



An Analysis on the Feasibility Study of the Comparison Between Article 68 of the Constitution of the Islamic Republic of Iran and Article 5 of the Election Law on the Suspension of Presidential Elections

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Abstract

The ultimate goal of this analytical study is to assess the analogy between Article 68 of the Constitution of the Islamic Republic of Iran and Article 5 of the Election Law on the suspension of presidential elections. The reason for the ruling in Article 68 of the Constitution of the Islamic Republic of Iran cannot be extended to Article 5 of the Presidential Law to use the analogy. First, because the reason for the ruling in Article 68 of the Constitution of the Islamic Republic of Iran is the suspension of the Islamic Consultative Assembly elections during the war and military occupation with the President's proposal and the Guardian Council's approval. Secondly, there is no such necessity for holding presidential elections in force majeure time, and the Constitution has provided for the sponsorship of the presidency if the presidential election is not held. Thirdly, assuming that impossibly to cite it, one of its basic conditions, the president's proposal, is missing because his term is over. On the other hand, in Article 5 of the Islamic Republic of Iran Law and Article 7 of the Guardian Council; according to Article 68 of the Constitution, the election is suspended and annulled with the approval of the Guardian Council. These two articles do not have any conflict with each other and each of them is applicable in its place, but the approval of the Guardian Council to stop the presidential election in case of force majeure has priority under certain conditions.

Keywords: *Presidential Elections; Force Majeure; Comparison; Sponsorship; War*

1. Introduction

Today, the holding of elections and the election of public officials, statesmen, members of parliament and members of local councils by the people are considered essential tools of democracy. One

cannot find a country that claims democracy and does not have institutions such as elections and referendums. Considering the rule of religious democracy in the Islamic Republic of Iran¹, the Constitution, by proposing the principle of sovereignty of the people over their social destiny as a God-given right, has made the exercise of political authority in the field of action conditional on its acceptance by the people. Due to the impossibility of direct democracy, the method of indirect democracy, i.e. the election of the governors by the governed, has been considered by the Constitution and the ordinary legislator of Iran and the "elections" mechanism has been considered for its realization.

Elections' studies as a field of research has more than 50 years of history. The democratic nature of most political regimes and the effectiveness of elections in changing cabinets and parties and dominant tendencies and changing policies and political relations inside and outside the political system and governments on the one hand and sensitivity to democratic processes and the importance of indicators of democracy in the development and the nature of political regimes of countries on the other hand, in addition to strategic dimensions, has put the study of elections and related issues in the focus of scientific attention (Qaysari et al., 1394 HS).

Elections are one of the few phenomena in the field of politics that have various behavioral, social, cultural, policy-making, legal and executive dimensions and levels. Inherently different factors and variables that in turn facilitate and pave the way for the success of implementation and action. Common values, norms and perceptions, trust, the spirit of civic participation and political participation, which are referred to as social and cultural assets, are among the factors and variables, whose existence and quality are effective in the success and failure of implementation and practice of ideas, laws and political projects (Ibid., 1394 HS).

Elections are an arena that shows the success of political discourses in the country. In previous election periods of Iran, a kind of discourse struggle² has been existed and the changing political and social atmosphere of Iranian society, fluctuations in the demands and tendencies of the people, change in the global political climate and especially people's judgment and perception of the ruling political discourse have led to the victory of a discourse and marginalization of rival discourses. Finally, the winning discourse model will be an accumulation of new concepts, new demarcation and drawing new cultural, social and political horizons (Majidi and Rahiminia, 1397).

In the Islamic Republic, with the victory of the Islamic Revolution and the fall of the dictator regime, a favorable environment was emerged for public freedom and very wide political participation of citizens, groups and parties to determine the political destiny through elections, but supporting social values was not developed in harmony with the objective atmosphere conducive to freedom and participation. And this has become one of the areas of challenge in the implementation of some elections (Darabi, 1388).

¹ In general, the following points can be extracted from the Imam's statements regarding the role of people and religious democracy:

A) The Islamic government is formed on the basis of justice; B) Governments, including the Islamic government, must be subordinate to the people; C) Governments should be for the people, not the people for governments; D) The Islamic government is a government that serves, and the duty of the government is to serve the people; E) The connection between these principles is based on God-centeredness; because it is in divine rule that justice is meant. Satisfaction of the people is an acceptable principle, and service to the people is essential; and the basis of government is legitimized, meaning that the will of the people is the source of the power of government; and God's will the source of the legitimacy and rightfulness of the government (Ghazizadeh, 1397).

² Discourse is the use of language as a tool in "social" affairs and, therefore, the analysis of discourse is the analysis of the quality and function of the text in its social and cultural context, discourse is a complete communicative event in a social situation (Fairclough, 1995).

2. Problem Statement

The proper holding and implementation of elections as a political project is not possible only by relying on technical and specialized laws and regulations. One of the problems of emerging democracies is that in line with the inclusive political participation that emerges during elections, other requirements and tools for political participation, both institutional and cultural, have not been developed. The results of some studies show that in societies where communities are more civil, citizens are more willing to work with governments to provide services and public goods. In such societies, the government is perceived as a partner and companion, not as an actor that interferes in the social life of citizens, and this convergence between informal or civil institutions and formal or political institutions is one of the factors of democracy efficiency but the progress and success of these systems in other areas as well (Tavits, 2006). However, existing experiences show that the execution of elections faces many challenges, even in democracies that are several hundred years old and are in a better position than emerging democracies in terms of social and cultural capital indicators and other electoral requirements. The victory of the Islamic Revolution and the establishment of the Islamic Republic is a turning point in the new experience of Islamic religious democracy³ in the legal-political field.

The republican structure of the system and the election of legislative and executive positions and officials are among the indicators of democracy in the Islamic Republic of Iran. According to Article 6 of the Constitution of the Islamic Republic, "In the Islamic Republic of Iran, the affairs of the country must be governed by public vote, through elections, the election of the President, members of the Islamic Consultative Assembly, members of councils and the like, or by referendum in cases where in other principles, this law is determined." Therefore, the elections, the manner and process of holding and its results as a solution and the indicator of "governing the country based on public opinion" and its requirements in order to strengthen the foundations and structure of religious democracy is of particular importance. (Darabi, 1388).

From the Constitution's point of view⁴, "sovereignty" is the God-given right of the people, and the nation exercises this inalienable right by means of "elections" (and in exceptional cases through a referendum), therefore, all those who exercise political control over society, will only legitimize the exercise of power by the people through healthy and correct elections. In this way, the importance of elections and the decisive role of how they are held will be clear in the political life of society, and consequently in other social affairs. Elections should be held in such a way that the most relationship may be established between the electorate and the elected in order to hope for the sovereignty of the people. To achieve this goal, it is necessary to hold periodic, fair, free elections, with healthy competition and equal suffrage of individuals in elections (Gill, 2006). However, in any democratic society, due to issues such as national security, public order, health protection, public morality or the rights and freedoms of others, some of the people's rights, including the right to participate in the elections of democratic institutions, may be subject to exceptional restrictions by law. (Hashemi, 1386). This means that in some conditions, the country's environment, regions or areas are not suitable for holding elections and inevitably the elections must be stopped (Mehrpour, 1392). Therefore, the Constitution has stipulated in Article 68: During the war and military occupation of the country, upon the proposal of the President and the approval of three-fourths of the total number of representatives and the approval of the Guardian

³ When the leadership raised this issue, some people were misunderstood and said: such a concept is completely wrong and contradictory; because democracy is not compatible with being religious. This is due to the same history that was in their minds, and they thought that democracy can be found when we reject theism and religion, and with this view, they said that the two concepts do not come together. The Supreme Leader of the Revolution made an interpretation that, in my opinion, was not given much attention; but it was very important. He said: "The combination of religious democracy is not the kind of concrete combination that we have brought democracy from the West and we want to bring religion together with it; no, the democracy we are talking about is derived from the text of religion." And for this reason, our Constitution also stipulates that democracy as a worldview is not accepted and it is not the criterion for right and wrong, and the people's vote is not a sign of legitimacy or invalidity; we accept democracy as a method (Ismaili, 1388).

⁴ Article 56 of the Constitution

Council, the elections of the occupied areas or the whole country are suspended and if the new parliament is not formed, the former parliament will continue its work. Also, Article 5 of the Presidential Election Law: "If the Guardian Council suspends or annuls the presidential elections throughout the country for any reason, the Ministry of Interior, upon obtaining the opinion of the Guardian Council, will proceed to the re-election at the earliest opportunity." To analyze the principle, this article seeks to answer the following question:

The criterion of the ruling in Article 68 of the Constitution can be extended to Article 5 of the Electoral Law on the suspension of the presidential elections? To analyze this question, we must first analyze the following questions in the Islamic Consultative Assembly and presidential elections:

Will war and military occupation stop the elections of the Islamic Consultative Assembly and the President? What is the authority to propose and approve the suspension of the elections of the Islamic Consultative Assembly and the President? What is the role of the Guardian Council in this case?

3. *The Purpose of the Research*

The purpose of the present study is to analyze the feasibility of comparing Article 68 of the Constitution and Article 5 of the Electoral Law on the suspension of presidential elections.

4. *Research Methodology*

This research⁵ is methodologically in the category of library studies, this research has been used by researchers in connection with this issue.

5. *Literature and History of Research*

Among the scientific works that have been done in this field, the following researches can be mentioned:

Majidi and Rahiminia (1397) in connection with the analysis of the discourse of moderation in the 11th presidential elections came to the following conclusion: Discourse of moderation in discourse conflict has become hegemonic due to its position of more active and coherent political subjectivity, using the process of marginalization and highlighting, effective access and greater credibility more than other competing discourses (Majidi and Rahiminia, 1397).

Zarghani (1397) in the field of spatial analysis of the results of the tenth Iranian presidential elections in Mashhad concluded: Spatial distribution of candidates' votes in different areas of Mashhad is a function of economic, social and cultural characteristics and indicators in different areas. In fact, in the city of Mashhad, with the trend of increasing levels of development in various variables, the percentage of Ahmadinejad's votes has been decreased, and vice versa, in the case of the other three candidates, especially in the ballot box of Mousavi and Karroubi, this trend has been reversed (Zarghani, 1397).

Sa'ei et al. (1395) in the field of party competition and electoral participation and the analysis of ten presidential elections concluded: Members of the government have had the experience of attending senior management levels in their career's history. According to the data, academics with 29.8%, the military with 25% and Rouhani with 18.5% were present in the cabinet (Sa'ei et al., 1395).

⁵ The analysis of the feasibility of comparing between Article 68 of the Constitution and Article 5 of the Electoral Law on the suspension of the Iranian presidential elections.

Malakouti and Jangjoui (1393) in their research entitled "Analysis on the suspension of the Islamic Consultative Assembly elections" concluded: The Islamic Consultative Assembly elections should be held away from any tension and in a safe and peaceful atmosphere to ensure its accuracy, consequently, the sovereignty of the people is realized; however, war and military occupation are among the circumstances, whose resulting crisis certainly overshadows the country's environment, especially war zones or occupied military areas for holding elections psychologically, security-wise and administratively. Therefore, Article 68 of the Constitution, in anticipation of the situation, has given the President the authority to propose to the Islamic Consultative Assembly to suspend elections in war-torn or militarily occupied areas or even the whole country, in order to exercise better sovereignty of the people, together with determining the period of suspension. If the said proposal is approved, with a special quorum of three-fourths of the total number of representatives, the resolution will be sent to the Guardian Council for approval (Malakouti and Jangjoui, 1393).

6. Election Management in the System of the Islamic Republic of Iran

One of the problems facing the Iranian electoral system is the temporary nature of the institutions involved in the elections; as the election observation and conducting institution forms its central and executive boards only a few days or a few weeks before the election, i.e. after the election order is issued. The temporary nature of effective institutions in the management of Iran's elections, which causes a lack of focus on the issue of elections and wastes the experience of election managers can be one of the shortcomings of Iran's election management. Therefore, the formation of the Electoral Commission in Iran should be designed permanently according to the current characteristics of the Iranian electoral system. The temporary nature of Iran's electoral institutions stems from the inadequate view that the election process is considered only in the registration of candidates in the pre-voting stage and in the preparation of the voting stage. In addition, since the two main institutions involved in the elections, namely the Guardian Council and the Ministry of Interior⁶, whose conduct and monitoring of elections is among their dual duties, in other words, the electoral duties of these two institutions are within their other duties and competencies. It can be claimed that there is no permanent and special independent institution in the country's electoral system with special electoral duties. An institution that can only focus its activities and studies on the elections in the country (Qaysari et al., 1394).

On the other hand, electoral laws and regulations must be responsible for holding healthy, efficient and desirable elections; in other words, the necessary homogeneity must be established between these laws and socio-political realities. The study and pathology of the executive body of elections in Iran shows the fact that partial changes in the Iranian electoral system during these decades have not been able to respond to the social and political changes caused by the people's desire for freedom and political participation after the Islamic Revolution. Although the establishment of the Executive Board of the Presidential Elections is a step forward to ensure the independence and impartiality of the Ministry of Interior at least in the field of presidential elections, but it is considered incomplete compared to the experience and practice of countries in creating an independent election commission. Therefore, the formation of the Electoral Commission in Iran with the tasks and functions listed can be effective in solving the executive challenges of the elections (Qaysari et al., 1394).

⁶ The formation of the Electoral Commission will not place any restrictions on the role of the Ministry of Interior in supporting the elections, but the Commission, as the Executive Director of Elections, will accompany and assist the Ministry of Interior in addition to performing its executive support function. Considering that the Ministry of Interior is responsible for conducting the elections by forming the executive boards of the city headed by the governors, the Electoral Commission can be established in such a way that the executive boards of the city formed by the order of the governors are under the supervision of the commission.

6-1- Key Factors of Success in Elections

The strategic alignment of information technology and business organization is not easy and knowledge of vital areas and factors for its management will play an undeniable role in increasing the success rate of actions in this area. Critical success factors first introduced in 1961 by Ronald Daniel as a business guide⁷. The purpose of determining and defining these factors was to identify the types of information needed to support the senior management activities of the organization. Key success factors include a limited number of areas that, if satisfactory results are achieved in these areas, satisfactory competitive performance for the individual, department or organization can be predicted. In other words, critical success factors are characteristics, situations or variables that if properly maintained, supported and managed, they can play an undeniable role in the success of the company in the competitive market (Yaqubi and Shakeri, 1392).

In examining the key factors of success in electoral competitions, practical strategies can be presented to political parties and sects in order to face the political competition campaign more effectively. In other words, the final victory in the elections will be a process that better and sooner understands the main concern of the people and seeks to provide a credible answer to this concern. The type of certification of candidates in the elections as a completely effective and unaffected key factor puts the strategy of maximum, desirable and continuous interaction of political parties and currents with credible governing institutions centered by the Guardian Council against political parties and currents. The strategy of maximum empowerment of election campaigns of political currents in the period of elections in order to provide effective and comprehensive propaganda can be extracted from the key and effective factor of efficacious propaganda on the level of participation and voting pattern of society. In such a way that the political current should present its effective election propaganda in the best way in two format and content dimensions (Hajipour et al., 1395).

6-1-1- The Relationship Between Party Competition and Electoral Participation in Elections

Some professors, in their research on party competition and electoral participation in the presidential election⁸, came to the conclusion that increasing the level of party competition has a positive effect on increasing the level of electoral participation. So that as the level of party competition is increased, the level of electoral participation is increased too. And as party competition is decreased, the level of electoral participation is decreased too. In the following diagram, the process of these changes can be seen more concretely at the same time (Sa'ei et al., 1395).

⁷ Considering that the implementation of strategic IT programs at the level of organizations requires comprehensive preparation and maturity of the collection in various dimensions, by reviewing the literature of subject, vital success factors for maintaining and improving the organization's readiness were extracted for strategic alignment of information technology and business. Totally, 52 factors were extracted, 51 factors were approved by the country's alignment experts. These factors should be considered before the actions of the organization in the field of information technology and they should be changed if necessary and for the effectiveness of the organization's investment in this field (Manian and Arab Sorkhi, 1388).

⁸ Analysis of Ten Presidential Elections in Iran (1357-1388)

Table: Comparison between party competition rates and elective participation

Total average	1388	1384	1380	1376	1372	1368	1364	1360	1360	1358	Amount
27/58	9/72	24/6	29/96	41/72	19	29/6	21/5	28/5	13/8	45/6	Sectarian competition
65/1	85	62/8	66/7	79/9	50/5	54/6	54/7	75/1	64/2	67/4	Electoral participation

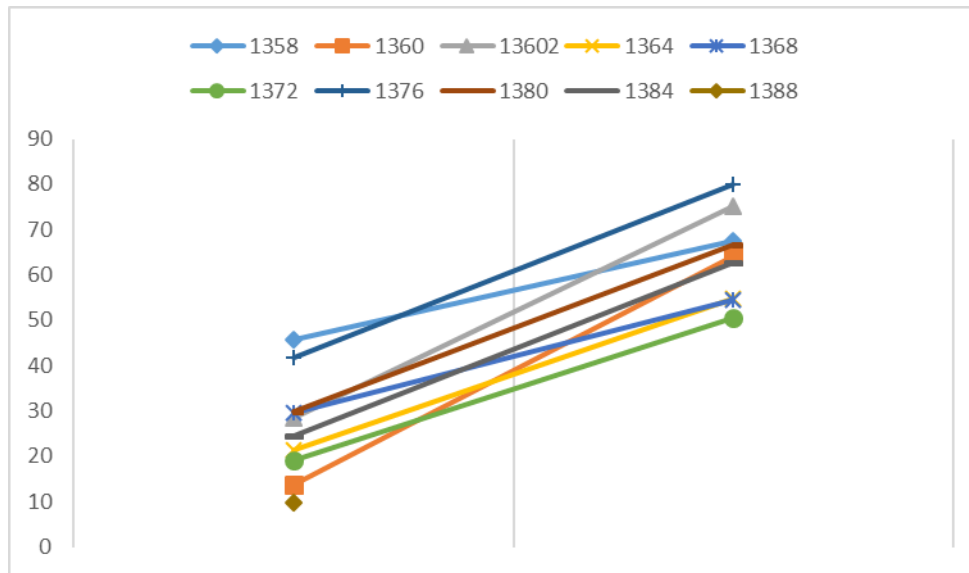


Diagram: Investigating the relationship between sectarian competition and elective participation

In principle, in authoritarian⁹ and totalitarian¹⁰ systems, electoral participation also takes place, but this is happening consciously, freely and realistically in democratic political systems. A democratic political system is inherently electoral and participatory, and parties are required to work for obtaining political power, which is one of the sources of power in societies, to satisfy the people and gain their votes; therefore, the greater the parties' efforts to gain political power and popular vote, the stronger the democratic political system. And its definite result is conscious and free participation in elections (Sa'ei et al., 1395).

6-2- Stopping the Elections

In theories of sovereignty, there is a difference between popular sovereignty and national sovereignty. In the sovereignty of the people, each individual has the right to determine his or her individual and social destiny (direct democracy), while in national sovereignty, the integrated and unified power of the individuals is realized through representation (indirect democracy) on the people's destiny. In this regard, Article 56 of the Constitution stipulates: "He (God) has made man the ruler of his social

⁹ Authoritarian regimes welcome pluralism to a lesser extent, have no interest in the political mobilization of the population, and are afraid of rallies. They lack free elections and guiding ideology (Bashiriyeh, 1384).

¹⁰ Totalitarian regimes refer to regimes that seek total control over all social and economic affairs and the removal of all rivals and opponents through terror, repression and monopoly in the realm of political power. In such regimes, the government controls and dominates all areas of human life to such an extent that there is no room left for the privacy of individuals (Ibid).

destiny" which indicates the sovereignty of the people and direct democracy and states in another part: "The nation applies this God-given right through the methods mentioned in the following principles", which indicates the acceptance of national sovereignty and indirect democracy. These principles guarantee national and popular sovereignty in such a way that "no one can deprive man of this divine right or use it to serve the interests of a particular individual or group." In other words, the sovereignty of the people is first of all a divine gift. No one has the right to deprive them of it, so depriving them of sovereignty is an act of usurpation that must always be resisted. Second, no one has the right to transfer the sovereignty of the people to a particular individual or group; therefore, all those who are in charge of the political management of society will have the legitimacy of the exercise of power by the people only through healthy and correct elections (Harisinejad, 1387).

Since the supervision of the Guardian Council can be the surest way to control and oversee the implementation of laws and achieve real results of elections, the legislator in Article 99 of the Constitution has determined overseeing the elections of the Assembly of Experts, the President, the Islamic Consultative Assembly and referring to a public vote and referendum as the duties of Guardian Council. In order to perform strict supervision within the framework of the election law and the executive regulations and related supervision, it is planned in such a way that all observers of polling stations, by receiving the necessary training, guide and execute affairs in the best way (Hashemi, 1386).

Article 68 of the Constitution¹¹ has specified only on the elections of the Islamic Consultative Assembly; therefore, in a democratic system, it is necessary to always have the symbolic face and character of democracy; therefore, the continuation of the parliament's work in legislating and then monitoring the implementation of the law can never be stopped. Even in political systems where the parliament is dissolved, only the legislative act is closed and the parliament is basically not closed and dissolved. In the Iranian legal system, the Constitution never recognizes the parliament closed, even in the event of acute political events and emergencies, and endorses the continuation of the work of representation; therefore, in such an approach, it is not possible to accept that the parliament will be closed, stagnant and dissolved. In addition, compared to other political institutions, the main task of the parliament, which is to legislate, cannot be delegated to other institutes or individuals, while in cases such as illness, death, removal and resignation of the president, with the permission of the Supreme Leader, his duties can be handed over to the first deputy until the election of the next president (Article 131 of the Constitution). Therefore, holding elections of the Assembly of Leadership Experts, as well as referendums, are not necessary in times of war and acute political issues. On the other hand, if the elections are not held for any reason, then the president and local councils have predicted for the sponsorship of that position and institution¹².

6-3- Presidential Supervision

According to Article 121 of the Constitution, the President swears to be the guardian of the official religion and the system of the Islamic Republic and the Constitution. The main requirement of guarding is a kind of supervision, which must first be a kind of supervision, based on which guarding can be applied. If the President observes a violation, he introduces it to the relevant authorities or revokes it. In these cases, he can make decisions in addition to the necessary instructions and provide guidance. He

¹¹ "During the war and the military occupation of the country, at the suggestion of the President and with the approval of three-fourths of the total number of delegates and the approval of the Guardian Council, elections will be suspended in the occupied territories or the whole country for a certain period and if a new parliament is not formed, the former parliament will continue to function. »

¹² If the elections of any of the village and town councils is suspended for the reasons mentioned or is dissolved after the formation according to the legal regulations, the governor will be the deputy governor of that council until the re-election and the formation of a new council.

Note 1: The Deputy of Tehran City Council will be the Deputy Minister of Interior.

Note 2: The successor of the village council is the district council (Article 85 of the Law on Islamic Councils)

sometimes even proposes outside the scope of his duties or makes more serious decisions, such as warning the implementation of the Constitution (Amid Zanjani, 1387).

6-4- Supervision of the Guardian Council

The philosophy of election monitoring is to prevent unhealthy competition between candidates, as well as to prevent violations and mistakes of the election organizer and to protect the people's votes. Wherever misconduct, fraud and error are possible by law enforcement, supervision on enforcement is also relevant. The Constitution has predicted the necessary supervision for the country's three branches; the Islamic Consultative Assembly exercises financial oversight over other branches through the Court of Audit¹³. The judiciary also oversees other branches through the National Inspection Agency¹⁴. According to Article 99 of the Constitution: "The Guardian Council is responsible for overseeing the presidential elections¹⁵ and the Islamic Consultative Assembly, etc." As mentioned earlier, the President submits a proposal to the Assembly to suspend the elections of the Islamic Consultative Assembly. If the parliament approves the proposal, it will be sent to the Guardian Council for approval¹⁶. Now the question that comes to mind is, if the Guardian Council does not approve the decision of the parliament to suspend the elections in whole or in part and the parliament does not provide the opinion of the Guardian Council considering the expediency of the system, will the resolution be sent to the Expediency Discernment Council of the System? Is it possible? In response, it can be said that the nature of the parliamentary resolution on the suspension of elections is separate from other resolutions related to parliamentary laws; because the nature of the parliament's action in this regard is not legislation, and only with the approval of the Guardian Council, it is the implementation of a coordinated policy; therefore, it is different from the council's oversight of the legislative act of the parliament, while only the approvals related to the laws of the parliament are sent to the Guardian Council and in case of dispute they are sent to the Expediency Council¹⁷. (Hashemi, 1386)

The approval of the Guardian Council regarding the suspension of elections should be considered as participatory monitoring, and this monitoring means joint efforts between the executive and supervisory boards in the implementation and monitoring of elections. In other words, in this type of monitoring, a distinction must be made between implementation and monitoring at all stages. In such a way that the conduct of elections is the responsibility of the executive boards; however, since any executive matter must be monitored to prevent abuse of power, oversight on executive affairs is the responsibility of supervisory boards¹⁸ (Malakouti and Jangjoui, 1393).

6-5- Cases of Election Suspension

The serious task of the presidency requires that the president have special and prominent conditions in order to be able to perform his serious task properly. Although the president is elected by direct popular vote, it may be difficult and sometimes impossible for the people to determine the specific circumstances. In this regard, Article 110, paragraph 9 has mentioned "The eligibility of the presidential candidates, in order to meet the conditions set forth in this law, must be approved by the Guardian Council before the elections." According to Article 118 of the Constitution: "the Guardian Council is

¹³ Articles 54 and 55 of the Constitution of the Islamic Republic of Iran

¹⁴ Article 174 of the Constitution of the Islamic Republic of Iran

¹⁵ The Guardian Council oversees the presidential elections. This monitoring is general and in all stages and in all matters related to the current elections (Hashemi, 1386).

¹⁶ The approval of the suspension of the elections by the Guardian Council stems from the position that this council has in supervising the elections and it should not be confused with the supervision of the council over the approvals of the parliament; because the approval of the suspension of elections is the implementation of a coordinated policy and not the approval of the law, and it is different from the supervision of the council over the legislative action of the parliament.

¹⁷ Article 112 of the Constitution of the Islamic Republic of Iran

¹⁸ Regarding the suspension of the elections, the Guardian Council has an inherent duty to monitor the elections and the approval of the said authority eliminates the intention of the legislature and the executive branches to prevent the formation of a new parliament (Malakouti and Jangjoui, 1393).

responsible for overseeing the presidential elections in accordance with Article 99." Article 2 of Law on the Guardian Council's Supervision on Presidential Elections states: "The Central Supervisory Board oversees all stages of the election and the electoral process and the actions of the Ministry of Interior and the executive boards that are effective in the elections and will monitor the accuracy of the elections." Also, according to Article 7 of the same law, "the Guardian Council at all stages, in case of proving a violation, with a reason for annulling or stopping the elections throughout the country or some regions, decides and announces its opinion through the mass media. And the opinion of the Guardian Council in this case is final and binding, and no other authority has the right to annul or stop the elections¹⁹."

At the end of this part there is a question, "is the candidate responsible for violating the provisions of the mentioned article²⁰? And if he is responsible, he can be arrested during the election, and if one or two or a number of candidates are arrested in the same way, will the election be stopped or not?²¹

The responsibility for the violation lies with the individual or individuals or groups and organizations that have carried out the prohibited campaign, and in any case the note under Article 28 of the Election Law remains in force and the candidate may not be summoned or detained during the election²².

6-5-1- Stopping the Elections During the War and Military Occupation

The outbreak of war and military occupation affects the power of action and decision-making of those who want to vote in the elections, because it creates a tense and extremely anxious situation for the people in the affected areas or even the whole society so that they are unable to participate in the elections or if they do participate, this reduction in decision-making power causes voters to select representatives who do not have sufficient authority to enter parliament based on immediate and emotional decisions. Therefore, it seems that during the war and military occupation, the society or the areas involved in it are not psychologically ready to participate in elections and political participation. During the war and military occupation, in terms of psychological, security and executive conditions, the conditions for holding free and fair elections is not appropriate and elections should be stopped and postponed to another time in order to exercise better governance of the people. The meaning of elections in the mentioned principle is the elections of the Islamic Consultative Assembly; because unlike other democratic institutions, legislation and representation cannot be closed and delegated to any other institution or person, and there is no need to hold other elections, such as the Assembly of Leadership Experts or local councils, etc. during war and military occupation. Or the Constitution provides for the sponsorship of the presidency if the presidential election is not held (Malakouti and Jangjoui, 1393).

6-5-2- Presidential Sponsorship

Death, dismissal, resignation, absence or illness for more than two months, the end of the presidency or other such matters are the factors for the realization of presidential sponsorship in Iran (Taghizadeh, 1389). According to Article 131, another reason for the president's sponsorship is when the presidency has ended and for some reason a new president has not been elected. In this case, in order for the absence of the president in the presidency not to stop the executive affairs and to continue the public

¹⁹ Guardian Council Supervision Law on the Presidential Elections of the Islamic Republic of Iran

²⁰ Single Article - The use of any placards, tracts, graffiti and advertising caravans and the use of mobile speakers outside the speech environment and the like are forbidden, with the exception of photos in a maximum of two forms and pamphlets and speeches and questions and answers on behalf of the candidates of the Islamic Consultative Assembly and the presidency and Islamic councils and their supporters. Violators of this law are sentenced to 3 to 30 days in prison.

²¹ Presidential Election Law of the Islamic Republic of Iran

²² The interpretation of the above law including the single article, was approved by the Islamic Consultative Assembly in a public session on Wednesday, March 5, 1991, and was approved by the Guardian Council on 12/18/1370.

Law amending the single article supplementing the election law approved by the Islamic Consultative Assembly on 5/6/1370 approved on 12/28/70

services continuously, it is necessary to have a successor to perform the executive affairs. For this reason, Article 131 introduces the First Deputy as the guarantor; but the point to be made here is that this principle predicts that the president may not yet be elected for some reason. Now the question that comes to mind is what are the reasons for not electing a new president? How big can these obstacles be that hinder the country to elect a new president? Certainly, the mentioned obstacle such as: war, military occupation of the country or events such as: earthquake, flood, etc. in large dimensions, including most parts of the country, should be so important and large that it has postponed an important matter such as the presidential election so that institutions conducting elections, such as the Ministry of Interior and the Guardian Council as election observers, have faced problems. On the other hand, it is assumed that such conditions have arisen for the non-holding of presidential elections and Article 67 of the Constitution is cited that stipulates: "In times of war and military occupation of the country at the proposal of the President and the approval of three-fourths of the total representatives and approval of the Council "Guardians, the elections will be stopped in the occupied areas or the whole country for a certain period of time ..." (Mazhari et al., 1397).

6-5-3- Analytical Review of Article 68 of the Constitution and Article 5 of the Presidential Election Law

This part of the research intends to analyze and compare the materials between Article 68 of the Constitution and Article 5 of the Presidential Election Law. The reason for the ruling in Article 68 of the Constitution cannot be extended to the ruling of Article 5 of the Presidential Law and the unity of the criterion cannot be used. Because the reason for the ruling in Article 68 of the Constitution is the suspension of the Islamic Consultative Assembly elections during war and military occupation; and in the case of holding other elections, such as the presidency and the Assembly of Leadership Experts or local councils, etc., during the war and military occupation, such a necessity is not felt, or the Constitution, in the absence of presidential elections, has predicted the sponsorship of the presidency. According to Article 131, another reason for the sponsorship of the president is when the presidential term has ended and for some reason a new president has not been elected. We must adhere to Article 68 of the Constitution that the principle is first of all set for the parliamentary elections. Secondly, if it is impossible to cite it, one of its basic conditions, namely the president's proposal, is missing because his term has ended. On the other hand, Article 5 of the Presidential Election Law and Article 7 of the Guardian Council; according to Article 68 of the Constitution, the suspension and annulment of presidential and parliamentary elections is approved by the Guardian Council.

It is clear that our legislator was aware of the existence of Article 68 of the Presidential Election Law at the time of the enactment of Article 5 of the Presidential Election Law, and with this assumption, he proceeded to enact Article 5 of the Presidential Election Law. Therefore, in these two articles, the belief in the conflict between the above-mentioned articles will be eliminated. These two articles do not conflict with each other at all and each of them is used in its place, but the approval of the Guardian Council to stop the presidential election in case of force majeure has priority under certain conditions²³.

Conclusion

In the analysis of Article 68 of the Constitution and Article 5 of the Presidential Election Law, the inference of the following results is conceivable:

²³ Comparison of Priority is a comparison in which principle is transmitted to the sub-branch and its ruling is inferred through the strength and severity of the existence of the cause (the scope of the principle rule) in the branch. Therefore, in cases where the reason for the ruling of the principle in the branch is stronger than the existing principle, the ruling of the principle is loaded on the branch in the first way and is transmitted to it (Mohammadi, 1395).

1- In times of war and military occupation, from a psychological, security and executive point of view, the conditions for holding free and fair elections are not suitable and elections should be stopped and postponed to another time in order to exercise better governance of the people. The meaning of elections in Article 68 of the Constitution is the elections of the Islamic Consultative Assembly. Therefore, Article 68 of the Constitution, by anticipating the situation, has given the President the power to propose the suspension of elections in war or military occupied areas or even the whole country to exercise better sovereignty of the people along with setting a period of suspension, to submit to the Islamic Consultative Assembly. If the proposal is approved, with a special quorum of three-fourths of the total number of representatives, the resolution is sent to the Guardian Council for approval. The reason for the ruling in the above-mentioned principle cannot be extended to the ruling of Article 5 of the Presidential Law and the unity of the criterion cannot be used. Because the reason for the ruling in Article 68 of the Constitution is the suspension of the Islamic Consultative Assembly elections during war and military occupation; because unlike other democratic institutions, legislation and representation can not be closed and delegated to any other institution or person, and there is no need for holding other elections, including presidential elections, the Assembly of Leadership Experts or local councils, etc. during war and military occupation or the Constitution provides for the sponsorship of the presidency in the absence of a presidential election. According to Article 131, another reason for the president's sponsorship is when the presidency has ended and for some reason a new president has not been elected. In this case, in order for the absence of the president in the presidency not to stop the executive affairs and to continue the public services continuously, it is necessary to have a successor to perform the executive affairs. For this reason, Article 131 introduces the First Deputy as the guarantor. We must consider Article 68 of the Constitution that the principle was first established in the case of parliamentary elections. Secondly, if impossibly we cite it, one of its basic conditions, namely the president's proposal, is missing because his term has ended. On the other hand, in Article 5 of the Presidential Election Law and Article 7 of the Guardian Council; according to Article 68 of the Constitution, the suspension and annulment of presidential and parliamentary elections is approved by the Guardian Council. It is clear that our legislator was aware of the existence of Article 68 of the Presidential Election Law at the time of the enactment of Article 5 of the Presidential Election Law, and with this assumption, he proceeded to enact Article 5 of the Presidential Election Law. Therefore, in these two articles, the belief in the conflict between the above-mentioned articles will be eliminated. And these two articles do not conflict with each other at all, and each of them is used in its place, but the approval of the Guardian Council to stop the presidential election has priority under certain conditions in force majeure times.

2- Article 68 of the Constitution stipulates difficult conditions for the suspension of elections, which cannot easily deprive people of their right of political participation; thus, only the executive branch and the executive body of the elections, namely the Ministry of Interior, cannot refuse to hold elections because it is in a war-torn part of the country or use the arrival of some foreign military forces at some point as an excuse to close all elections. In order to stop the parliamentary elections, the intervention of the President, the Islamic Consultative Assembly and the Guardian Council is necessary. The proposal to stop the election is by the president. It is preferable for the Constitutional legislature to be more far-sighted in stating that in the absence of a proposal on behalf of the president, a special quorum of delegates are required to determine the significance of the issue and a three-fourths majority vote is required to approve the proposal to suspend the election. This special and high quorum shows the legislator's respect for the issue of holding elections on time, eliminating the possibility of unjustified suspension of elections. If the parliament approves the proposal, the Guardian Council can approve it not as a law, but as a coordinated policy. The importance of the Guardian Council's approval is that it thwarts any intentions of the executive and legislature not to form a new parliament.

Suggestions

- We must adhere to Article 68 of the Constitution that the above-mentioned principle was first established in the case of parliamentary elections. Secondly, if impossibly we cite it, one of its basic conditions, i.e. the president's proposal, is missing because his term has ended. Therefore, this issue is considered as one of the criticisms on the mentioned principle; because it was expected that the legislature, by formulating and approving the ordinary law, would carefully count the mentioned obstacles and remove the ambiguities arising from the principle by clarifying them; because one of the tasks of ordinary law is to provide a comprehensive overview of the principles of the Constitution in the next detail.

- In the Iranian legal system, the Constitution never recognizes the parliament as solvable and closed, even in the event of acute political events and emergencies, and endorses the continuation of the work of the delegates; therefore, in such an approach, it is not possible to accept that the parliament will be closed, stagnant and dissolved. Moreover, in comparison with other political institutions, the main task of the parliament, which is to legislate, cannot be delegated to other institution or person, while in cases such as illness, death, dismissal and resignation of the president, with the permission of the Supreme Leader, his duties can be handed over to the first deputy until the election of the next president. Therefore, holding elections of the Assembly of Leadership Experts, as well as referendums, are not necessary in times of war and acute political issues. On the other hand, if the elections are not held for any reason, then the presidency and local councils have provided for the sponsorship of that position and institution.

- Especially the Electoral Commission, due to its sufficient expertise, facilities and knowledge, and because it deals with the issue of elections in an operational manner, it can be more effective in improving election laws and regulations than other institutions, given the quality of the commission's duties that has already been mentioned. If a permanent commission with separate executive responsibilities is set up, there will be enough opportunity to review the rules.

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