



Iranian Legal System in brief

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" Wise men make proverbs, but fools repeat them." Samuel Palmer (1805-80)

Abstract:

This brief study is focusing on Legal System of Islamic Republic of Iran. It helps us to know more about Iran's Executive, Judicial and legislative power shortly. As a matter of fact, when a lawyer decides to start his daily work, he/she should be familiar with the Legal system of the country which he/she is faced with. In this paper we explore key issues of Islamic Republic of Iran's legal system. It may help our foreign colleagues, law students, especially comparative law students to find facts and updated information in this regard.

Whereas the Iranian Bar Association Union's official website has provided a separate English version page, it seems that taking a look to the Iranian legal system is considered a priority.

Key words: Law, Iran's legal system, Expediency Discernment Council system, legislative power, executive power, judicial power.

1. Introduction:

1.1 : Geography:

Islamic Republic of Iran, is a country of southwestern Asia. Until 1935 it was known in the West as Persia. I.R. Iran is bounded by Azerbaijan, Armenia, the Caspian Sea, Turkmenistan, Afghanistan, Pakistan, the Gulf of Oman, the Persian Gulf, Iraq, and Turkey. The area is about 636,300 square miles (1,648,000 km²). Keeping in mind the geography of Iran, Iran ranks sixteenth in size among the various countries of the world. The Coastline of I.R. Iran is 2,440 km. Another important aspect of the Iran geography is the climate of I.R. Iran which is mostly arid or semi arid, featuring a rugged terrain with mountainous rim; high, central basin with deserts, mountains and small plains. The lowest point of I.R. Iran is the Caspian Sea - 28 m whereas the highest point is Kuh-e-Damavand at 5,671 m.

Among the small rivers the only one navigable is the Karun through which shallow-draft boats can move from Khorramshahr to Ahvaz.

I.R. Iran geography also includes the various natural resources of Iran like petroleum, natural gas, coal, and chromium and information about where they can be found. The extent of irrigated land in Iran is 75,620 sq km. The types of natural hazards in the country are : periodic droughts, floods, dust storms, sandstorms and earthquakes.

The common environmental threats to the geogrpahy of I.R.Iran are air pollution, deforestation; overgrazing; desertification; oil pollution in the Persian Gulf; wetland losses from drought; soil degradation; inadequate supplies of potable water and water pollution.

1.2 :Political system and political institutions:

Although Iran political structure is a republic system, it may seem different from other similar political systems. Iran political system's origin and roots are the reason beyond such a uniqueness.It seems that,the political system of Islamic Republic of Iran is the result of the Islamic Revolution in 1979, the first of its type in the world. Undoubtedly, Iran's political system which established afterward should have been defined on the basis of the aspirations and ideals of such a revolution.

Islamic Revolution gained victory as a result of the leadership of late Ayatollah Khomeini. After the demise of the founder of Islamic Republic of Iran, Ayatollah Seyed Ali Khamenei was given the control of leadership of Islamic Revolution. As a matter of fact,I.R.Iran's leadership is known the backbone of Iran political system.

In the mean time, according to I.R.Iran's Constitution,as amended on 1989,main political institutions are as follows:

1.2.1 : **Assembly of Experts**: Assembly of Experts (Majlis-e Khobregan) is part of Iran political structure formed after the demise of Ayatollah Khomeini to elect a leader. They are also in charge of determining if the leader, or any member of the leadership council, can efficiently accomplish his duties.

1.2.2 :Iran Guardian Council: It is the council of sages known as the Council of Guardians of the Constitution. They check the compatibility and conformity of the bills and motions passed by *Majlis* with the Islamic canon and the Constitution.

1.2.3 :**Expediency Discernment Council of the System**: This council has been established to overcome the differences of standpoints between the Majlis and the Guardian Council. This council plays a major role in Iran political system.

1.2.4 :**Supreme Council for National Security**: It is an institution within Iran political structure to watch over the Islamic Revolution and safeguard the national interests, sovereignty and territorial integrity of the Islamic Republic of Iran.

1.2.5 :**City and Village Councils**: They form the decision making and administrating organs of the state together with the parliament of the Islamic Republic of Iran, *Majlis*. This is a vital ingredient of Iran's political system.

2:Legal system :

2.1 :Contitution :

Current Constitution adopted 2nd-3rd December 1979; as amended, significant revisions expanding presidential powers and eliminating prime ministership in 28 July 1989. Article 4 provides that all civil, penal, financial, economic, administrative, cultural, military, political, and any other laws must be based on Islamic criteria; Article 12 provides that official religion is Islam and the twelver Ja'fari school; other schools of law to be accorded full respect and freedom of religious practice, including matters of personal status.

2.2 :Judiciary Power :

The Minister of Justice is elected from among the individuals proposed to the president by the head of the judiciary power. The head of the judiciary may hand over full authority to the Minister of Justice in financial and administrative areas and for employment of personnel. According to Article of the I.R.Iran's Constitution ,the head of Judicial power is

pointed by Supreme leader and the minister of justice administers the ministry and coordinates the relationship between the Judiciary branch on one side and the legislative and executive branches on the other.

The judiciary is of vital importance in the context of safeguarding the rights of the people in accordance with the line followed by the Islamic movement, and the prevention of deviations within the Islamic nation. Provision has therefore been made for the creation of a judicial system based on Islamic justice and operated by just judges with meticulous knowledge of the Islamic laws. This system, because of its essentially sensitive nature and the need for full ideological conformity, must

be free from every kind of unhealthy relation and connection (this is in accordance with the Koranic verse "When you judge among the people, judge with justice" [4:58]).

There are different types of courts to deal with the various cases:

"Public courts" deal with civil and criminal cases.

"Revolutionary Courts" ,deal with certain categories of offences, including crimes against national security, narcotics smuggling, and acts that undermine the Islamic Republic. Decisions made in the revolutionary courts are considered final and cannot be appealed.

"Special Clerical Courts" , deal with crimes allegedly committed by clerics, although it has also taken on cases involving lay people. These courts are independent of the regular judicial framework and are accountable only to the Supreme Leader. The decisions made by these courts are also final and cannot be appealed.

"Supreme Court " ,supervises the correct implementation of the laws by the courts, ensures the uniformity of judicial procedure and fulfils any other responsibilities assigned to it by law.

"Court of Administrative Justice" investigates any complaints or objections by people with respect to government officials, organs, and statues. It is under the supervision of the head of the judiciary power.

2.3 :Legislative power:

Iran legislative power has been within its political structure since 1906, when Iranians staged a constitutional revolution for restricting Shah's power. Before the Islamic Revolution in 1979, there were two parliaments In Iran government, "the lower house" (National Consultative Assembly) and "the upper house" (Senate).

After the Revolution in 1979, Senate was abolished and The Consultative Assembly became The Islamic Consultative Assembly (Majlis).

Two governmental bodies form Iran legislative power: Iranian parliament (*Majlis*) and the Guardian Council(*show raye negahban*). All the legislations must be first approved by the Majlis and then be ratified by the Guardian Council.

All members of parliament (290 MPs), are elected by public vote for a 4-year term. The Guardian Council first decides who among the candidates is qualified to become an MP and who is not. Then, those whose qualifications are approved,would be consider as candidates which are eligible to run for the elections.

Religious minorities, Christians (Armenians and Assyrians), Jews and Zoroastrians, have 5 representatives in the Majlis. There are no gender restrictions to become a member of the Majlis.

The Majlis has a steering board that consists of a speaker, two deputy speakers who run the meetings in his absence and a number of secretaries and provisions administrators.

According to articles 68-89 of the I.R.Iran's Constitution ,Majlis has the power to:

Debate the motions tabled by the government upon the cabinet's approval, as well as bills tabled by at least 15 MPs, debate

and inquire into all the national affairs,

approve international treaties, protocols, agreements and contracts, effect minor changes in the border lines .

2.4 :Executive power :

The president of Islamic Republic of Iran, the head of Iran executive power, is the second highest authority after the supreme leader. The head of Iran executive power is also the coordinator of the three branches of the state, legislative, judicial and executive powers in Iran government.

Every four years, the head of the Iran executive power is directly elected by people as president. Such a president can become candidate for a second successive term, but not more than two terms.A

According to the constitution of Islamic Republic of Iran, Iranian president should possess the following qualifications: Iranian origin and nationality, administrative and managerial skills, piety and trustworthiness, belief in the Islamic Republic's fundamental principles and the official religion of the country.

He also signs and supervises the implementation of laws passed by the Majlis, Signs treaties and other international agreements ratified by the Majlis, receives the credentials of foreign ambassadors, endorses those of Iranian ambassadors sent abroad, presides over the National Security Council. His responsibilities also include the administration of the country's budget and development plans ratified by the Majlis.

3 :Conclusion:

In my opinion,not only from political ,but also political point of view,structure of the Islamic Republic of Iran,is a unique,and new one, in the field of political systems which established immediately after the victory of Islamic revolution .

Thereare many revolutions,uprisings throughout history of mankind,as we see nowadays in some Arab countries,but the Islamic trends's of Iran's people is the ultimate cause of Iran's legal system's backbone.

As stated in the Preamble of Islamic Republic of Iran's Constitution ,the victory of Islamic revolution changed the manner of thinking about fundamental issues such as economy,social views,and so on ,which Pahlavi's regime pursued for decades according to western model of thinking.

It is argued that ,this model of political system is a very important event which would be a proper pattern for some Arab people in regarding to their uprisings:(<http://www.rohama.org/en/pages/?cid=4881>).

Sources:

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