, increases consistency, power and independency of assembly’s management.

5. Establishing commission based on official ministry and organizations leads to increase of commissions, reduction of members, increase of dominance of commissions on ministries, Disproportionate distribution of plans and bills between commissions and decrease possibility of holistic view to plans and bills. On the other hand, establishing
commission based on subject, makes number of commission and members logical and proportional, decreases dominance of commissions on ministries, balances distribution of plans and bills between commissions, and study plans and bills holistically.

6. Creating law in form of bill is more compatible with the needs of executive systems and they are created based on experts’ opinion and they will applied in more areas.

7. Identifying border between law and decree, stabilizing decree area and preventing violation of executive.

8. Identifying independence reference for ratification of law, preventing from second investigation and possible reversal, not requiring recourse of individuals with different opinion and they don’t have adequate specialty.

9. Signing laws as a part of procedure of law ratification, is an instrument for executive to prevent violation of legislation and ratification of law that is not beneficial in the view of executive.

As constitution of each country identifies general framework of the country, but we should not consider that law that is created by human is flawless and perfect. Comprehensive and complete constitution is a law that coordinate with conditions and needs of human. This principle is true for the most complete constitution and every few year needs modification and review. However, it should be accepted that constitution of Islamic Republic of Iran was not comprehend and complete, and every few year it needs essential evolution. For instance, some fundamental principles related to our topic are violated and is not applied because of ambiguities and generalization. Therefore considering the above mentioned, principles below needs modification and review:

1. Principle 90 and a constitution is reviewed as: to guard Islam and constitution regarding incompatibility of decisions of Islamic consultative assembly, a guardian council for constitution should be established as below:
   A. Six fair Juris consult who is aware of requirement and issues of the day in addition to Muslim lawyers of different fields.
   B. Juris consult of constitution guardian council with twice talent should be introduced by Marja to supreme leader, among whom 6 person be appointed.
   C. 2 of 6 lawyers of constitution guardian council appointed by president, 2 by chairman of Islamic consultative assembly and 2 by chairman of legislative.
   D. None of Juris consult and lawyers of constitution guardian council should not dependent to parties and groups and prevent from partisan and factional tendencies, and do their responsibilities independently.
   E. Secretary or chairman of constitution guardian council is selected by its member.
   F. Principle 92 is reviewed as below: term time of members of constitution guardian council (Juris consult and lawyers) is six years and they shouldn’t be selected again. One third of members should be renewed.

3. Principle 93 is reviewed as: decisions of Islamic consultative assembly is legal when constitution guardian council is established and it doesn’t consider it against Islam law and constitution.

4. Principle 94: All decision of Islamic consultative assembly is not absolute and searchable and is mandatory for general, executive and juridical authorities.
5. Principle 95: the article against Islam law and constitution is not applicable. All decision of Islamic consultative assembly is not absolute and searchable and is mandatory for general, executive and juridical authorities.

6. Principle 99: should be reviewed so that constitution guardian council supervise election of assembly of expert, presidential election, Islamic consultative assembly, polling and referendum in order to do it as it has been predicted and its result is announced.

7. Principle 138 is reviewed as: Decrees, regulations and decisions of above mentioned commissions in this principle, before being applied, should be send to internal commissions of Islamic consultative assembly to verify their compatibility with regular laws, and send it to government to reconsideration in case it is against laws. President confirms and sings the regulations and presents them to authorities to be applied.

8. Based on principle 173 and article 25 of Court of Administrative Justice Act and principle 170 of constitution, after the court cancels government regulation because of being against Islamic laws and regulations, litigation claim for damages as a result of mentioned regulations is provided through Court of Administrative Justice.

9. In principle 110, article 8 it is mentioned that “the government problems that are not solvable regularly, should be solved by Expediency Council”. In this regard, competence of council should be distinguishing problems of government and necessary suggesting legislation to people’s representative in parliament, but it should not legislate beyond constitution.
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