

The University of Hull

**The Impact of the Iranian Constitution on the
Law Making Power of the Parliament
(Majlis)**

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By

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Abstract

In this research the law making power of the Iranian parliament is studied at two levels: Firstly, the power of the parliament according to the Constitution is explored. Secondly its power in real politics is analysed. It is shown that the law making power of the parliament as an elected institution can be limited by the unelected institutions which are enshrined in the Constitution. Also the political composition of the elected institutions (parliament and executive) whether they are Conservative-dominated or Reformist-dominated, can define the actual law making power of the parliament. It is concluded that the law making power of the parliament oscillates on a spectrum: at one end there is a weak law making legislature and at the other end one can see a policy influencing legislature.

The main content of the chapters is as follows: The first chapter is dedicated to introduction where the research questions and thesis methodology is explained. In the second chapter the most important literature, especially that which considers the external and internal variables and typology of legislatures, is reviewed. In the third chapter the historical evolution of the Iranian Parliament in the Qajar, First and Second Pahlavi Eras is briefly discussed. The fourth chapter is dedicated to the Iranian parliament in the Islamic Republic Era. The key concepts which can explain the logic of the distribution of power within the Iranian Constitution, the relationship of the parliament to the executive power (elected institution) and other power centres (unelected institutions), and the type of the political regime on the basis of the amended Constitution of 1989, is explained. Theoretical propositions are tested in chapter five.

The Sixth and Seventh terms of the parliament, where the political composition changed fundamentally from one to the other, are chosen for case study and their law making power during the budget process analysed. The dichotomy of elected and unelected institutions is applied to the case in this chapter. Then the contribution of the elected and unelected institutions during the budget process is explained. The next part of this chapter considers the Sixth Majlis and its political context in general. The Majlis and executive interactions and the interaction of these two elected institutions with the Guardian Council and Expediency Council especially during the budget process, are analysed. The same approach is deployed for the Seventh Majlis which in terms of political composition was in stark contrast to the Sixth Majlis. It is shown how the political composition of the elected and unelected institutions can increase or decrease considerably the law making power of the Islamic Consultative Assembly. The overall conclusion of the thesis is provided in chapter six.

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Chapter One:

Introduction

1. Aims and purposes of this research

There is plenty of literature on the post revolutionary Iran and its political system but it rarely focuses on the parliament as the main target of study. Even in these exceptional cases, the legal approach dominates. Naturally in these kinds of studies, the emphasis is on the jurisdiction and authority of the parliament according to the Constitution and other relevant laws and regulations. What about the real politics? There are many dimensions of the Iranian Parliament which have not been covered by researchers at all. As already mentioned, apart from recent attempts, the Iranian Parliament has never been studied from a legislative studies perspective and as such is an unknown area of research. Therefore, a contribution to knowledge of the Iranian Parliament is one of the main aims of this research.

Researchers who explain the Majlis from a legal perspective claim that, theoretically, the Iranian Parliament in comparison with the executive power should be one of the strongest players in the decision making process but the main object of this research is to test this claim in terms of real politics. It is said that "...the Islamic Republic of Iran is the world's only theocracy, a form of government in which ideally all laws are grounded in religion and express the will of God, and a clergy exercises supreme power" (Chehabi and Keshavarzian, 2008: 563). Now, the question is where the place of parliament (which constitutionally cannot be dissolved) is in Iran's theocratic government? How do the laws of God and the laws which are supposed to be created by the representatives of the people co-exist with each other?

In legislative studies, different external factors which impact upon the law making function of the parliament are enumerated. The constitution is one of very important variable which can define the power of the parliament. On the basis of Article 71 of the

Constitution, "...the Islamic Consultative Assembly can establish laws on all matters, within the limits of its competence as laid down in the Constitution". If one reviews the Constitution, it is clear that the law making process is a very complicated process involving different institutions. From the date when the Iranian Parliament was established until the end of 2005, 11412 laws were enacted, of which 2176 laws were passed by the post revolutionary parliament (Ghorbani, 2006). They embrace many different and important public policy areas. Now the question is what is the contribution of the Majlis in this process? In this research the influence of the Iranian Constitution as an external variable on the law making power of the parliament will be examined.

2. Questions of this research

2.1. Preliminary questions

It might be said that Iran belongs to that group of countries trying to find their way toward democratic society. For introducing the current Iran, it is less vague to say that it is experiencing transitional democracy. The Constitutional movement in Iran started officially from 1906; however one might find the roots of this movement even sooner in Iranian history. Parliament has been established in Iran for more than one hundred years and except for a short time during which it was prevented to work, officially and consecutively has had important role in political activity.

As we will see in the following chapters, Iranian scholars and intellectuals obtain constitutional ideas from Western countries and then wish to establish them in Iran. Nevertheless, we need to know what appeared in Iran as a parliament and to what extent it was similar to its counterpart in the West. Were some features left out or added to it? How was it merged with longstanding despotic government in Iran which had created especial characters for the Iranian political institutions? Can we explain that with the

method and principles and axioms which exist in the current literature of legislative studies?

These are serious questions and constitute a starting point for us in examining the Iranian legislature. As we noted, different societies have special kinds of political institutions which exist in harmony with their history, cultures, customs and even climates. Therefore we can find some similarities and some differences amongst them. When we want to use theories and principles for explaining the political institutions these differences should be considered.

For analysing the Iranian Parliament and understanding its functions and its importance within the political system first of all we need to understand the essence of political power since the establishment of modern government in the early twentieth century when the parliament was founded for the first time in Iran. Otherwise we may get a misleading picture of that if we simply apply the political theories to the current Iranian Parliament which are compatible mostly with European societies. As Katouzian (1997) put it, the essential difference between countries such as Iran and European democracies is a very important point which has been ignored in modern studies of the Iranian state and resulted in an unsatisfactory conclusion. In his point of view these differences “may be observed in the meaning and social implications of property ownership, social stratification and social mobility, the nature of the power of the state, and the questions of law, legitimacy, succession, rebellion and the like” (Ibid: 50). Katouzian believed that despite European societies in which their overall characteristics resulted in democratic government, in Iran social classes, aristocracy, and bourgeoisies, and so on have never existed and it is wrong to perceive the Iranian landlords and chiefs of the tribes and the like as aristocrats, merchants as bourgeoisies and peasants as serfs. So the overall political environment in Iran is very different to that of Western countries. That is why one cannot simply apply the legislative studies theories which are

applied in Western parliaments, to the Iranian Parliament. For instance, one may find some kinds of institutions such as a constitution, parliament, and executive power and so on in Iranian society but one should be cautioned that they are substantially different from their counterparts in European societies. So, the first step is to answer to this key question that to what extent they have similar structures and functions? Nevertheless, it does not mean that we cannot use the current theories which have been applied to study of Western legislatures. For instance, for assessing the law making power of the parliament in the current literature of legislature studies, often the relationship between executive and parliament is the central point. In fact the principle of the separation of powers has been accepted axiomatically. In this case the important question is which one has more power and therefore can influence law making process more? Whereas, due to the existence of some unique political institutions and especial perceptions of political power which has been articulated in the Iranian Constitution of 1979 and its amendment, it seems mere examining of the relationship of Majlis and executive in Iran is not enough for assessing the law making power of the Majlis. Another good example which shows the differences between European legislatures and the Iranian Parliament clearly is the relationship of the political parties and the legislature. Analysing the relationship of these two political institutions is very important for examining the law making power of the parliaments while, as we will explain in the following chapters, in post revolutionary Iran one may not find even one political party which resembles a party in European countries. At the same time that we use those theories for explaining the case of Iran, we should consider its special characteristics. Amongst different factors (external and internal) which define the power of parliament in terms of law making capacity, the constitution is one of the most important. Usually the forms of the political regimes which define the nature of relationship between executive and parliament are expressed in that. Now the question is what does the Iranian political system look like

according to its constitution? How is the relationship between executive and legislature regulated?

In this research we are going to assess the power of the parliament in three stages of the law making process: the initiation, or formulation, deliberation and enactment of bills and proposals. There are three institutions in the Iranian Constitution that are involved in all or some of these three aforementioned stages directly:

Executive (elected institution): According to the Iranian Constitution the government's bills must be brought forward to parliament after approval by the cabinet. Now the question is to what extent parliament has power to impact on the governmental bills in these three stages?

Guardian Council (unelected institution): According to Article 94 of Iranian Constitution "All legislation passed by the Islamic Consultative Assembly must be sent to the Guardian Council..." In Article 93 it is stated: "The Islamic Consultative Assembly does not hold any legal status if there is no Guardian Council in existence, except for the purpose of approving the credentials of its members and the election of the six jurists on the Guardian Council". According to Article 91 "With a view to safeguarding the Islamic ordinances and the Constitution, in order to examine the compatibility of the legislation passed by the Islamic Consultative Assembly with Islam, a council to be known as the Guardian Council is to be constituted with the following composition: Six 'adil fuqaha' conscious of the present needs and the issues of the day, to be selected by the Leader, and six jurists, specializing in different areas of law, to be elected by the Islamic Consultative Assembly from among the Muslim jurists nominated by the Head of the Judicial Power." (Who himself is appointed by the Religious Leader.)

Regarding the crucial position of the Guardian Council the question is to what extent can it impact the law making power of the parliament in two stages of the law

making process: initiation and enactment? It is important to note that there are two different institutions here: parliament as an elected institution and the Guardian Council as an unelected institution.

Expediency Council (unelected institution): According to Article 112 “upon the order of the Leader, the Nation's Expediency Council shall meet at any time the Guardian Council judges a proposed bill of the Islamic Consultative Assembly to be against the principles of Shari'a or the Constitution, and the Assembly is unable to meet the expectations of the Guardian Council. Also, the Council shall meet for consideration on any issue forwarded to it by the Leader and shall carry out any other responsibility as mentioned in this Constitution. The permanent and changeable members of the Council shall be appointed by the Leader. The rules for the Council shall be formulated and approved by the Council members subject to the confirmation by the Leader”.

The question is: to what extent can the Expediency Council as an unelected institution influence the law making power of the parliament in reality?

2.2 Main question of the research

As it was stated there are three important institutions which are directly related to law making power which is one of the main functions of the Majlis: the Executive as an elected institution, and the Guardian Council and Expediency Council as unelected institutions. To what extent can they impact upon the law making power of parliament? Which group has more influence on parliament and why? By answering these questions we should be able to assess the law making power of the parliament and categorise it according to legislative studies' typologies of legislatures. In this thesis the Iranian Parliament will be categorised according to the typology of

legislatures which is provided by Philip Norton (1990). Norton categorised law making power of the legislatures in three levels:

a. policy making legislatures are those that can modify or reject measures submitted by the executive, and can formulate or substitute the policies of their own.

b. policy- influencing legislatures are those that are able to modify or reject the measures submitted by the executive, but are not able to formulate or substitute their own policies.

c. legislatures with little or no policy making power are those that can neither modify nor reject the policies which are submitted by the executive. Also these types of legislatures are not able to substitute their own policies.

3. Hypotheses of the research

It may be said that the law making power of the parliament is subordinate to some unelected institutions mentioned in the Iranian Constitution. Depending on the political composition of the parliament and executive power - whether their majority is Conservative (or New Conservative) or Reformist the law making power of the parliament varies as follow:

First hypothesis: Conservative or New Conservative executive power (elected institution) + Conservative or New Conservative parliament (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with strong law making power.

Second hypothesis: Reformist executive power (elected institution) + parliament with Reformist majority (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with little or no law making power.

Third hypothesis: Reformist executive power (elected institution) + parliament (elected institution) with Conservative or New Conservative majority + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with strong law making power.

Fourth hypothesis: Conservative or New Conservative executive power (elected institution) + parliament (elected institution) with Reformist majority + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with little or no law making power.

In this research the law making process means three distinct stages: The first stage consists of initiation and formulation by the executive power preparing the bills; the Majlis contributes by introducing Members' proposals. The second stage is deliberation and enactment of bills and proposals which take place in the Majlis. And the third and final stages are where the Guardian Council and probably the Expediency Council intervene in the law making process.

In this research the law making process means the policy making process which is very familiar in terms of the legislative studies literature. But as we will see it might be confused with the policy making power of the Supreme Leader which is one of the main functions of the leadership institution. On the basis of Article 110, it is stated that the followings are the duties and power of Leadership:

“1. Delineation of the General Policies of the Islamic Republic of Iran after consultation with the Expediency Council.”

Also it is noteworthy to say that, in this research, the Islamic Consultative Assembly, Majlis, legislature and the parliament means the main political institution which according to the Iranian Constitution has authority to make law. However, according to the Constitution, the Guardian Council is an inseparable part of the legislative power

but since we want to study its impact on the law making power in real politics these two institutions are distinguished.

4. Method of the research

In this thesis different research methods are used which can be categorized as qualitative and quantitative research methods.

In the second chapter, which is dedicated to a literature review, the main academic resources, including books and articles about the subject of the thesis is examined and at the end the most appropriate theory is adopted. Key reference resources on the typology of legislatures are overviewed. Also in this chapter the resources regarding developing countries legislatures are studied.

In the third chapter the evolution of the Iranian Parliament over the course of one century through reliable academic and historical resources is explained. It seems that a historical perspective can offer a better insight of the subject matter through showing its origin and background, growth and development. Secondary sources including essays, books and articles based on primary resources are used in this chapter. However, it should be noted that the historical perspective of this chapter is just an overview and not an in-depth study of Iranian political history. The focus is on the events that have shaped the current characteristics of the Iranian Parliament and institutions which have influential links with the law making function of the parliament.

In chapter four the power map of the Iranian political system is drawn normatively and the place of parliament within this framework is shown. In this chapter all functions and authorities of the parliament are described on the basis of the articles of the Constitution of 1979 and its amendment of 1989. In this stage of the research the formal power of the parliament is shown. Major academic sources are used. The main problem in this phase of the research was the language of the sources, in that most of them in this

regard are in Farsi language and for using them in this thesis they had to be translated into English which obviously took much time. Besides, there is very poor academic literature on those articles of the Iranian Constitution which relate to parliament's functions and its internal organisations both in the local language and in English.

In chapter five, through an analytical approach the real law making power of the Iranian Parliament is assessed by considering the different aspects of its relationship with the unelected institutions which are involved in the law making process. In other words, in this chapter the real power of the parliament in the Iranian political system is compared with its formal power i.e. as stipulated in the Constitution and other relevant laws and regulations. For doing so the law making power of two different terms of Majlis in respect of the budget were chosen for case study and the hypotheses of the thesis tested by comparing the power of the Majlis in these two terms in which the political composition of the government and legislative power was different. Also the relationship of these two aforementioned institutions with unelected institutions i.e. Expediency Council and Guardian Council are analysed through descriptive statistics and an analysis of them. Information for this chapter was gathered in many different ways.

Since the candidate was the researcher of the Majlis Research Centre there was an opportunity for him to see the many phases of the law making process personally and therefore some direct observations are used carefully. The major part for which this method was used was when the role of the Majlis Research Centre during the annual budget bill season was examined. There was also an opportunity for the candidate to participate in some specialized parliamentary Commission sessions as an expert on behalf of the Majlis Research Centre. Candidate also had close contact with the Budget Office of the parliament during the budget season and chasing the parliamentary process of the annual budget bill especially in the Sixth Majlis. Therefore during the data

collection process, in addition to direct observation, Candidate could access original documents which were available in the Budget Office of the Majlis Research Centre. Furthermore, the internet resources including eBooks, and academic articles are employed in this research.

Apart from observation and analysis of the statistical data of the research, which were gathered from documents published by the Iranian Parliament Publication, interviews with the MPs of the Sixth and Seventh Majlis and experts of the parliament's research centre were designed during the data collection process. In contrast to the second group, most of the parliamentarians, especially members of the Seventh Majlis, refused interviews with the excuse of shortage of time. Nevertheless some members of the Sixth and Seventh Iranian Parliament were interviewed by using the semi structured interview method. They included Seyed Mohammad Reza Khatami, First Deputy Speaker of the Sixth Majlis, Bijan Shahbazkhani, member of the Seventh Majlis, Ahmad Maidari, member of the Economy Commission of the Sixth Majlis, Reza Abdollahi member of the Budget Commission of the Seventh Majlis, Mohammad Bagher Bahrami, Chairman of the Internal Regulation Commission of Seventh Majlis, Rajab Ali Mazroei a member of the Economy Commission of the Sixth Majlis and Ali Ghanbari a member of the Plan and Budget Commission of the Seventh Majlis. Most of the aforesaid interviewees refused to answer some questions such as the relationship of the law making power of the Majlis and the Iranian political structure. Some of them who gave their ideas about that asked the interviewer to delete their answers from the interview. Most of them only preferred to talk about the technical aspect of the work of the parliament. Also much practical procedure was known through interview with Ali Panahi the Deputy of the Budget and Plan Office and Ali Reza Fayazi the expert on the budget of the Majlis Research Centre.

Documentary and archival resources analysis is another method which Candidate used to assess the law making power of the Majlis. The figures and statistics about the numbers of the bills and proposals, parliamentary questions, investigations, impeachments and so on were gathered from the official resources of the parliament, however in many cases even this official information was not clear and needed to be checked again and refined. The debates of the Majlis sessions during the Sixth and Seventh Majlis, especially the speeches which were delivered on the floor were an important resource and were used to understand the position and attitudes of the parliamentarians.

Also in chapter five, the results of the questionnaires which have been done by the Budget Office of Majlis Research Centre are used. In this survey through close ended questions, the opinions of the MPs in the Sixth and Seventh Majlis about the parliamentary stage of the budget process were gathered and analysed. Nevertheless a lack of accessibility to the Commissions' deliberations on the budget bill, particularly the Consolidation Commission, was one of the major problems in this part of the research. Important changes in and adoption of the budget bill at the parliamentary stage usually takes place in these Commissions. Information pertaining to the number of amendments and the process by which these amendments are inserted in the budget bill can help us to understand the law making power of the parliament more clearly.

5. Structure of the thesis

This thesis is divided into six chapters as follows:

The first chapter as introduction is dedicated to the research methodology within which the aims and purposes of the research and the reasons which inspired the author to choose the thesis subject are explained. The main and subsidiary questions of the research are also proposed in this chapter. Research methodologies which are deployed

and the data collection process, in addition to the barriers which hindered and challenged the development of the research throughout the information gathering process, are discussed.

In the second chapter the most important literature relevant to the thesis subject is reviewed. Since the Iranian Constitution and its impact upon the law making function of the legislature as an external variable is a central factor in this research, the literature available about the meaning of a constitution and typologies of constitutions is studied. The main part of the literature review is allocated to the legislative studies' literature especially the external and internal variables and typology of legislatures which is one of the main parts of this thesis. In the final part of this chapter the most important and notable books and articles which explore the Iranian Parliament are subjected to critical analysis.

The third chapter is allocated to the historical evolution of the Iranian Parliament. In the first part Iran is overviewed very briefly and then the Constitutional Movement in the Qajar Era, during which the Iranian Parliament was established, is explained. Furthermore the separation of power according to the Constitution of 1906-7 is analysed and the place of the Iranian Parliament within that is identified. Also the limitations which were set up constitutionally are explained. These limitations, which remain in place, are a very important part of the study and show the most significant obstacles which have affected the power of the Iranian Parliament in different historical periods. In other words these limitations have been reproduced during the evolution of the parliament in the First and Second Pahlavi Eras, which are briefly discussed.

The fourth chapter is dedicated to the Iranian Parliament in the Islamic Republic Era which is a central part of the thesis. First of all, the political forces which contributed to the establishment of the new political system are analysed. It identifies how the duality of the aforementioned political forces was reflected in the Iranian Constitution of 1979.

On the basis of the aforementioned analysis the key concepts which can explain the logic of the distribution of power within the Iranian constitution, and the place of the Islamic Consultative Assembly (Majlis), are discussed. Also by examining the relationship of the executive power to parliament and other power centres, the type of political regime on the basis of the amended Constitution of 1989 is explained. The Iranian political regime is unique due to its particular separation of power which was introduced in the Constitution. Then the main political institutions which constitutionally are involved in the law making process are identified and are categorised into two groups: first, elected institutions comprising the Majlis and the executive power, and second unelected institutions comprising the Guardian Council and the Expediency Council. On the basis of the analysis which is introduced in this thesis it is argued that the relationship of these two types of institutions can give a more accurate picture of the Iranian Parliament than the interaction of the executive and legislature. The next part of this chapter is allocated to the Islamic Consultative Assembly and its functions. Through explaining the various functions of the Majlis, its constitutional power is portrayed. Its power on paper and according to the Constitution is explained rather than its power in real politics.

Theoretical discussions are tested in chapter five. The Sixth and Seventh terms of the parliament, dominated by different political forces, are chosen for study and their law making power during the budget process analysed. The dichotomy of elected and unelected institutions is applied to the case in this chapter. After a brief introduction which justifies the selection of the case, the legal framework of the budget bill is explained. The main legal limitation of the Iranian Parliament in terms of modifying the budget bill which is introduced every year by the executive is identified. Then the contribution of the elected and unelected institutions during the budget process is explained. The next part of this chapter considers the Sixth Majlis and its political

context in general. It was stated that the Sixth Majlis dominated by Reformists coincided with the Reformist government of Khatami. Majlis and executive interactions and the interactions of these two elected institutions with the Guardian Council and Expediency Council especially during the budget process are analysed. The same approach is deployed for the Seventh Majlis which in terms of political composition was in stark contrast to the Sixth Majlis. It is shown how the political composition of the elected and unelected institutions can increase or decrease considerably the law making power of the Islamic Consultative Assembly. In the last part of the chapter the law making power of the Majlis in these two aforesaid terms of the Majlis is discussed and the main factors which affected its power are analysed. The overall conclusion of the thesis is provided in chapter six.

Chapter Two:

Literature Review

1. Literature review of constitutions and constitutionalism

Constitutions are essentially the institutional framework within which political power in the form of sovereignty originates, establishes, operates, and may be terminated. Constitutionalism is a modern concept which has grown up in Western civilization, especially in recent centuries (17th century onward) (Judge, 1993); however it is noteworthy that the idea of restricting political power has a long history even before ancient Greece. Some authors (Lane, 1996) have enumerated three main resources for the old version of constitutionalism or the doctrine according to which political rule has to be bound by some kinds of limitations: these three sources consist of:

- a) German law and Feudalism
- b) Roman law or more specifically natural law
- c) Aristotelianism.

In fact, feudalism prepared the objective circumstances for constitutionalism. With the growth of the feudal classes in Western Europe they appeared as a source of power which wanted to share in political power with the king (Wormuth, 1949). In fact there was a reciprocal obligation between the feudals and the king: “whilst the king was the natural, God-given, policy maker he was expected none the less to secure the consent of his counsellors – his most powerful subjects.” (Judge, 1993: 29, 30). Before that what restricted the power of the kings was customary law which gradually turned to codified law.

Natural law which was raised within Roman law accelerated the development of constitutionalism. It contains the equality of all men before law and the protection of private property. However at first it justified the natural law of men through divine right

but in the course of the Renaissance and religious reformation in Christianity it changed due to the process of secularism.

The influence of Aristotle on constitutionalism was through suggesting the idea of a “good” constitution. Aristotle combined elements of oligarchy and democracy to create a proper form of government; however he refers to monarchy as a better form of government in a good situation. “Aristotle cited Sparta as an example of all three forms being compounded into one regime. In the constitutionalist debate in the sixteenth and seventeenth centuries similar notions were incorporated into the doctrine of a mixed monarchy” (Lane, 1996: 24).

Apart from these deep roots of constitutionalism, what is crucial here for our research is that the movement which happened during the Renaissance. It can be said that modern constitutionalism is the offspring of the Enlightenment period in Europe, within which some thinkers such as Rousseau, Montesquieu, Hobbes and Locke formulated modern concepts such as the social contract, civil society, and the separation of powers. Hobbes tried to make clear the concept of the sovereign. In his famous book *Leviathan* he theorised the human nature that man is by nature a selfishly individualistic animal and in constant war with all other men. Fear of violence and death is the main motive by which men are encouraged to create a state through a social contract and submitting the political power to a new institution named sovereign (Macpherson, 1968). His book “was aimed at addressing the arbitrary abuse of power, and constructing the proper ordering of the public sphere” (Butlerichie, 2004: 11).

After that, Locke contested the concept of the divine right of monarchs in his book *Two treatises of government* in 1690. In this book Locke (1698: 154) wrote that “as far as we have any light from history, we have reason to conclude that all peaceful beginning of government have been laid in the consent of people”. Social contract was the most important of Locke’s innovations, a fiction designed to orient the terms of state

limitation. He believed that the main tasks of government are to protect the right to life, right to freedom and the right to property. He contended that the only way by which government can protect these rights is having a popular parliament to limit the power of the monarch. Other thinkers also contributed to the idea of a limitation of political power, among which Montesquieu is the most famous figure who showed the practical ways of controlling the political power in his famous book: *The spirit of laws*. The doctrine of separation of powers was encapsulated by Montesquieu (1992: 48, 49) as follows:

“In each state there are three sorts of powers: legislative power, executive power over the things depending on the right of nations, and executive power over the things depending on civil right. Political liberty in a citizen is that tranquillity of spirit which comes from the opinion each one has of his security, and in order for him to have this liberty the government must be such that one citizen cannot fear another citizen. When legislative power is united with executive power in a single person or in a single body of the magistracy, there is no liberty, because one can fear that the same monarch or senate that makes tyrannical laws will execute them tyrannically.... . Nor is there liberty if the power of judging is not separate from legislative power and from executive power..... All would be lost if the same man or the same body of principal men, either of nobles, or of the people, exercised these three powers: that of making the laws, that of executing public resolutions, and that of judging the crimes or the disputes of individuals”

This doctrine brought out the two vital features of the idea: first it is considered to prevent the misuse of political power. Secondly, that prevention is achieved by dividing power between three branches of government, each of which may check and balance the

other. However it is worth noting that “Montesquieu did not believe that formal separation alone would allow each to check the others” (Bellamy, 1996: 444).

These crucial theoretical attempts may be said to constitute the pillars of modern government and are usually enshrined in the constitution. Constitutions are rich resources which can show the formula for the distribution of power and the role of each branch of government. They may provide enough information on the basis of which the political regime of a country can be recognised.

Nevertheless, there are many kinds of constitutions. In the same way in which they can lead one to understand the puzzle of the complicated relationship between different organs of the government they may mislead as well.

It is stated that “Constitutions are not created in a vacuum as John Stuart Mill observed. They “are the work of men. Men did not wake up on a summer morning and find them sprung up”. They may ..., be imposed from outside or they may be the consequence of deliberations by a national elite, possibly with some input from, or formal approval by, the citizenry” (Norton and Ahmed, 1998: 188). They are complicated phenomena and strongly have connections with the social context, historical evolution and the political culture of a given society. It might be said the constitution in those societies which are imposed from outside are more complex. So it is possible that we have to cope with the different cases where the constitution has specific meaning or doing some functions which may be different from their functions in other places.

Therefore the first step in understanding the meanings of a constitution is to clarify the different types of the constitution that exist.

1.1 Definition of constitution

As we mentioned before, the modern constitution is the consequence of the movement which took place in the 17th century. This word was first used after the ‘Glorious Revolution’ of 1688 in Britain. The theoretical discussion relevant to this concept has been formulated under the term constitutionalism. Therefore it seems reasonable to study the meaning of constitutionalism and explain the concept of constitution by reference to that.

To “constitute” in a word means make up, order, form and constitution means “the system of laws, customs and conventions which define the composition and powers of organs of the state, and regulate the relations of the various state organs to one another and to the private citizen” (Hood, 1987 cited in Judge, 1993: 5). Thus a nation’s constitution should pattern a political system. Those kinds of theories which have tried to explain the principles of limited constitutional government **have** been named constitutionalism. In other words “constitutionalism is the political doctrine that claims that political authority should be bound by institutions that restrict the exercise of power. Such institutions offer rules that bind both the persons in authority as well as organs or bodies that exercise political power” (Lane, 1996: 19). It was stated that constitutionalism “consist in the advocacy of certain types of institutional arrangement, on the grounds that certain ends will be achieved in this way, and there is therefore introduced into the discussion a normative element based upon the belief that there are certain demonstrable relationships between given types of institutional arrangement and the safeguarding of important value” (Vile, 1967: 8). We should put stress on this point that in many countries the constitution is thought of as an instrument by which government can be controlled. In other words, constitutions spring from a belief in limited government. Therefore it might be said a democratic constitution is not simply a

power-map, which only shows the institutions or persons who are entitled to hold the political power. In fact the main aim of constitutions might be said to impose limits on the exercise of political power by the main holders of power, and also to guarantee basic rights and freedoms and other fundamental values for the society (Barendt, 1998: 3, 4).

Some authors believe that this term may be used in two senses. One is a broad sense covering the real forces that there are in different parts of society including cultural, economical, legal, political and social parts. The second sense is more specific and means “the formal written document in which the superficial structure of the state institutions are set forth. This is a distinctly formalist notion of constitutionalism” (Butleritchie, 2004, 3). Most of the time when one uses the word constitution, it means the second meaning which might be said is the normative meaning of the constitution. It is noteworthy to say that there are significant differences between the authority that a text as a constitution expresses and the authority which in reality exists. That is why studying the constitutional powers granted to parliament are necessary but not sufficient for explaining the power of the different branches of government. The frequent discrepancy between formal and actual powers can be found in a specific political system. Yet, the analysis of constitutions should never be neglected since it stipulates the basic structures, powers and relationships of the different organs of the political system.

1.2 Typology of constitutions

There are various kinds of constitutions throughout the world. One of the most famous categorizations is that of written and unwritten constitutions. A written constitution is a text within which there are articles that establish and regulate or govern the government. For instance the US Constitution is one of the most famous written constitutions in the world. In contrast there are some countries that do not have a formal

written constitution in the aforementioned sense, but it does not mean that they do not have a constitution at all but there are some other kinds of written documents that have constitutional status. The United Kingdom is the foremost example of the second group. If one wants to examine the legal framework of political power in a country one way definitively is to study the constitution of that country whether written or un-written.

There are other categorizations of constitutions which refer to the process of amending of the constitution. Those constitutions that can be easily amended are flexible constitutions and those which can only be amended through difficult and complex processes are named rigid constitutions. Federal and unitary is another categorization of constitutions which are one aspect of the concept of the separation of powers.

It might be said constitutions often contain four elements:

- a) The nature of the state whether it is a unitary government or federal government.
- b) The rights of the individual, which refers to the human rights that protect citizens against the power of the government.
- c) The power of the state through which the separation of powers and the kinds of relationship that different branches of government have within the specific political system are articulated.
- d) The procedure for changing the constitution such as amending the articles.

However being unitary or federal is very crucial in respect of distribution of political power but some authors (Lane, 1996) believe that among these elements two of them are essential for constitutions which mean they should contain these two bases:

- a) “the limitation of the state versus society in the form of respect for a set of human rights covering not only civic rights but also political and economic rights and
- b) The implementation of separation of powers within the state.

While the first principle is an external one, confining state powers in relation to civil society {human rights}, the second principle is an internal one, making sure that no state body, organ or person can prevail within the state.” (Ibid: 25)

Regarding the main question of this research what is important for us is the power of the state and the way in which powers are separated.

In comparative politics, political scientists recognise that some countries, especially in African and Arab countries and also in some previous communist countries have constitutions which lack those fundamental elements. Some authors (Murphy, 1993: 196) explain that “constitutional texts fall along a spectrum of authority. At one extreme are shams, such as those of Stalin and Mao. At the other extreme should be those whose provisions are fully operative”. However it should be mentioned that it is very difficult to find countries that have constitutions that are fully operative even in the countries from which constitutionalism has originated. Within this spectrum, we may find some kinds of constitutions where political power is totally or relatively concentrated in the hands of one person such as a king in monarchical government (Saudi Arabia), or in the hands of one party state (Syria, Bath party) or in the hands of specific group such as military junta (Pakistan).

With regard to classification, we may categorise them in four groups:

1.2.1 Guarantee constitutions

These kinds of constitutions often coincide with their definition which acts as a framework of the political society and trying to bring the arbitrary political power under their control by distributing that through the separation of powers doctrine (Sartori, 1962). As we can see in this definition those two elements which we mentioned before have been considered explicitly and implicitly.

1.2.2 Nominal constitutions

Nominal constitutions refer to those kinds of constitutions which just articulate political order, nothing else. They are simply political power maps and show the main position of political power organisations within the political system. They are “the collection of rules which organise but do not restrain the exercise of political power in given polity” (Sartori, 1962: 861).

1.2.3 Façade constitutions

One may find a formal constitution in these countries which are very similar to the constitution in democratic countries; however in real politics the situation is different. The function of these kinds of constitution is to deceive. It was stated (Murphy, 1993: 197) that they “play a cosmetic role, allowing a nation to hide its failures behind idealistic rhetoric”. Usually dictatorial or authoritarian states decorate the political scene by enacting such kinds of constitutions. Some authors have called them a “camouflage constitution” (Lane, 1996). Sartori (1962: 861) dubbed these kinds of constitutions as “façade constitutions”. He believes that “they take the appearance of “true constitution””. What makes them untrue is that they are disregarded (at least in their essential guarantee features). Actually they are “trap-constitutions”. As far as they are not exercised and their rules are not observed particularly by the power holders it might be said it is a dead letter.

1.2.4 Contradictory constitutions

There is another kind of constitution which comprises both dictatorial and democratic elements which means that at the same time one can find the principle of the separation of powers and guaranteeing fundamental rights within the constitution, as

well as articles that make these principles vulnerable by the despotic application of political power. For instance, in Bahrain the 1973 Constitution starts out by declaring that “the system of government in Bahrain is democratic, under which sovereignty lies with the people, the source of all powers” (Article 1). To the principle of popular sovereignty the constitution adds talk about the separation of powers: “the system of government shall be based on the principle of separation of the legislative, executive and judicial powers” (Article 32.a). However, the essence of Arab monarchical rule is stated in the following clause:

Legislative power shall be vested in the Amir and the National Assembly in accordance with the constitution and the Executive power shall be vested in the Amir, the Cabinet and Ministers. Judicial decrees shall be passed in the name of the Amir, all in accordance with the Constitution (Article 32.b).

If one continues to consider Article 33 to 40 of Bahrain’s Constitution one can realise that the Amir and its institutions have a crucial part of the political power and therefore cannot be defended on the basis of Montesquieu’s separation of powers doctrine (Lane, 1996).

It was stated that the principles of separation of powers are one of the core elements of the modern constitutions. As Lord Acton the British historian stated “power tends to corrupt, absolute power corrupts absolutely”. The foundation for the idea of division of function existed in medieval thought, for the idea of function played an important part in the papal theory of the division of labour among the offices of the church and the royal power.

In sum this brief introduction reveals that the idea of the separation of power is very central. In fact it might be said the constitutionalism movement was nothing but a

means to restrain unlimited political power. For the purpose of this research it is crucial to know the nature of the Iranian constitution. Which type of the aforementioned constitutions is compatible with the Iranian Constitution? Can we recognise all the core elements of the constitution in Iran's case? What about the separation of powers? How much is the distribution of power which is enshrined in the Constitution reflected in real politics? Strictly speaking, where is the place of the parliament in the constitution?

2. Literature review of legislative studies

Legislative studies principally developed in Western societies where the idea of democracy originated. In these societies there are political institutions whose tasks are to exercise political power democratically. Different varieties of legislatures can be found within different kinds of political systems either open or closed, either democratic or despotic. Some of them only want to pretend that they care about the voice of their people and the system is working according to the citizen's wishes, however in reality it is vice versa. In contrast in some of them, such as most parliaments in European countries, they play a real role within political system; however their functions and the degree of their importance differ. There is plenty of academic literature and research about the different aspects of legislatures in these countries, while in those kinds of countries that for whatever reason democratic government has been absent for a long time it is very difficult to find serious literature which examines parliament. In fact they are irrelevant in the decision making process and their main function is legitimizing the regime. That is why they may not attract the attention of researchers. Therefore it might be said most of the former Third World or current developing countries have suffered from a lack of theoretical and practical research. Norton in 1990 wrote that:

“[O]f the material that does exist, there is a clear imbalance in country focus. There is a mass of literature on the US Congress. There is a substantial amount of material on West European legislatures; especially the British Parliament ... There is less but still a fair amount of literature on the older commonwealth countries, especially India and Canada. There is much less – in some cases, very little indeed - on legislatures in Third world and Communist countries. There is now much more than before - legislatures in developing countries have attracted greater interest from scholars ... ”(Norton, 1990: 7).

This shortage of legislative studies after the passing of more than one decade since Norton’s report still can be seen in countries such as Iran. If after the collapse of the communist bloc (especially in Eastern Europe), legislative studies have grown rapidly there following the expanding wave of democracy, in countries such as Iran, the lack of these kinds of studies is serious. Furthermore, most of the concepts and procedures which have emerged or consolidated in the modern democratic countries are still unknown in underdeveloped or developing countries.

2.1 Definition of legislature

Parliaments prevail all over the world with different names “{y}et what such bodies have in common is that they are constitutionally designated institutions for giving assent to binding measures of public policy, that assent being given on behalf of a political community that extends beyond the government elite responsible for formulating those measures”(Norton, 1990: 1). In democratic government it is supposed that the members of parliament are the people’s representatives (according to the social contract) who want to apply their right to govern their destiny. In the modern world it is believed that laws which are going to regulate human relationships should be made by human

agency, through legislative power. The earliest signs of the emergence of a 'legislative power' was given by the development of a command theory of law; "the view that law is essentially the expression of an order or prohibition rather than an unchanging pattern of custom, a view that was reinforced by the emergence of the modern notion of sovereignty as the repository of the power to issue final commands" (Vile, 1967: 26). In medieval ages law was perceived as divine customs which should be applied and interpreted by men but not created or changed by them. In other word "in so far as men were concerned with 'legislation' they were in fact declaring the law, clarifying what the law really was, and not creating it" (Ibid: 24).

If one reviews the literature of legislative studies, one can find that definition of the legislature according to their function which is not similar in different ages. In the 19th century legislatures mostly were supposed to be bodies whose main task was to enact compulsory rules which govern the conduct of citizens in a specific territory. In this century different kinds of parliaments were established in most European countries and had the unique power to control the governments. They belonged to an age where mass political parties had not yet developed and parliament acted independently from them. Nevertheless this situation changed at the end of the 19th century: "Industrialization generated an increasingly urban population with no political voice. Pressures for such a voice were to result in the widening of the franchise and the growth of political parties" (Norton, 2005: 2). Therefore a new competitor emerged in the early 20th century in that parties controlled the electoral process and the legislative activities within the parliament. Legislators' independence significantly decreased especially when the political parties with strong discipline emerged. That is why some political scientists described the late nineteenth century as the age of legislatures' decline. At the outset of the twentieth century Lord Bryce (Norton, 1990: 52) wrote "[w]hether or not it be true, as is commonly stated, that in European countries the intellectual level of legislative

assemblies has been sinking, it is clear that nowhere does enough of that which is best in the character and talent of the nation find its way into those assemblies”.

More recently the idea of decline of the legislatures has been challenged by some political scientists such as Robert A. Packenham. According to his studies of the Brazilian Congress, he found that the law making function of the parliament is not relatively the most important function of the parliament. Apart from the law making function he found several functions in the Brazilian Congress which he ranked as follows:

Table (2-1): The Functions of the Brazilian National Congress

<p>Legitimation</p> <p>Latent (through meeting regularly and uninterruptedly)</p> <p>Manifest (the formal stamp of approval)</p> <p>‘Safety valve’ or ‘tension release’ (outlet for tensions)</p> <p>Recruitment, socialization and training</p> <p>Recruitment</p> <p>Socialization</p> <p>Training</p> <p>Decisional or influence functions</p> <p>Law- making</p> <p>‘Exit’ function (resolving an impasse in the system)</p> <p>Interest articulation</p> <p>Conflict resolution</p> <p>Administrative oversight and patronage (including ‘errand running’ for constituents)</p>

Source: Adapted by Norton, P. (2005) “Parliament in British Politics”, New York, Palgrave Macmillan. p. 9. From Packenham, R.A. (1970) “legislatures in political development” in Kornberg, A. and Musolf, L.D. (Eds), in *Legislatures in Developmental Perspective*, Durham, Duke University press

According to the abovementioned table the law making function of the Brazilian Congress is in the lower rank of the table compared with the other functions.

Packenham's studies indicate another important idea: the law making function of the parliament is not the only function of this institution but the numbers of legislatures' functions and their ranking vary from country to country. It might be said that the functions of legislatures differ according to their political system. Some of them are mono functional and some are multi functional legislatures. Therefore if the law making function of the legislatures is decreased it does not mean that the legislatures have declined; there are many other functions which legislatures might exercise strongly.

As the table above shows Packenham found that the most important function of the Brazilian Congress under the military regime was to provide the moral right for the executive which was backed by the military and to attract more support for a non-democratic political system and legitimize it. In contrast, law making function in compare with legitimation function, in reality, was less important. The Congress through meeting regularly, openly and uninterruptedly (legitimation as a latent function), giving assent to the initiatives and decisions which were taken elsewhere (legitimation as manifest function) and releasing tensions through debates which took place in the Congress could maximize the legitimation function of the Brazilian legislature while its law making power was considerably low (Packenham, 1990). Mezey (1979) called these activities which mobilize support for the regime and allow the political system to survive as "system maintenance activities". When citizens feel their representatives articulate their interests and reflect their voices, these will legitimize the political system.

Obviously the effectiveness of the "legitimation function" or "system maintenance activities" of a legislature largely depends on the capability of the political system to convince citizens that members of the parliament represent their will. This critical function of the legislatures encourages various types of the political systems (either democratic or non-democratic) to keep the legislature in their political system or at least

to enshrine it in the constitution. That is why "...different types of the political leaders are prepared to tolerate a legislature and to accept the costs that go with such an investment because the legislature constitutes a democratic symbol that pays sizable dividends in terms of domestic and even international legitimacy" (Ibid: 270, 271).

The legitimizing function of legislatures is also crucial in the case of the Iranian political system where the elements of the theocracy and representative democracy are juxtaposed. Law making processes in which both elected and unelected institutions participate is one of the most important ways through which the legitimation function is fulfilled. Apart from the sessions of the Majlis which have been held at least three days a week, a sizable number of measures have been approved by the Islamic Consultative Assembly after the Islamic Revolution. The contribution and the role of the Majlis during this decision making process will be studied in the following chapters. Does the Majlis really matter in this process or is it used only to legitimize the decisions which were taken elsewhere?

Norton (2005) also challenged the idea of the decline of the legislature by analysing the different meanings of legislative power from different points of view i.e. pluralist, elitist and the institutional approach and concluded that: "*[i]t is thus apparent that the perception of the decline of the legislatures derives from a particular view of power. Indeed, it can be claimed to be a narrow view, even within a pluralist framework, derived primarily from an emphasis on coercion. Because legislatures do not regularly say 'no' to the executive, and substitute policy of their own, they are deemed to be in decline. However, once we go beyond the pluralist view, then we can see legislatures in a new perspective. The very fact that there are so many of them suggests that there is more to them than law 'making'*" (Norton, 2005: 7).

Therefore the law making function of the legislature is one amongst several functions of the legislature and not necessarily the only one or the most important one. The

importance of the law making function of the parliament depends on the many external and internal factors.

2.2 Internal and external environment of legislatures

Some authors (Mezey and Olson, 1991: 7, 8) categorise different variables which impact on the law making power of the legislatures into two groups: internal variables, which refer to internal structures of parliaments, and external variables which are those factors which are located outside of the legislatures' environment. They explain "legislatures are not isolated entities. Rather they are connected to a set of external forces, including the executive, the larger electorate to which its members are responsible, and in most political systems, organised interest groups. The external elements can either constrain or enhance the policy making role of the legislature" (Ibid).

Also internal variables such as the chamber and its agenda setting power are important tools to manipulate the policy making function of the legislature. The autonomy of the chambers to set their own agenda is one important yardstick which can show their power. In addition the situation of the political parties within the legislatures, whether they are well organized or not and whether they are under the influence of extra parliamentary parties or act independently, are very relevant to the law making power of the legislatures. "Political parties function in nearly every legislature to group and unite individual legislators behind common policy goals. They also play a role in organizing the agenda of the legislature and determining its procedures" (Ibid: 12). The amount of the institutionalization of the parliamentary committees and the quality of their structure are among the most important internal variables which can define the power of the parliament. Whether the committees have distinct and autonomous jurisdictions or whether their jurisdictions are parallel with the executive departments is an essential

factor (Norton and Ahmed, 1999). Another crucial issue is whether the committees have the power to set their own agenda, change legislation and take evidence.

If one considers the external variables which were mentioned before, one may find that most of them are designated in constitutions. For instance the relationship between different organs of the state and whether they are presidential or parliamentary or hybrid is articulated in constitutions. Sometimes they even confine the legislatures' procedures which impact directly on their role.

Norton (1998: 6) categorised the variables which shape the relationships of the government and legislature under three general headings: "cultural, constitutional and political. The political culture, the amalgam of attitudes built up over time toward society and the running of the society, will shape both the constitution and how people behave politically". Most authors deal with at least some of the variables included under these general headings when assessing the impact of a legislature's external environment. For example, Norton and Ahmed (1999: 3, 6) refer to the political culture, external patrons, the constitution, administrative structure and the party and electoral system, while Norton and Olson (1996:7, 9) consider variables such as the constitutional structure, administrative structure, party, and electoral system and interest groups. As a whole, the aforementioned variables are to a large degree overlapping; therefore, the literature may be said to essentially deal with the same rather than different factors.

Some constitutions, such as the Iranian, create unique and special institutions which are involved in the law making process. Due to the existence of these institutions, the functions and importance of the legislature may be different from other parliaments. Therefore analysing constitutions is very important in addressing questions such as "does the constitution create a presidential, parliamentary or hybrid system? ... What powers are vested in the legislature? Can it be over-ridden by authorities (the president,

the courts, the head of the state, the citizenry through referendum) and if so, under what conditions?” (Norton and Ahmed, 1998: 4).

What is important for us in this research is to recognise those institutions in the Constitution which impact on the law making power of the Iranian parliament directly.

2.3 Typology of legislatures

In the legislative studies literature the typology of Nelson Polsby is very well known. He categorized legislatures in two distinct groups: arena legislatures and transformative legislatures. In his point of view the arena-like legislatures are those which just discuss the policies which the government bring forward to parliament: “Arenas in specialized, open regimes serve as formalized settings for the interplay of significant political forces in the life of a political system; the more open the regime the more varied and the more representative and accountable the forces that find a welcome in the arena” (Polsby, 1975: 129,130). He believed that the British Parliament which is intertwined with the government and both of them act within a strong party discipline is compatible with this category of legislature. On the other hand, in the latter category there are strong legislatures that translate political ideas into laws. They are able to discard the governments’ bill and initiate their own policy proposals: “[They] possess the independent capacity, frequently exercised, to mould and transform proposals from whatever source into law” (Ibid: 129). The U.S. Congress with a complicated committee structure which acts relatively independently from outside political parties is the best example of this kind of legislature.

Jean Blondel also contributed to the discussion of legislative typology. He claimed that the different viscosity of legislatures can be an appropriate measurement to examine their policy making power. In his point of view the amount of resistance that a proposal faces within the legislature can define the degree of its viscosity. Blondel (1970: 200) categorised legislatures as free and compliant legislatures and explains that “[a]s the

legislature becomes freer, the time spent increases and amendments are discussed and indeed passed. The origin, number, and fate of these amendments are all indicative of a number of steps in the viscosity of the process”. Legislatures with a high degree of viscosity are those that can efficiently slow down or completely stop the executive’s bill. In contrast, if the government control all stages of the policy making process and be able to pass its proposals easily the viscosity of the legislature is low.

Also the strength of legislatures was assessed by Mezey utilising two dimensions: the policy-making power and public support. In terms of policy making power he wrote: “[l]egislatures can be classified as possessing strong policy-making power if they can modify and reject executive proposals; legislatures that have no capacity to reject policy proposals but can modify them can be said to possess modest policy-making power, with legislatures that can neither modify nor reject policy proposals have little or no policy-making power” (Mezey, 1979: 155, 156). He combined this dimension with the support dimension which he defined that as “a set of attitudes that look to the legislatures as a valued and popular political institution.” By a combination of these two dimensions he identified five types of legislature: active, reactive, vulnerable, marginal, and minimal.

Table (2-2): Mezey’s typology of legislatures:

Policy making power	Less supported legislatures	More supported legislatures
Strong	Vulnerable legislatures	Active legislatures
Modest	Marginal legislatures	Reactive legislatures
Little or none		Minimal legislatures

Source: Norton. P. (ed), (1990), Parliament in Western Europe, London, Frank Cass.

Active and vulnerable legislatures are those which can modify and reject executive proposals and have highly developed committee systems as a prerequisite for that activity. The difference between them is in the degree of public support. He identified the US Congress as an active legislature and mentioned “what evidence there is tends to suggest that the American people are supportive of the Congress” (Ibid: 169). On the other hand, despite the Philippines having a strong legislature, it was not supported by the people who “think of legislators as corrupt people bent on enriching themselves as part of their duties” (Ibid: 170). Reactive legislatures have a less influential policy making role than active and vulnerable legislatures, and are controlled by the government. Although reactive legislatures are able to modify proposals, they cannot reject them. He exemplified the British Parliament as a reactive legislature with a highly supportive character and stated that “legislators in Great Britain are shaping their behaviour to meet the expectations of party elites rather than the expectations of mass publics” (Ibid: 172). Marginal legislatures which enjoy low levels of public support are those which are dominated by the executive and have modest policy-making capabilities. He stated “[t]he legislature created by the 1962 Pakistani Constitution was designated to be subordinate to the president with no real power to reject government proposals” (Ibid: 173).

Minimal legislatures are those which can neither reject the proposals nor amend them:

“Although their membership is popularly elected and their existence and prerogatives are formally guaranteed by the nation's constitution, these institutions are, in the final analysis, ultimately subordinate to other elements in the political system in whose hands actual rule-making power resides. In such a system, the Government rarely loses an important vote in the legislature and such a defeat, in the event that it

does occur, can provoke a serious constitutional crisis. The Government initiates all significant proposals and the legislature is restricted to only the most marginal amendments” (Mezey, 1972: 686).

He believed most of the legislatures in developing countries belong to this category of legislature. The difference between the marginal legislatures and minimal legislatures is that the former “have, while they exist, the tentative support of non-legislative elites, minimal legislatures have a more permanent and continuing commitment from elites ...” (Mezey, 1979: 175).

Mezey’s typology of legislatures was improved by Philip Norton who redefined the strong policymaking power of the legislatures in his category. He stated that “Mezey’s definitional distinction between ‘strong’ and ‘modest’ policy-making power misses, to my mind, the essential differences. Strong policy-making power must surely encompass the capacity to formulate, to ‘make’, policy. The power to reject, especially if only occasionally exercised, does not render a legislature a policy ‘making’ body” (Norton, 1990: 4, 5). Therefore, Norton categorized legislatures in three broad categories: Policy making legislatures which can formulate and initiate proposals as well as reject or modify them, policy influencing legislatures which can reject or modify the proposals but cannot formulate or substitute proposals with their own and finally the legislatures with little or no policy effect. These are legislatures with no policy making or policy influencing power which means they cannot formulate proposals nor they can modify or reject them.

Although “Mezey’s classification of legislatures is probably the one that offers the most complete perspective on parliament” (Leston-Bandeira, 1999: 25, 26), Norton’s categorization provides a more precise typology through focusing on the policy making dimension of parliament; Norton’s categorization is more appropriate for this thesis

which revolves around an assessment of the law making power of the Majlis by studying its contribution to budget policy making as a case study. As it will be explained, according to the Iranian Constitution (Article 52) formulating and preparing the budget bill is the exclusive authority of the executive and the Majlis can only reject "... or move about some of the pieces, but has not the capacity to reconstruct it or create a new [budget bill]" (Norton, 1990, 179). Norton's distinction between the positive power of formulating and making policies and a negative reaction through rejecting or amending policies provides a more useful theoretical framework for assessing the law making power of the Majlis. Furthermore, this typology has been followed by many scholars as it is acknowledged that "Mezey and Norton still provide the most parsimonious frameworks for the classification of legislatures" (Judge and Earnshaw, 2008: 12).

2.4 Literature review of the Iranian parliament

The Iranian Parliament might be said to be one of the unknown parliaments, particularly from a legislative studies point of view, either in the English language literature or in Farsi the local language. Until recently (at least to the knowledge of the author) one might not find even one book which focuses on the Iranian Parliament and analyse it in terms of the theories introduced in the parliamentary studies discipline. Most of the literature in this regard comes from other sub-disciplines of political science or was written by lawyers. The only article which considered the Iranian Parliament on the basis of legislative studies was written in 1975. In the following pages the relevant literature will be reviewed.

As mentioned the first work which was written about the Iranian legislative system goes back to 1975 when the contribution of Marvin. G. Weinbaum was published in *Legislative System in Developing Countries* edited by G.R. Boynton and Chong Lim

Kim. In this book, different parliaments of the so-called Third World Countries (including Japan, Thailand, Colombia, South Vietnam, Kenya, the Philippines, Korea, Iran, Turkey and Afghanistan) were examined from a legislative studies perspective.

In chapter two, comparing these legislatures with their counterparts in Western societies, Weinbaum described the Middle Eastern and Asian legislatures as parliaments which experienced discontinuity and suspension. Then he explained the theoretical basis of the typology. He believes that the legislatures must be analysed “relative to [an] adjacent political system. An ineffectual, unstable parliament in a fragile political system must be judged differently from one in a nation with strong institutions. Similarly, a legislature that fails to cope with problems of political integration should be contrasted with the integrative performances of structures in the same system” (p: 35). On the basis of this analysis, he suggested five types of legislature in his paper: coordinate, subordinate, submissive, indeterminate and finally competitive-dominant.

The first type of legislature is one where the executive and legislature cooperate with each other while at the same time their functions and prerogatives are well defined.

The second type of legislature comprises those which are subordinate to the majority party in the executive with strong party discipline. Unlike the first type of legislature, in the second type the parliament is not able to amend the executive’s bills.

Legislatures of the third type are described as weak rubber stamp legislatures. In fact a submissive legislature “is a consequence rather than the source of the executive power” (p: 39). Access to these types of the legislature is not possible because the government has manipulated and controlled the electoral system. The majority of the government party control the parliament while the government is not dependent on this party majority. It might be said that the educational and socializing and legitimizing functions are among the most important functions of these types of legislature. For

legitimizing the government, it is necessary for the parliament to have sessions only occasionally to show that they are representing the public.

The fourth type of legislature identified by Weinbaum is the indeterminate legislature. There is poor interaction between parliament and the executive in this kind of legislature. Factions and sectarians who influence local and sector interests constitute the majority of the parliamentarians. They “rarely take the initiative from an executive. Their fragmentation precludes the formulation of coherent, alternative programs or tackling of those major issues requiring mutual concessions” (p: 41). Instead they use considerable power to investigate the executive or threaten to use interpellation.

Dominated by parliamentarians who pursue partial interests and have no strong party to control them, the fifth type of legislature is partly similar to the fourth one; however unlike indeterminate legislatures, in competitive-dominant legislatures the government and parliament have a relatively strong relationship. The interesting point is that in this kind of legislature, due to the existence of the highly institutionalized parliamentary committees, they can compete with the bureaucracy of the government. “Committees are frequently mini legislatures where rival groups, administrators, and key legislators mingle” (p: 42). However, as Weinbaum mentioned, this kind of legislature is the exceptional phenomenon nowadays.

Reviewing the Iranian Parliament from the date of its establishment in 1906 till 1975, Weinbaum recognised three types of the legislature in this period. He categorized the first and second terms of the Iranian Parliament which took place between 1906 and 1914 as competitive-dominant, where the Majlis operated to limit the unlimited power of the monarchy. As will be examined in detail in the following chapters, the Iranian Parliament was widely copied from European parliaments such as Belgium and Bulgaria, according to which the parliament wielded very strong power against the government. Despite many ups and downs, and challenges with the monarchy, the first

and second parliaments played an impressive role in establishing the new basic laws, scrutinized the executive power and involved themselves in foreign treaties and the financial reforms in the country. The Third Majlis was mostly composed of newly elected members and only lasted one year. It was dissolved due to the invasion of Tehran by Russian armies. Weinbaum categorized the Fourth Majlis which was formed in 1921 as a transition to an indeterminate legislature. The Fourth term of parliament coincided with the new despotic power of Reza Khan who was appointed as the prime minister. Majlis resistance against Reza Khan encouraged the new strong prime minister to shape a parliament which could be controlled by him. In 1925 Reza Khan established a new dynasty of Pahlavi and the Fifth Majlis started its work under the absolute power of the Reza Shah. "Beginning with the Fifth and certainly the Sixth Majlis, Iran entered a period of characteristic Type III [submissive legislatures]. Parliamentary autonomy disappeared as the Majlis, previously the national forum, became an obedient arm of Reza Shah" (p: 49). According to Weinbaum this situation lasted till 1945 when the Reza Shah fell and abdicated. After this year, the young Mohammad Reza Shah succeeded. However, the power of these two kings could not be compared. As Weinbaum put it, between 1941 and 1953, the Iranian Parliament became more active in all policy areas and the fifth type of the legislature i.e. competitive-dominant legislature reinstated; however there were many kinds of resistance by the monarchy. After the coup d'état of 1953 against Prime Minister Mossadegh, a military government took control of the executive power and the submissive type of legislature restored. From 1953 to 1975 the Shah tried to fasten his control over both the executive and parliament. Also political parties' activities were banned except those which were established and approved by him.

The work of Weinbaum provides a unique source of literature on the Iranian Parliament. He applied his typology to the different terms of the Iranian Parliament

which as we will see was reproduced in the parliament after the Islamic Revolution in Iran in many ways. He showed that the power and functions of the parliament, except for very short periods of time, always were threatened by the main power holder of the systems which before the revolution was the monarchy. Nevertheless, Weinbaum's typology of the legislatures is not straightforward and as clear as those which have been introduced by Mezey, Polsby and Norton. Furthermore the work of Weinbaum naturally does not cover the period that this research will study; however it is a very appropriate resource for the historical perspective of this research.

One of the seminal works which considered the Iranian Parliament after the Islamic Revolution is that of Asghar Schirazi in *Constitution of Iran: Politics and state in Islamic Republic*. In this book he studied the main political institutions of the Islamic Revolution which were established by the Constitution of 1979. Schirazi explained that in the Iranian political system there are many different power centres which can be categorized into two broad groups: democratic power centres and non democratic ones. He believes that the Iranian Constitution is a contradictory one within which power holders are in constant struggle. In his opinion the secret of this duality should be found in the duality of social power and supporters of the Iranian Revolution of 1979. He briefly reviewed the history of the formation of the Iranian Constitution in the first part of the book. He noted the story of the first and second draft of the post revolutionary Constitution: the former had been drafted by the more secular revolutionary forces and the latter by the more Islamist and fundamentalist supporters of the revolution. He shows the role of the Ayatollah Khomeini and his followers in the Islamic Republic Party in shaping the Constitution of 1979. The attempts of the Islamists who wanted to translate the Islamic laws of the Shi'a faith to the constitution and other institutions of the newly established regime are shown in this book. He also examined the process through which the first Assembly of Experts which was dominated by the Islamic

Republic Party had approved the final draft of the constitution, reflecting the foot print of the radical clerically-oriented camp. His analysis of the historical events which led to the establishment of the Constitution of 1979 is very informative. He shows how the real political power after the revolution, and in particular during the eight years war with Iraq, resided in the hands of the Ayatollah Khomeini as Supreme Religious Leader and popular sovereignty was seriously restricted. In Schirazi's opinion "the history of the Islamic Republic can in a certain sense be characterized as one in which power has, for the most of the time, been increasingly concentrated in the hands of the leader, a process which went far beyond the restrictions laid down in the constitution" (p: 61). He explains that, despite holding different kinds of elections, real participation of the people in these elections can be limited by the unelected institution called the Guardian Council. As we shall see, "elections cannot be regarded as an expression of the sovereignty of the people because the election regulations do not allow opposition candidates to stand" (p: 300). For this reason an increasing proportion of the electorate does not exercise its vote. He described the Guardian Council as the shadow of the Islamic Consultative Assembly (Majlis) and stated that not only does the Guardian Council parallel the Majlis but also the executive power has a parallel power which in Schirazi's view is the Leadership Institution. In other words in Schirazi's view, any democratic institution within the framework of Iranian political system has a nondemocratic shadow.

The work of Schirazi is very helpful in understanding the context within which the Iranian Parliament was working after the revolution; however, compared to the legislative studies literature the parliament and its place in the law making process constitutes only a small part of the book and there is no detailed information and analysis of the external influences or internal organisations of the Majlis. Furthermore the English translation (the original language was Dutch) of this work was published in

1997, since when Iran's political system has seen tremendous changes and development. Therefore this resource can be used only in historical perspective because it has no word about the functions of the Sixth and Seventh Majlis (2000-2008) which are chosen as case studies for this research.

Another work which has contributed to knowledge about the Iranian Parliament and is closer to the legislative studies literature is the work of Bahman Bakhtiari *Parliamentary Politics in Revolutionary Iran*, which was published in 1996. The author opens the first chapter by briefly explaining the Constitutional Movement which is the focal turning point in the history of Iran, which took place between the years 1905 and 1911. By overviewing the events which happened after the Constitutional Revolution Movement the role of the monarchy, government, parliament and political factions in shaping the nation's politics are examined. In the following chapters Bakhtiari explains in detail the events of the four terms of the Majlis after the Islamic Revolution of Iran covering the years between 1980 and 1994. In chapter two the activities of the First Majlis during the years 1980 to 1984 are analysed when the character of the Majlis and its relationship with other power holder institutions in particular the Guardian Council started to be shaped gradually. This trend was accelerated between the years 1984 and 1988 during the Second Majlis in which the battles between Radical Islamists and Conservatives especially over economic policies were increased. After the death of Ayatollah Khomeini, which happened during the Third Majlis, the Iranian political scene experienced tremendous changes. Ayatollah Khamenie succeeded the Ayatollah Khomeini and Hashemi Rafsanjani who was the speaker of the Third Majlis became the Iranian President. Hashemi Rafsanjani's more open economic policies were resisted by the Radical Islamist members of the parliament. In chapter six Bakhtiari considered the parliament's functions and activities in the first two years of the Fourth Majlis and by doing so came to conclusion that, although parliamentary election is not free for all

groups, the Majlis is one of the very important institutions which plays an influential role in the law making process. He stated that “it should be clear to everyone that the parliamentary experience in revolutionary Iran has not been free of electoral manipulation. The ruling elite have controlled the access route to the Majlis. Secular political groups or parties are not represented in Majlis ...” (p: 235). He stated that from its establishment in May 1980 the Majlis impacts upon many important policies of the government and it has been “at the centre of elite factionalism and power rivalry” (p: 235). He mentions that not only the Majlis actively proposes and debates pieces of legislation, but it has also “an important function of providing political and leadership training for the top echelon of the ruling elite in power” (p: x).

Bakhtiari’s work is a very viable resource for understanding the contribution of the Majlis in the law making process. By investigating primary resources he has provided very fruitful information and data about the working mechanism of the Iranian Parliament. Nevertheless he exaggerated the role of the parliament within the political system. He did not examine the impact of the Guardian Council on the law making function of the parliament and just emphasised the role of this Council during the parliamentary election process, which is just one important variable for having a comprehensive picture of the Majlis. Furthermore, the impact of the Expediency Council was not considered which as we will see in the following chapters, has been one of the important players in the law making process. Therefore it lacks any indication of the interaction of the Majlis with the institutions which surrounded it where they have very strong links with the activities of the Majlis.

The only notable book in the Farsi language which has considered the Majlis in detail was written by Mohammad Hashemi; *Islamic Republic of Iran’s Constitutional law*, first published in 1993 and revised in 2001. This book, which was published in two volumes, provides useful information about the legal and religious foundations of the

Iranian Constitution, the relationship of the different branches of political power and their functions in detail. In the second volume the functions and authority of the Leadership Institution were examined separately from other branches of power. In the next part, the place of the Majlis within the Constitution was studied. After explaining the electoral system of the Majlis, Hashemi discusses the structure and organisation of the parliament, including the way that the Specialized Commissions work, the methods of voting on the floor and the relationship of the government and Guardian Council with the Majlis. It was stated that the President and his consultants and also the Ministers of the cabinet have the right to attend on the floor to defend their policies or express their points of view regarding political issues of the day. However, they are also obliged to attend in the Majlis if the parliamentarians submit them and intend to question the President or Ministers or impeach them (p: 117). Also the functions of the parliament and individual representatives are categorised into two broad groups i.e. legislation and oversight (pp: 129-221). Hashemi did not recognise any other functions for the Majlis; as we will see in the following chapters, many other different functions might be found in the Iranian Parliament which are as important as these two. In the third part, the place of the Guardian Council in the Constitution, its religious foundation and historical roots in Iranian society, its functions and its relationship with Majlis are analysed. In the next part, Hashemi explains the executive power and contends that the Iranian political regime is a half presidential system since the president is directly elected by the people, and a half parliamentary system since his ministers shall be approved by the majority of members of the parliament. It seems that Hashemi has not gone beyond the formal criteria which are stipulated in the Constitution and the real level of the relationship between executive power and the Iranian legislature is ignored. Also there is no sufficient explanation of the interactions of the executive power and the legislature in the law making process.

Hashemi provides good information about the Iranian political system from a legal point of view according to the Iranian Constitution. Nevertheless, it remains on the surface of that and fails to show the actual and deep roots of the main active political institutions, especially those which are involved in the law making process. Strictly speaking, his work just describes the main institutions of the political system under the shadow of the Constitution and one rarely can find the analysis of their real power. Furthermore the place and the role of the political parties, especially within the parliament and government, are not mentioned in his work.

The latest contribution on the Iranian Parliament is titled “Guardian Council: second chamber?” which has been written by Mandana Jalali Naini (2006) and was published in *The Journal of Legislative Studies*. Reviewing the texts which were written about the Iranian Parliament and in the first part of the article she argued that all of these texts categorized the Iranian Parliament as a unicameral legislature while in her view it might be deemed as a bicameral or even tricameral legislature. She believes that the Guardian Council which is not elected by the citizens resembled a second chamber. Using comparative methods in her article, she compared the Guardian Council with the familiar and unfamiliar second chambers of the different countries and stated that all of them have five common functions including examining and revision, initiation, delay, representation and oversight functions. Except for initiation, she believes the Guardian Council has all the aforementioned functions like other second chambers in the world. Referring to Article 93 of the Constitution, which states “without the Guardian Council, Assembly shall have no legal validity and creditability”. She states that there is “little doubt that the legislature of the country comprises two independent bodies and no law can be passed without the consent of the both of the Islamic Consultative Assembly and the Guardian Council. It must be noted that the authority to declare legislation unconstitutional is also law making and therefore political authority” (p: 204).

In the second part of the article, the role of the Expediency Council in the political system is examined. On the basis of the cases through which the Council has been involved in the law making function, she concludes that the “Expediency Council can be regarded as having the characteristics of the *third chamber*. It has power to make laws, decide on new amendments (only disputed ones), and change all existing laws that will be in any way affected by their changes” (p: 207).

In the final part of her work, Naini (2006) analyses the Sixth and Seventh Majlis in detail and assesses them on the basis of the conceptual framework of her article. Comparing it with the previous Majlises, she believes that the Sixth Majlis was highly viscous and an arena-like parliament “[t]he Sixth Majlis, however, can only be considered viscous if assumed bicameral. Had the parliament really been unicameral, the government and the majority in the ICA [Majlis], would have had no problem passing any piece of legislation as the reformers had an overwhelming majority in the ICA” (p: 216). Naini predicted that the Seventh, dominated by the same political camp as the executive power and the Guardian Council, would be a weak legislature where the government could pass its bill easily. Furthermore Naini states that the Seventh Majlis “will gain bargaining power with the Guardian Council, leading to a positive drift between the two chambers (preferring to resolve the issues through navette)” (p: 216).

The work of the Naini is a very good attempt to uncover the unknown aspects of the Iranian Parliament and its functions. Using the theoretical frameworks and terminology of legislative studies for analysing the Iranian political system is quite unprecedented in this area. Nevertheless, it seems Naini did not start from an appropriate point. Without understanding the theories and the philosophies which stand behind the establishment of these institutions (Guardian Council, Expediency Council), one may not properly analyse their functions and features. Furthermore the impact of the political factions was

not mentioned in the article, while this variable plays a very important role for assessing the law making power of the parliament. In this research, the composition of all the institutions which are involved with law making processes, whether they are Conservative or New Conservative, or Reformist, will be examined in detail in the following chapters.

Chapter Three:

Iranian Parliament in Historical Perspective:

Qajar, First and Second Pahlavi Eras

1. Introduction

Iran geopolitically is one of the most important countries in the Middle East. The Islamic Revolution of Iran which took place thirty years ago proposed a special kind of political system which has been difficult to categorise. Internationally the anti-Western policy of Islamic Republic governments has been challenged by the main players of international politics. Internally, particularly after the ending the war with Iraq and the Post Khomeini Era, the unique structure of political power of Iran has been challenged by many political factions, both those who are inside of the main political power circle and those who are outside. There is a form of political arrangement in Iran which has resisted strongly any kind of reform. It seems the system of decision making in the Iranian political system is unique in many ways. In this research we want to explore the place of the parliament in the decision making process. An evaluation of the law making power of the Majlis within the political system which is defined in the Constitution is the heart of this thesis.

2. Iran: overview

Iran, officially the Islamic Republic of Iran, is located in the South West of Asia and has common borders on the West with Turkey and Iraq, on the East with Afghanistan and Pakistan, on the North with Armenia, Azerbaijan, and Turkmenistan. The total area of Iran is 1,648,000 sq km and it is the second largest country in the Middle East, after Saudi Arabia and the 18th largest country in the world (Msn Encarta, 2009). Tehran, the largest city of the country, is the capital of Iran, and the main branches of the government and the commercial, educational, financial, industrial, and publishing centres are located there.



Source: http://www.geographic.org/maps/new2/iran_maps.html

2.1 Political system

The place which today is called Iran (the land of Aryans), in the 6th century BC was the centre of the Persian Empire, the world’s preeminent power at that time. Iran was ruled by kings (or Shahs), for a long time and consecutively, from 1501 until 1979, when the monarchical system of government was overthrown by a revolution which was led by the clergy Shias. “The long history of Iran – two thousand five hundred years of recorded history - has been impressed by the institution of monarchy and also, since the arrival of Islam, by Shi’ism. These two important factors, the institution of monarchy and Shi’ism, have shaped much of what has happened in Iran in the last millennia, and the modern history of Iran very much reflects that” (Mibagheri, 2003: 38).

Shi’ism can be traced back to the era of the Safavid dynasty which was established in Iran by the first King Ismail Safavi in 1501 during whose reign the Iranian people converted from Sonni to Shia. The Safavid, who had Shi’a faith, was a “Sofi group in

Ardabil [which] managed to suppress all other tribes and power centres and finally unite the whole country in such a way that some have named their ruling as the first Iranian national state after the invasion of Persia by the Arabs” (Rasekh, 2008: 75).

Although the ruling dynasty changed after the Safavid Era, the system of government did not change significantly until 1906, when a popular revolution forced the Shah to accept a constitution that limited his powers. In fact the history of the modern politics of Iran dates from the early 20th century in the Qajar Era when the Constitutional Revolution of Iran took place. The Constitutional Revolution was the first movement of the Iranian society toward modern government and the rule of law. As we will discuss later, the history of parliament in Iran dates from this era. Following the overthrow of the Qajar Dynasty in 1925, Reza Khan established the Pahlavi Dynasty which was continued by his son Mohammad Reza Shah from 1941 till 1979. In the Reza Shah Era the modernization process was started and was accelerated in the Mohammad Reza Shah Era. Plans such as developing large scale industries, implementing major infrastructure projects, building cross country rail roads, establishing the national public education system, reforming the judiciary, and improving the health care system was carried out in the First Pahlavi Era. Implementation of these wide-ranging economic development programmes culminated in industrialization and urbanization of the country. As a result of these development plans two new groups, a middle class of professionals and technocrats and a working class engaged in manual and industrial labour, emerged. In the era of Mohammad Reza Shah Pahlavi, these development programmes continued and deepened, and the aforesaid two new social groups gradually expanded. Factory manufacturing experienced periods of rapid growth and trade and commercial activities developed with the country's increasing urbanization. As we will see in following chapters, both of

these groups - especially the middle class which divided into secular and religious factions in the 1970s - contributed to the overthrow of the Shah in 1979.

The Islamic revolution of 1979 was one of the most important turning points of Iranian history and culminated in the rule of the clergy headed by the Ayatollah Khomeini. Following the collapse of the Pahlavi Dynasty, the Islamic Republic of Iran was established through a referendum held in the February 1979. Ayatollah Khomeini became spiritual leader of the Islamic Republic of Iran and a new constitution established (amended in 1989). In the Iranian political system the Supreme Leader is the highest official and power holder of the country who has a broad number of powers and authorities. The three branches of government consist of the executive, legislative, and judicial power working under the supervision of the Supreme Leader.

The war of Iraq against Iran which started shortly after the establishment of the new political system and lasted for eight years (1980-1988) affected all affairs of the country. In particular it prevented the political system developing toward more open and democratic government. One year after the ceasefire Ayatollah Khomeini passed away and Ayatollah Khamenie, who was the President of Iran from 1981 till 1989, succeeded him. After his appointment by the Council of Experts, Hashemi Rafsenjani was elected in 1989 as Iranian President and served for two consecutive terms until 1997. Mohammad Khatami was then elected as president for two consecutive periods known as the Reform period. Although Reformists won the Sixth Parliamentary Election of 2000, the Reformist Movement failed to reach its goals and the New Conservatives returned to power. In 2004 most of the Reformists candidates were disqualified by the Guardian Council and therefore the Conservative camp took the majority of seats in the Islamic Consultative Assembly (Majlis). In the following year and through a complicated process which will be discussed, Ahmadinejad, one of New Conservative and radical politicians was elected as a head of the executive. Studying the relationship

of the Islamic Consultative Assembly, or Majlis, with other parts of the political power particularly the executive power is the central point of this research.

Table (3-1): List of Presidents of the Islamic Republic of Iran (1980-Present)

Name	Took Office	Left Office	Political Party
Abolhassan Banisadr	4 February 1980	22 June 1981 (impeached)	Independent
Provisional Presidential Council	22 June 1981	2 August 1981 (assassinated)	-
Mohammad Ali Rajai	2 August 1981	30 August 1981	Islamic Republic Party (IRP)
Provisional Presidential Council	30 August 1981	13 October 1981	-
Ali Khamenei	13 October 1981	3 August 1989	Islamic Republic Party (IRP) until 1987, Combatant Clergy Association since 1987
Akbar Hashemi Rafsanjani	3 August 1989	3 August 1997	Combatant Clergy Association
Mohammad Khatami	3 August 1997	3 August 2005	Association of Combatant Clerics)
Mahmoud Ahmadinejad	3 August 2005	Present	Alliance of Developers of Islamic

2.2 Population and minorities

According to the Iranian statistical centre, the population of Iran was estimated at 70,495,782 in 2007. The population growth rate of Iran between the years 1956 and 1986 was more than 3 percent per year while it declined by 1/6 percent in the mid-1980s after the government started to control the population growth rate. “There have been 17501771 families in 1385, [2005] of which 12405584 units reside in urban and 5074866 families in rural areas. 21321 families have been reported unsettled households” (Iranian Statistical Centre, 2008).

Iran’s population is made up of numerous ethnic groups including Persians (51%), Azaris (Turks) (24%), Gilaki and Mazandarani (8%), Kurds (7%), Arabs (3%), Baluchi (2%), Lurs (2%), Turkmen (2%) and others (1%). Also there are different religious groups of which the Shi’a Muslims constitute the majority with 88 percent of the population. Sunni Muslims with 8 percent of the population are the largest minority of the country. Other religions - Christians, Jews, Zoroastrians and Baha’is - make up the

rest of the religious minorities of the country. According to Article 12 of the Iranian Constitution the official religion of Iran is Islam and the Twelver Ja'fari School, and this principle will remain eternally immutable. Other Islamic schools are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. Jafari Shia Islam has been the official religion of Iran since the 16th century. Jafaris believe that there are 12 legitimate successors, or Imam, to the Prophet Muhammad, and because of that they are called Twelvers. Followers of Shi'a Islam disagree with Sunni Muslims over the rightful succession to the Prophet Muhammad, the founder of Islam (Sivan, E. 1989). Iran's 1979 Constitution assigns to the Shi'a clergy important political leadership roles in the government which influence all parts of the political system.

Apart from Sunni's, Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities. Within the limits of the law, they are free to perform their religious ceremonies, and to act according to their own principles in matters of personal affairs and religious education (Article 13).

Religious minorities are not allowed to take certain key political positions such as Religious Leadership, the Presidency (Article 144), Commandership of Islamic Armies (Article 144), Judgeships (Article 163), and membership of the Guardian Council.

Furthermore, religious minorities are not eligible to become members of the Majlis (the Islamic Consultative Assembly) through the general elections. Christians, Jews and Zoroastrians can only be elected for the specific seats allocated to these minorities. According to Article 64 of the Constitution: one seat for Zoroastrians, one seat for Jews, one seat for Assyrian and Chaldean Christians, one seat for Armenian Christians in the North and one seat for Armenian Christians in the South are allocated in the Islamic Consultative Assembly. However, these minorities are unable to play an influential role in mainstream politics. Some of the non-recognized religious minorities are totally

excluded from any parliamentary representation since they can neither vote nor be elected. Finally, non-Muslims cannot become members of the very influential institution the Guardian Council.

2.3 Political Economy

Prior to the exploration of oil, the economy of Iran was based upon agriculture and farming; however because of the difficulties in climate and topography, and also the primitive method of farming the productivity has been always low, even in recent years. There are few places except the North of Iran that are continuously cultivated and most parts of that have suffered from shortage of water sources:

Aridity probably played a basic role in shaping the structure of the Iranian political economy. There are two main reasons for this. First, it served to create isolated and autonomous village units of production, none of which could produce a sufficiently large surplus to provide a feudal power base; and second, given the expanses of the region, the collective surplus of all or most of the isolated villages was so large that, once taken by an 'external force', it could be used as the economic base of a countrywide arbitrary state or empire (Katouzian, 1997: 69).

Discovery of oil by the British not only changed the macro-economic situation of the country but also shaped its political, cultural, and sociological face in the course of one-hundred years from the date of its exploration. The economy of Iran, which has the world's third largest oil reservoir, in major part is based on oil and gas revenues. Apart from agriculture, trade, mining, taxes and the other sectors, only the oil industry constitutes approximately 50 percent of the central government revenues and one-fifth of the GDP "Nominal GDP for the 2006-2007 financial years was estimated by the IMF

at IR, 2,065, 865m. (US \$ 223,530m.) , based on the market exchange rate, while per capita GDP was \$ 3,258” (Siddiqi, 2008: 428). Therefore the Iranian economy is deeply dependent on the oil revenue 80 percent of which is owned or controlled by the state, weakening the private sector. It was stated that “the oil-based economy has widened the gap between the government and the people and added fuel to the fire of despotism” (Rasekh, 2008: 78).

Development plans have a crucial role in the economy of Iran. After the revolution four Five-Year Development Plans have been created by the government for changing the state oriented economy and making the private sector more powerful. But there are many doubts about the success of the recent efforts toward macro economic reforms. Some authors believe that because of the ample dependency of the government on “windfall oil revenue”, the Five-Year Development Plans have not met their targets. “Not only has there not been the necessary infrastructure - such as experts and private institutions - policy making in the country has also suffered from fundamental deficiencies. These relate to elements such as inflexible calculation, partial or factional (vis-a-vis national) interest orientation, disregard of international experience and resources, a very low knowledge of managerial skills and principles and ambiguity in key concepts in the field of development and growth” (Rasekh, 2008: 77, 78).

Five-Year Development Plans as mid term development plans and annual budget bills as short term plans of the country are the very important documents which the executive power and the Islamic Consultative Assembly (Majlis) involve themselves in. The executive power prepares the plans and submits them to the Majlis and parliamentarians in turn have the right to accept, reject or amend the executive’s proposals. This stage of the policy making process is a very appropriate one to assess the real power of the Majlis which will be done in the following chapters.

2. Constitutionalism in Iranian context: historical perspective

If one traces back the important and modern political institutions such as parliament in Iranian history, one may not go further than the early 20th century. Before this time what was predominant in Iranian political history was an arbitrary state and society within which the strongest tribe ruled. Some authors (Hass, 1946: 94-106) describe Iranian society before the establishment of modern government as follows:

“[D]espotism has been in the past the form of government in Iran as in practically all Asiatic countries.... {T}he ruler in Iran faces a mass of people who are all equally subjected to his will. The reason for this typically Asiatic phenomenon is the lack of an aristocracy in the proper sense of the term, such as we find in all Western countries In Iran no such distinct nobility has ever developed. The Persian kings do not feel it necessary to rely on a privileged class, and they would have resented the mere existence of such a group limiting their power.”

Historians identified different causes for this character of Iranian society but there is a clear consensus that despotism and autocracy have prevailed for centuries in various eras of Iranian history. “It was a society in which the ruler was absolute, in which there was no separation between Church and State, [religion and government] but which contained certain inherent tendencies towards extremes, a society in which the individual's sense of social purpose was fulfilled through the corporation or group; a society in which political obligation did not rest, even implicitly, on a contractual basis” (Lambton, 1957: 15). Katouzian (1997), one of the most prominent theorists of Iranian political history, mentioned that in Iranian society only the state had an exclusive right of property, not the people. They had the privilege to use the properties of the state and the rulers were able to withdraw this privilege whenever they wished and as result of no ownership right no aristocracy formed in Iranian society.

He explained that, despite trading being one of the dominant dimensions of the Iranian economy, the failure to accumulate commercial capital prevented the formation of the bourgeoisies. Katouzian (1997) believes that where social classes have had an important role in European societies in the establishment of their state, this relation was the other way round in Iran. These and many other essential differences which have lasted a long time from the early Iranian history impacted on modern Iranian society, in particular its political institutions.

From the early 19th century onward Iran familiarized itself with European modernity in different ways. The administrative, military, educational, and economic reforms which were implemented by the Iranian great minister Mirza Taghi Khan Amir kabir, improved transportation and communication systems which eased merchants and students' travel to European countries; the Russian Revolution of 1905 acted as a strong pattern for uprising against absolutist power; familiarity with the Young Ottoman Movement, economic malaise which was started from late 19th century weakened the monarchy of Qajar, and many other reasons contributed to the request for a constitutional monarchy, and demands for democratic government, the rule of law and political participation (Lambton, 1975). For the first time and in the course of the Constitutional Movement, concepts such as codified law, constitution, and separation of powers doctrine, justice, rights of the people and national consultative assembly (parliament) were proposed.

It is noteworthy that classical historians of Iran strongly believed that the aforementioned concepts propagated by Westernized intellectuals awakened the sleeping public at the end of the 19th century, and thereby led the way to the national resurgence of the early 20th century. The main contemporary historians in Iran, such as Fereyduun Adamiyat, Ali Shamim, Ibrahim Safa'i, and Hafez Farman Farmayan "have likewise stressed that the ideological foundations of traditional despotism were

undermined by the introduction of the modern concepts of patriotism, secularism, and liberalism. This interpretation is typified by a recent popular history of the constitutional movement” (Abrahamian, 1997: 384).

It might be said that three groups of political activists with different social backgrounds and ideologies (who established the political parties in later decades) united for pursuing this aspiration that in turn have had their main role shaping the new political system and creating a kind of perplexity within that. In the following pages the role of these three groups in shaping the political system will be discussed.

The first group of these social forces comprised Iranian intellectuals and traders who came back from the West to Iran and who had interacted closely with Western society and encountered some philosophies such as the politics of representative government, modern education and secular law. They were advocates of secularism, liberalism and nationalism. “The intellectuals were strongly influenced by French secular thought, but few, if any of them, publicly advocated secularism, though many wished to curtail the influence of the religious classes in political life. It is interesting that great emphasis was laid on the separation of the legislative, executive, and judicial powers when the Constitution was drawn up ...” (Lambton, 1975: 17).

One of the most famous figures of these groups of intellectuals was Mirza Malkam Khan who introduced the above mentioned concepts in his book named *Booklet inspired by the unseen or the book of the reform*. He also published a newspaper in London named *Qanon* (constitution) in the early 1890s and proposed that:

“[A]t least one hundred of the great mojtaheds, [high ranking clerics] the renowned learned men, and savants of Persia be gathered in a national consultative assembly (majles-e shoray-e melli). They should be held responsible and given the full authority, first, to establish, codify, and officially proclaim the laws and principles that are necessary for the reorganization (tanzim) of Persia. Second, according to an orderly

arrangement, the national consultative assembly [parliament] should hold itself as the guardian, the overseer, and the agent for the execution of the law” (Qaanon 9, n.d. [1890], pp. 1-2; 6, 18 July 1890, p. 2(Amanat, 2005).

He wrote about the natural rights of the people and stressed their duty toward their fatherland; however he declined to direct criticism at Naasáer-al-Din Shah. It is noteworthy that Malkam Khan wanted to show that not only these Western concepts and institutions are not against Islamic rules but also it is possible to draw them out from the Quran or other Islamic source of rules (Ajodani, 2003: 281-361). As we will see later, this kind of approach has had a tremendous impact upon the functions and the nature of important political institutions such as parliament.

Apart from Malkam Khan there were some other anti religion and secularist intellectuals like Akhondzadeh who emphasized Western modernization and avoiding absorbing modern concepts with religious traditional concepts (Amanat, 2005). As a whole this group of activists represented the middle classes and stressed political reform through establishing democratic government.

The second group who had a great impact upon the Constitutional Movement in Iran composed clerics and religious leaders. As a whole their influence upon politics of Iran is undeniable. They have been among the major players in important political movements since the 19th century, including the Tobacco Protest Movement of 1890-1891, the Constitutional Revolution Movement of 1905-1911, the Oil Nationalization Movement of 1951-1953, and the most important of all the Islamic Revolution of 1979.

They had the exclusive authority to interpret the Shi’a laws and according to one of their most famous interpretations “all temporal rulers are illegitimate and came increasingly to assert that legitimate guidance, pending the return of the 'hidden' Twelfth Imam, is to be found in the Shi'a religious leaders, the mojtaheds; [high ranking cleric]” (Keddi, 1971: 5). Also they had the exclusive right to receive religious taxes, called

Khoms and Zakat, and administer the state-donated religious endowments (Waqf). Furthermore “identification of the ulama [high ranking clergy] with the popular anti-foreign cause ever since the first wars against Russia in the early nineteenth century” (Ibid) gave them social and cultural hegemony throughout Iran. They were one of the only power centres who could publicly criticise the government and its policies. Ordinary people could expect them to mediate with the state for protecting them from the arbitrary acts of the kings and owing to this reason the clergy had a very close relationship with the Iranian population.

During the Constitutional Revolution they advocated an Islamic society by giving precedent to the national will and clerical authority in the sense that they set out to move back traditional overarching structures of monarchy and clerical hierarchy from direct governance while maintaining the Islamic character of state and society. For instance Ayatollah Mohammad Hosien Naini as a modernist cleric was among one of those groups of clerics who believed Islam and particularly Shiism demanded such a political system which secured the rights of the people and justice. They argued that this kind of political system should be democratic government. Some high ranking clerics such as Abdollah Behbahani and Sayyed Mohammad Tabatabaee also participated in the Constitutional Movement and justified the establishment of new political institutions. However it should be mentioned few people especially among the clergy clearly knew what the constitution meant and what implications it had. They supported the Constitutional Movement only because they thought it brought security and prosperity for the country and were never familiar with the functions and foundations of constitutionalism and constitutional governments which prevailed in European countries (Milani, 1994).

On the other hand this group of clerics was countered by the traditionalists who criticized the constitutionalist approach and instead of secular constitutionalism

proposed Islamic constitutionalism. The most prominent figure of them was Shykh Fazlollahe Nuri who introduced *Mashrote-h Mashroe-ah* which might be translated as Constitutionalism in an Islamic framework. The idea of the traditionalist clerics such as Shykh Fazlollah Nuri, who had a great impact upon the nature and functions of political institutions, will be discussed in detail in the following pages.

The last group of activists during the Constitutional Revolution was the urban merchants or bazaars, small landowners, workshop owners who supported the two aforementioned groups, particularly the clergy. Merchants and clergy had a very close relationship and had common interests. Most of the mosques were located at the centre of bazaars which the merchants attend for praying or asking their religious questions. In the absence of modern government for promulgating commercial rules and regulations which was necessary for the day to day affairs of the merchants, the clergy provided the rules according to the Shari'a laws and in return merchants furnished clergy with special kinds of funds called Khoms and Zekat. Therefore merchants and clergy were traditionally tied together and formed a kind of unofficial alliance which in the mid-19th century increased significantly as Western penetration and attempts by the state to modernize itself threatened the economic position of both groups.

Historians stressed (Abrahamian, 1997: 388) the role of the merchants and trader classes in the Constitutional Movement, whose interests were affected by the ruling government. Many factors encouraged merchants to move against the ruling government and ultimately support the Constitutional Movement. For instance by alluding to tariff policies according to which foreigners were subject to a two percent valorem duty while their Iranian counterpart had to pay duty at five percent that obviously favoured foreign merchants, importing finished goods that competed with domestic manufactures and undermined local crafts and industries, and concessions

which were granted to the foreigners, were among the main factors which endangered the Iranian merchants' interests (Bakhash, 1991: 1485).

After the assassination of Naser al-Din Shah in 1896, who was a despotic ruler, Mozafar al-Din Shah succeeded him. Since Mozafar al-Din Shah was less despotic than his predecessor, opposition groups found good opportunities for achieving their main goal which was the establishment of a constitutional monarchy.

Mozafar al-Din Shah was confronted with an economic crisis that led him to take loans from Britain and Russian. Furthermore Amin al-Dowleh, the premier of the new king, wanted economic reforms particularly in tax and financials affairs. Therefore a Belgian named Joseph Naus was employed by the Iranian government to institute a tax reform law. He set out a series of strict financial policies and laws which disappointed the prominent merchants and traders and also these measures frightened the clergy who viewed recent events as a serious threat to their pockets. At the same time political oppositions including high ranking clergy such as Seyyed Abdollah Behbahani and Seyyed Mohahhamad Tabatabaee started a movement against excessive and foreign intrusion and gradually anti governmental agitation turned into organized movement. In fact a temporary coalition was formed between three aforementioned segments of social powers which had essentially different approaches toward political power (Bayat, 1991).

Eventually an event which happened in 1905 paved the way for the revolution. A small group of well-known sugar traders was punished by the ruler of the Tehran Alla al-Doleh and forced to lower the sugar price. Following that many merchants and traders protested against the ruler of Tehran and were supported by prominent clerics and theological students, political activists and laymen. After many ups and downs the protesters decided to retreat to a shrine in the south of Tehran while demanding that the King dismiss Premier Ain al-Doleh, the ruler of Tehran, Joseph Nuas and most

important than all of them was the establishment of a Eddalat Khaneh (House of Justice).

Although the King dismissed the ruler of Tehran and promised to create the House of Justice, his premier remained in office and after six months, his promise for establishing the House of Justice was not fulfilled. Following this, protesters several times reminded the King of his promises. One of the Reformist clerics Seyyed Mohammad Tabatabaee wrote a letter and requested the King to fulfil his promises. For the first time under the influence of Mirza Malkam Khan there was a demand to establish a parliament which represented the people (Kermani, 1970: 338-340). It seems from this point on, the demand for the House of Justice turned to a demand for a national assembly or parliament.

Since protesters received no reply from the King the confrontation between government and the reformists increased and, after the death of fifteen people during the protest, they decided to leave Tehran and retire to a shrine city, Qom. At the same time another group of protesters including clerics, theological students, merchants, tradesmen and laymen gathered in the garden of the British embassy in Tehran. Some historians believe that the demands for a national assembly (parliament) rose during the retirement of the protesters in the British embassy; however as mentioned earlier, most of those who proposed this demand seemed to have no clear idea about the rule of law and the foundation of modern government (Martin, 1989).

Eventually Mozafar al-Din Shah accepted the demands of the protesters including the establishment of the parliament and issued the following decree:

“Whereas God Most High (glorious is His State!) hath entrusted to our hands the direction of the progress and prosperity of the well-protected realms of Persia, and hath constituted Our Royal Personage the Guardian of the Rights of all the people of Persia

and of all our loyal subjects- therefore on this occasion, our Royal and Imperial judgment has decided, for the peace and tranquillity of all the people of Persia, and for the strengthening and consolidation of the foundations of the State, that such reforms as are this day required in the different departments of the State and of the Empire shall be effected; and we do enact that an Assembly of delegates elected by the Princes, the Doctors of Divinity ('ulamá), the Qájár family, the nobles and notables, the land-owners, the merchants and the guilds shall be formed and constituted, by election of the classes above mentioned, in the capital, Tihrán; which Assembly shall carry out the requisite deliberations and investigations on all necessary subjects connected with important affairs of the State and Empire and the public interests; and shall render the necessary help and assistance to our Cabinet of Ministers in such reforms as are designed to promote the happiness and well-being of Persia; and shall, with complete confidence and security, through the instrumentality of the first Lord of the State, submit [their proposals to Us], so that these, having been duly ratified by Us, may be carried into effect. It is evident that, in accordance with this August Rescript, you will arrange and prepare a code of regulations and provisions governing this Assembly, and likewise the ways and means necessary to its formation, so that, by the help of God Most High this Assembly may be inaugurated and may take in hand the necessary reforms. We likewise enact that you should publish and proclaim the text of this August Rescript, so that all the people of Persia, being duly informed of our good intentions, all of which regard the progress of the Government and People of Persia, may, with tranquil minds, engage in prayer for Us” (Mu zaffaru'd-Din Shah, 1906).

Following the issuance of this decree the high ranking clerics returned from Qom and the protesters ended their retirement in the British embassy. After that the election law was drafted by the notables and the King ratified the first election law on 9th

September 1906. Shortly after that date an election was held in Tehran and other provinces of Iran and the inauguration ceremony of the first Iranian Parliament took place in Tehran on 7th October 1906.

The first task of the newly established parliament was to draft a constitution as a fundamental law within which the form of government and the main bodies of that would be determined. A committee of parliamentarians was formed to prepare the draft of the constitution. “First convened as a constituent assembly to draft the fundamental laws, the Majlis [parliament], culminated a nationalist movement that had allied European-oriented Reformists, a traditionalist merchant class, and a Conservative clergy against an autocratic monarch. The 1906-07 Constitution sought a limited monarchy and ministerial accountability by vesting impressive powers in the Majlis [parliament] to deal with the economy, foreign treaties and agreements, and succession to crown” (Weinbaum, 1975: 47). The Belgium Constitution of 1831, the Bulgarian Constitution of 1879 and the Russian Constitution proclaimed by the Czar earlier in 1906 were the main sources of the drafters in writing a modern constitution (Amir Arjomand, 2005).

Despite using modern patterns of constitutions, it has been argued that the drafters of the first Constitution of Iran “knew very little of constitutional theories. Long tradition and background in the field of political philosophy was absolutely lacking. The Constitution of Iran therefore does not have a national scholastic history in which one may find the origins of the concepts expressed in the instrument” (Farmanfarma, 1954: 243). It was mentioned in previous chapters that constitutionalism, separation of powers and sovereignty of the people through representative democracy had a long tradition in the political philosophy of Western societies while this tradition was absent in Iranian history. Intellectuals who introduced these concepts to Iranian society tried to implant them in a society in which the main character of its political system was despotism.

3.1 Separation of powers according to the Constitution of 1906-1907

As already mentioned the basic model according to which the committee of drafters determined the form of the Iranian political regime was the parliamentary model of Belgium. The first Iranian Constitution of 1906 which in large part was in accordance to the Belgian (1831 amended in 1893) and Bulgarian (1879) Constitutions consisted of one short preamble and 51 articles. Since the articles set out in the Constitution of 1906 were assembled hurriedly and unsystematically a new committee consisting of prominent constitutionalists was formed to prepare a Supplement to the Constitution.

The Supplement consisted of 107 articles which in Article 26 expressly affirmed popular sovereignty. A systematic separation of powers was accepted and legislative, executive and judicial powers were enumerated in the Constitution. The legislative power, whose main function was to make and adapt the laws, was derived from his imperial Majesty and parliament. The executive power was reserved to the king, and the judicial power was kept to the religious courts in matters relating to Islamic laws and ordinary courts in secular matters.

The right to govern was thought to be a trust that belonged to God which was given to the king by the nation. According to Article 48 “[t]he choice of officials as heads of the various government departments, whether internal or foreign, subject to the approval of the responsible Minister, is the king's right, save in such cases as are specifically excepted by the law; but the appointment of other officials does not lie with the king, save in such cases as are explicitly provided for by the Law.” Nevertheless the king was free of responsibility in that they were responsible for all matters to both chambers; whenever ministers were summoned by one of the chambers, they were required to appear before it. Ministers, besides being individually responsible for the affairs of their own ministries, were also jointly responsible for general matters before the two

chambers, and were collectively bound for each other's actions (Articles 60, 61). Both chambers could call ministers to account and bring them to trial. The responsibility of the ministers and the punishments to which they might be liable were specified by law. According to Article 67 “ if the National Consultative Assembly or the Senate shall, by an absolute majority, declare itself dissatisfied with the Cabinet, or with one particular minister, that cabinet or minister shall resign their or his ministerial functions.”

The king had authority to dissolve both chambers separately or at the same time. He needed to mention the reason for the dissolution in any case and the new election should start one month after the dissolution decree.

The king was the commander in chief of all land and sea forces and the declaration of war as well as conclusion of peace were his special rights (Articles 50, 51). Also it was a prerogative of the king to grant military ranks, decorations and other distinctions in conformity with the law.

The Judicial power was the official authority to which public grievances could be submitted. The President and the members of the courts were chosen according to the laws. There was a kind of duality in the judicial power in that religious matters were in the authority of clerics possessing the necessary qualifications, who controlled the religious court, and other disputes were in the jurisdiction of the court of justice.

3.2 The place of the first Iranian Parliament in the Constitution of 1906- 1907; Qajar Era

Parliament was declared the representative of all people and became the country's central institution. According to Article 30 of the Supplement to the Constitution “ [t]he deputies of the National Consultative Assembly and of the Senate represent the whole nation, and not only the particular classes, provinces, departments or districts which have elected them”. The parliament was the symbol of constitutionalism and the

government justified its policies by citing the fact that applicable laws had been passed by the parliament. In legislative terminology it seems that the Iranian Parliament was expected to fulfill the legitimizing function for the political system when it experienced a legitimacy crisis.

The legislative power was shared by the Shah, the Majles, and the Senate, each with the right to initiate legislation (Article 27). In fact, all laws necessary for the consolidation of the foundation of the state and regulations of the affairs of the country might be initiated by the aforementioned authorities but they were to be approved by the National Consultative Assembly eventually.

At least fifteen members of the parliament could introduce a proposal and then it might be discussed in plenary session or in committee. If a bill presented by a minister was not accepted by the National Consultative Assembly, it was to be returned to the minister with the Assembly's observations. The minister concerned might accept or reject the Assembly's criticisms and present the bill again to the Assembly. The members of the Assembly were to declare their denial or acceptance of the proposal and no one might influence their vote by promises or threat. The enactments of the lower chamber had to be approved by the Senate and then they were submitted to the sovereign by the head of the government and came into effect, after receiving the royal approval.

The members of the parliament had the right to examine and question all the problems of the country which they thought necessary. While the king was free of responsibility before the parliament, the right of parliamentarians to investigate ministers and dismiss them was recognized in the Constitution (Articles 65, 67). Whenever the parliament observed a violation or negligence in the application of the laws it was to inform the minister responsible for it and he was to provide the necessary explanation. If any minister, contrary to one of the laws enacted and approved by his

Majesty, fraudulently issued written or verbal orders on his Majesty's authority and used such orders as an excuse for his negligence and lack of attention, he was, according to law, responsible to his holy Majesty personally. If a minister was unable to give an acceptable report of any affair according to the laws approved by his Majesty, and if it was agreed that he had acted contrary to the law or that he had transgressed the limits imposed on him, the parliament was to request his Majesty to dismiss him, and if his treason was proved before the court of justice, he could no longer be eligible for public office. The responsibility of the ministers was before both chambers of the parliament in that whenever they were summoned by one of those chambers they were required to appear before it. Apart from their individual responsibility they were jointly responsible for the general subjects relevant to the whole government. Although, the scrutiny power of the parliament was emphasized in the Supplement of the Constitution by stressing the responsibility of the Ministers, at the beginning of the new form of government they refused to be answerable to the parliamentarians and believed they were accountable only to the king (Adamiyat, no date).

Parliament had the right, whenever it considered it necessary, to present a petition to his Majesty via a committee composed of the President and six members chosen by the six classes of deputies.

Nobody could challenge a member of the parliament on any ground without the knowledge and approval of the Assembly, and if by chance a member had openly committed a crime, felony or misdemeanor and had been arrested, no penalty could be exercised upon him without parliament having been advised.

As was mentioned, the first Iranian Parliament had two chambers: the lower chamber with its members elected by the people and upper chamber or Senate - Article 43 of the Constitution gave authority to the king to nominate thirty of the sixty senators and the rest were to be popularly elected (Article 45). The members of the Senate were elected

from amongst the well-informed, discerning, devout and respected persons of the country. “The idea of a bicameral legislature, consisting of a chamber of deputies (*majles*) and a senate, was also taken from the Belgian Constitution, though the requirement that half the Senate was to be appointed by the Shah suggests some influence from the Russian Constitution proclaimed by the Czar earlier in 1906” (Amir Arjomand, 2005).

After the formation of the Senate all proposals were to be approved by the two chambers; if the proposals emanated from the Senate or from the cabinet they were first to be critically revised and discussed in the Senate and approved by a majority of votes; they were then submitted for the approval of the lower chamber. However, proposals emanating from the lower chamber were to go from there to the Senate, except for financial questions which were reserved for the lower chamber. The decision of the lower chamber on financial matters was brought to the notice of the Senate and the lower chamber was free to accept or reject its observations (Articles 43-47). When the Senate and National Consultative Assembly could not reach agreement about the proposal or bill which had been sent twice from one chamber to another, a joint committee, comprising an equal number of deputies of both chambers, was to be formed and present a report to both chambers. If the report was approved by both chambers then it was submitted to the king for his signature. In the event that the Senate was not in session, proposals were to be voted on by the lower chamber alone, and after receiving the Royal signature they were put into effect.

Although the Senate was provided for in the first Constitution of Iran it was only a formality since the next Article (44) stated that the rules and regulations of the upper chamber had to be ratified by the lower chamber. The creation of an upper house was not meant to challenge the larger assembly. “The insignificance of this change was

demonstrated when no Senate convened for another forty-three years” (Bakhtiari, 1996: 7, 8).

The regulation of financial questions, adjustment of the budget, changes in taxation, the acceptance or rejection of duties, international treaties and foreign loans, monopolies and government finances were to be approved in the National Consultative Assembly (Abrahamian, 1997: 338, 339). According to Article 96 “[t]he National Consultative Assembly shall each year by a majority of votes fix and approve the budget”. Also no tax might be imposed unless in accordance with the law and the amount of taxation was to be determined and ratified every year by the majority vote of the National Consultative Assembly (Articles 94-100). The parliament’s approval was necessary for all transfers or sales of the revenues or properties of the State or the country. The State could not grant any concession for the creation of any kind of company and public partnership without asking authorization from the parliament.

There was an Accounts Tribunal whose members were elected by the National Consultative Assembly for a specific period of time. Their tasks were to verify and control the accounts of the Ministry of Finance and audit the various accounts of all departments of the government. It was also to monitor the government so that no item of expenditure embedded in the budget exceeded the fixed limits or underwent any change or alteration, and that each sum was expended on the goal for which it was appropriated.

It is noteworthy that the first Iranian Parliament had seven permanent committees which paralleled the executive departments. They were proposed by the parliamentarians Seddigh Hazrat and Ehtesham el-Saltaneh for examining government bills, and scrutinizing the executive power and the ministerial affairs within it. Ehtesham el-Saltaneh emphasized the role of parliamentary commissions and stated that they should review the executive's bills in the first instance and make it easier for the

whole chamber to consider it. He also added that the decision of the commissions should be approved by the parliament (Ibid: 379). Apart from this committee, the committee of justice, financial committee, internal affairs committee, petition committee, foreign affairs committee, and the committee of parliamentary administration were established in the First Iranian Parliament.

3.3 The main limitations upon the law making function of the First Iranian Parliament

As we mentioned above the Constitutional Movement in Iran whose focal point was the demand for the establishment of the parliament was the result of a coalition of three main social segments of Iranian society. Although the role of the Iranian secular intellectuals who proposed the new concepts such as popular sovereignty, separation of powers and accountability, equality of citizens before the law regardless of their religious identity, freedom of press and so on was indispensable, the role of the clerics especially in the initial phase also was important. In fact they gave more legitimacy to the Constitutionalism Movement and had an undeniable role in mobilizing crowds.

The temporary union between secular intellectuals and a group of hardline clerics however began to collapse very soon. The apparent secularist drift of the constitutional amendments intimidated the Conservative clerics in the parliament. Constitutionals were challenged by this group of clerics who warned that a law other than Islamic law might come to be officially in force. Shaikh Fazlollah Nuri as their leader requested the rejection of non Shi'a Moslems from the parliament and argued that the national constitution was quite contrary to Islam, because the Quran as an Islamic religious text was the only true constitution of the Moslems. Ayatollah Nuri questioned the legitimacy of the Majlis as a legislative body and stated that it may only have authority to investigate and regulate the arbitrary actions of state officials (Kasravi, 1999). He also

believed that the imported Constitution was incompatible with Shi'a doctrine. He suggested, therefore, that the *Mashroteh* (rule of law) be replaced by *Mashrueh* (according to Islamic law) and, in addition, since the Constitution was European, the clergy should have the authority to make necessary alterations to it so that it conformed to the Shari'a.

He proposed the establishment of a committee consisting of Shi'a clerics to monitor legislation passed by the parliament ensuring non discrepancy with existing Islamic laws or Shari'a. Although the constitutionalists and clerics such as Seyyed Mohammad Tabatabaee and Abdullah Behbahani disagreed with this idea, Conservative clerics succeeded in establishing the aforementioned committee proposed by Nuri. Under their influence in the preamble of the Constitution the purpose of the parliament was defined as follow: "to promote the progress and happiness of our kingdom and people, strengthen the foundations of our government, and give effect to the enactments of Islamic law of His Holiness the prophet. Article 1 of the Supplement specifically affirmed that the official religion of Persia was Shi'a Islam" (Amir Arjomand, 2005). Article 2 of the Constitution which left the imprint of Nuri's and the fundamentalist clergy's ideas and tremendously influenced the political structure of Iran for more than one century, is as follows:

"At no time must any legal enactment of the sacred national Consultative Assembly, establish by the favour and assistance of His Holiness the Imam of the Time (my God his blessed Advent), the favour of His Majesty the Shahanshah of Iran (may God immortalize his reign), the care of the proofs of Islam (may God multiply the likes of them), and the whole people of the Iranian nation, be at variance with the sacred principle of Islam or the laws established by his Holiness the Best of Mankind (on home and on whose Household be the blessings of God and his peace). It is hereby declared

that it is for the learned Doctors of theology ... to determine whether such laws as may be proposed are or are not in conformity with the principles of the Islam, and it is therefore officially enacted that there shall at all times exist a committee composed of not less than five Mujtahids or other devoted theologians, cognizant also of the needs of the time. the ulama and proofs of Islam shall present to the National consultative Assembly the names of twenty of ulama who possess the attributes mentioned above, and the members of national consultative Assembly shall, either by unanimous acclamation, or by vote, designate five or more of these, according to the exigencies of the moment, and recognize them as members, so that they may carefully discuss and consider all matters proposal which is at variance with the Sacred law of Islam.. In such matters the decision of this religious committee shall continue unchanged until the appearance of His Holiness the proof of Time (May God hasten his glad Advent)” (Bakhtiari, 1996: 8, 9).

Therefore by the inclusion of this article parliament adapted the Belgian Constitution to suit it to the Iranian situation in that in a number of articles the importance of religion and religious leaders was acknowledged. The above-mentioned article theoretically gave veto power to the committee of clerics and opened a way for the establishment of a quite undemocratic institution to limit the legislative power of the parliament; however not in the Quajar, First and Second Pahlavis, in that its implementation was never completed in these eras. The pro-constitutionalist politicians who dominated the parliament made sure of this by modifying Article 2, giving the parliament control over the appointment of the clerical committee, so no Guardian Council was convened until the 1979 Islamic Revolution of Iran when the Consultative Assembly went under the full control of the Guardian Council composed of high ranking clergy (Abrahamian, 1998: 338, 339).

The second limitation was the potential and traditional power of the monarchy which remained untouched. Azimi (1989: 6) one of prominent analyst of Iranian political history, mentioned that:

“Although the diffusion and depersonalization of political power was commonly taken to imply that the legislature, the executive and the judiciary were to be revitalized and were to assume their constitutionally defined authority, in practice there were many obstacles. In the case of the Majlis [parliament] the problem arose from its underlying legal procedural provisions as well as its place within the institutional-structural configuration of the body politic. In the case of both the monarchy and the executive, their formally defined authority was not commensurate with their actual share of power”.

It could be said that the power of the parliament was extensively and formally spelled out in the Constitution and its supplement but in reality no bill ratified by the parliament could become enforceable law without consent and the signature of the king. Moreover the parliament was not empowered to over-ride the decision of the king. The distinction between the executive authority of the king and the independence of the legislature had been blurred and all were merely part of the monarch's executive arm. All important decisions were taken by decrees of the king and there were no checks and balances. However it should be noted that in practice the First and Second Majlis in the Qajar Era exerted the constitutionally recognised power of the parliament vastly. “The First Majlis got off to an impressive start. Smooth adoption of formal rules and a consciousness of precedents paved the way for orderly and productive sessions” (Weinbaum, 1979: 47). In fact there might be found a kind of converse relationship between the power of the monarchy and power of the parliament in that whenever the

monarchy weakened, the Majlis was able to enjoy its constitutional authority and making it a reality and whenever the despotic power of the monarchy increased the power of the Majlis was sacrificed. Therefore, it might be said that despite the first limitation which was influential the second one i.e. the traditional power of the monarchy impacted on the functions of the parliament broadly. This can be shown clearly in the First and Second Pahlavi Eras which will be discussed in the following pages.

4. Parliament in the First Pahlavi Era

World War I brought a severe deterioration to Iranian politics and economy. The Russian and British clash with the Ottoman Empire and Germany inevitably spilled into Iran and finally led to the Russian and British occupation of the country. Ahmad Shah succeeded his unpopular father Mohammad Ali Shah at the age of twelve.

By 1920 there was a kind of anarchy in the political scene of Iran. Some regional leaders such as Mirza Kochak Khan, who was a leader of the Jangal Movement in Gilan, Mohammad Khiabani in Azarbaijan, and a Cossack officer Reza Khan, tried to take control of the political power of the whole country.

In 1921, Col. Reza Khan, the main military commander, carried out a coup and after two years became the prime minister and the Majlis confronted a newly decisive and expansive executive power. He arrested the leading politicians, and, while remaining behind the throne, consolidated power in his own hands. In 1926 he deposed the Quajars and established his Pahlavi Dynasty. Between 1921 and 1925 Reza Shah focused on the country's security and army forces and crushed all forms of dissent and traditional tribal oppositional movements. His reputation for uniting the country earned him the status of Prime Minister in October 1923, while at the same time he retained his powerful post of Minister of War. Reza Shah became the ruler of Iran shortly after

Ahmad Shah, last of the Qajar Dynasty, left Iran for Europe indefinitely. This was also the year that Mustafa Kamal Atatürk abolished the Ottoman Dynasty and introduced a republic in Turkey. “Reza Khan seemed to have been following the event in Turkey and entertaining the idea of a republic” (Bakhtiari, 1996: 23).

Between 1926 and 1941, he brought tremendous changes in political institutions, the economic situation and the social structure. He wanted to restore the ancient Pre-Islamic heritage and mould Iran on a Western political model while preserving his dictatorial power.

During the Reza Shah Era the impact of clerics and clerical institutions became marginal in politics and Shari’a and Islamic law under the secularization and modernization programme of the Shah partly was set aside (Moaddel, 1986). In this period the provision of Article 2 of the Constitution of 1906-7 according to which a committee of high ranking Shi’a clerics could monitor legislation passed by the parliament became a dead letter, and the religious courts gradually departed (Amir Arjomand, 2005). In addition, he reduced the number of clerics in the parliament so that “their number fell from twenty-four in the Fifth Majles to six in the Tenth Majles” (Abrahamian, 1982: 140).

This meant that the first aforementioned limitation upon legislative power which had been established in the Constitution of 1906-7 did not work. Yet the second limitation upon the parliament was empowered in the First Pahlavi Era. Despite establishing the modern constitution which was designed according to one of the democratic governments (Belgium) the Iranian political system essentially remained a traditional one within which the divine right of the king was its main pillar and parliament became an appropriate instrument to legitimize his concentrated political power.

The socio-economic reforms which Reza Shah brought were at the expense of political development and the rule of law. Relying on his military power, he allowed no

political opposition party and group to grow and therefore there was no influential and independent political power to challenge his authority and policies. “During his reign, Reza Shah used the Majles [parliament] to hide his military autocracy. Elections were held every four years, and deputies had regular sessions with all the trappings of parliamentary government—rules of order, regulations, and elaborate committee systems. The Constitution was observed to the letter of the law. But in reality the Shah informed the police chief whom he wanted in the Majles [parliament]. The police chief informed the interior minister. The interior minister informed the provincial governors. And the provincial governors, who supervised the elections, made sure that the right names came out of the ballot boxes. Handpicked assemblies then rubber-stamped all the Shah's bills, decrees, and appointments. When the occasional deputies failed to do his bidding, they found themselves in jail” (Abrahamian, 1998: 339). Therefore he had a great deal of personal influence on the members of the legislature and the bills and private proposals which were introduced to the parliament.

After seizing the Crown, Reza Shah eliminated anyone who remotely challenged his authority gradually turning the country to one-man rule. His brutal dictatorship was hardly contested.

The parliament rarely had decision making power in the different affairs of the country in the Reza Shah Era. For instance the only significant activity of the Fourth session of the parliament which was formed in the First Pahlavi Era was the ratification of the bill according to which parliament set aside the Anglo-Iranian agreement and gave the government full capacity to disallow any attempts by foreign powers to interfere in the internal affairs of Iran. In the Fifth and Sixth terms of parliament which coincided with increased power of the Reza Shah, “parliamentary autonomy disappeared as the Majlis, [parliament] previously the national forum, became an

obedient arm of the Reza Shah” (Weinbaum, 1975: 49). Nevertheless the parliament continued to be a valuable forum for debates on national interests.

It is noteworthy that Reza Shah did not abolish the formal institutional and ceremonial framework of parliamentary government which was established according to the Constitution of 1906-7; however his actual way of ruling was not that much different from despotic rule before the Constitutional Revolution. One author stated that:

“According to the spirit of the Iranian Constitution, the Majlis [parliament] was the cornerstone of constitutionalism. The Constitution, reflecting the anti-despotic spirit of the constitutional revolution as well as influenced by the Belgian and French Constitution on which it was based, had been drafted in such a way as legally to prevent the emergence of dictatorship. This accounts for the lack of any provision or arrangement in it for the dissolution of the Majlis, which was therefore in a very strong position. The fact that Reza Shah simply by pass the constitution while preserving the façade of parliamentary arrangement left the legal potential of the Majlis intact” (Azimi, 1989: 6).

In fact in the Reza Shah Era it was not the Constitution that delimited monarchical prerogatives but the real structure of political power which was vested in the hands of the king. Neither the executive power nor the parliament had ultimate power in their hands but both of them were subordinate to the institutionalized power of the monarchy which was in turn linked to the military establishment. If one considers the Constitution of the Reza Shah Era one would see that it clearly confined the monarchical functions to the merely ceremonial power but the fact that cabinet sessions should be held in the presence of the Reza Shah gave him significant power in political affairs and particularly the implementation of the executive power. In parliamentary governments

the cabinet has real political power while in Iran under the First Pahlavi Prime Minister and his Ministers were surrounded by two centres of political powers: the King and the parliament. The power of the King originated from real political power structure but the power of the parliament was according to articles of the Constitution. “With the reduction of parliament to a rubber stamp, the Shah was able to hand pick his cabinet ministers. Whereas previous monarchs had formed cabinets only after extensive consultation with leading politicians, Reza Shah developed the new procedure of first choosing the Prime Minister, and all his Ministers and then sending them off to the Majles [parliament] to obtain the necessary but routine vote of confidence” (Abrahamian, 1982: 138).

This potential power of the parliament which was founded in the Constitution generated a particular kind of relationship between parliament and the executive power in the Second Pahlavi Era; this will be examined in the following pages.

5. Parliament in the Second Pahlavi Era

The rule of the Reza Shah was ended by the Anglo-Soviet occupation of Iran and his son Mohammad Reza Pahlavi ascended the throne after his father was exiled into South Africa in 1941.

The occupation of Iran during the Second World War like the First one caused political distress and economic chaos which resulted in the weakening of central government and then brought to Iran a significant amount of political liberty. In these circumstances a new democratic period was started and the deputies had an appropriate opportunity for becoming prominent again. Central power collapsed and the new and very inexperienced Shah, Mohammad Reza succeeded his father. “The invasion, therefore, destroyed two important pillars of stability in the country, and with political

differences on the rise, the Majles [parliament] became a microcosm of the country with factions emerging from a long period of repression” (Bakhtiari, 1996: 27).

Restrictions upon the freedom of press were removed and political parties’ activities were allowed. Parliamentary elections became necessary instruments for legitimizing Mohammad Reza Shah's regime and the old practice of taking a vote of confidence from the parliament was restored until 1949. “From 1941 to 1953, when a coup supported by the U.S central intelligence agency established Mohammad Reza Shah's autocracy, the Majles [parliament] played a central role in drafting laws, passing budgets, and choosing cabinet ministers, including prime ministers. It failed, however to exert influence on the War Ministry” (Abrahamian, 1998: 339).

As stated before, according to the Constitution of 1906-7 and its Supplement parliament was invested with tremendous power; however, during the Reza Shah Era it was inefficient due to his despotic way of the ruling the country. One of those characters which empowered the parliament against executive power and restored again in the Mohammad Reza Shah Era was the power of the parliamentarians to submit many motions of interpellation, without any regard for the timetable of the Majlis. “This could be done by one deputy or a group of deputies, against individual ministers, a number of ministers or the prime minister, who then had to attend the Majlis within a month, answer the interpellation and the demand for a vote of confidence, which if denied put an end to the life of the cabinet” (Azimi, 1989: 7, 8). This imbalance of political power between the parliament and the executive power can be realized by comparing the Reza Shah and the earlier years of Mohammad Reza Shah Eras. During the sixteen years of Reza Shah Era there had been just 8 Prime Ministers, 10 Cabinets, 50 Ministers who occupied the 198 cabinet posts while in the sixteen years of Mohammad Reza Shah Era there were 12 Prime Ministers, 31 Cabinets and 148 Ministers who occupied the 400 cabinet posts (Abrahamian, 1982: 170).

The second character of the parliament which enabled members to impede the function of the executive power and even the legislative task of the parliament was the principle of the quorum. The Majlis could have an official session only if at least two-thirds of parliamentarians, apart from the representatives of Tehran, attended the session. Three-quarters had to be present to enable a vote to be taken and a majority required more than half of those present to record a vote of approval. "This had been intended to prevent the approval of hasty and insufficiently backed bills and to provide the minority with the opportunity to hinder the imposition of Cabinets by majority" (Azimi, 1989: 8). But parliamentarians used this power frequently in that they often absented themselves from the parliament in order to block a quorum.

The third character of the parliament which functioned as an obstacle against executive power was the procedure of the parliamentary committees. If the cabinet proposed a bill without urgency, it was sent to the parliamentary committees automatically within which it was left for a long time or sometimes for ever.

These factors along with intense factionalism and provincial attitudes of the majority of parliamentarians, as well as their inability to understand their public duties and to put them before their private interests, precluded the parliament from being an important institution that acted positively (Weinbaum, 1975).

Regarding this imbalance of power which paralyzed the executive power, Mohammad Reza Shah insisted upon a revision of the Constitution. Also he mentioned that the Senate, should be convened. By November 1947 the Shah had proposed concrete plans for revising the Constitution and establishing the Senate, and he continued to press these aims throughout 1948. A bill to organize the Senate, which had been submitted to the parliament a year earlier, was passed in May 1948.

After an unsuccessful attempt to assassinate Mohammad Reza Shah in 1949, parliament agreed to establish a constituent assembly to amend the Constitution. Under

martial law the election for the constituent assembly took place, and three weeks later the assembly, following Mohammad Reza Shah's idea, voted to delete Article 48 of the Constitution of 1906-7. The amended Article gave the Shah the power to suspend the Majles and the Senate, separately or together, only if he provided a reason for the suspension. "An "additional article" (*asál-e elháaqi*), passed by the constituent assembly on Taqizaada's recommendation, provided for amendment of the Constitution by an elected constituent assembly proposed by majorities of two-thirds in both houses and approved by the Shah" (Amir Arjomand, 2005).

In practice from 1949 onward, Mohammad Reza Shah failed to ask for the vote of confidence when choosing a prime minister. Although there were many protests by the parliament against this approach of the king, he continued to do so in following years as well. One of the prominent parliamentarians who was against that attitude of the King was Mossadegh. When he was nominated to be Prime Minister, the practice of asking for a vote of confidence by parliament was revived. During his two years government and under his pressure the nationalization of the oil industry went on and parliament had a considerable role in the political scene during this time.

The period of parliamentary supremacy came to an end with the coup d'etat in 1953 against Mossadegh and he was arrested by Pro-Royalist Armed Forces under General Faazololah Zahedi. A military government was convened and political party activities were banned. In 1955 Manuchehre Eqbal became Prime Minister who expressly said that he was the servant of the Shah and was not responsible to the Majlis. "Once again, speedy approval of the legislation was largely guaranteed, and the Majlis committees surrendered their claims to expertise, mainly to the government technocrats of the Plan Organization and the National Iranian Oil Company" (Weinbaum, 1975: 52). After that the amendment of the Constitution was no longer the main concern of Mohammad Reza Shah. "In May 1961 Mohammad Reza Shah used the power granted him in amended

Article 48 of the constitutional law in order to dissolve the Majles and embark on his program for land reform, subsequently known as the White Revolution” (Amir Arjomand, 2005). The White Revolution was a policy package through which the Shah was seeking a number of economic, social, and political modernizations.

As a matter of fact the White Revolution which began in 1962 merely marked the end of a parliamentary democracy and the beginning of the absolute monarchy during which more than 600 decrees were issued. During this period which lasted until 1979, the Shah ruled absolutely which means prime ministers and cabinets were totally subservient to him; elections were rigged; only political parties that supported the Shah were allowed to function and the press was strictly controlled. Only two parties of *Hezbe Iran e Novin* and *Hezb e Mardom* which were created by him were allowed to act; however after moving more toward absolutism the two aforementioned parties were dissolved as well and were replaced by one party named *Rastakhiz*. In fact during this time the party politics of Iran experienced the one party system which was totally under the control of Mohammad Reza Shah.

In these circumstances almost all political powers ultimately vested in the Shah and most of the deputies were handpicked. Not only did the parliament not have a representative character but also it once more became the rubber stamp for a royal dictator. Like his father, Mohammad Reza Shah’s ambition was Westernizing Iranian society. However, Reza Shah and his son mostly emphasised the technological aspects of Western civilization and they showed less interest in some basic values such as the rule of law, liberties or political ideas such as parliamentary rule and political participation. Each mostly stressed the “creation of Western-style armies, a secret police, and efficient bureaucracy to implement his plans. Under no circumstances would he allow Western-style institutions like a parliament to be part of the decision-making process in Iran. Therefore, from 1964 to 1978, while he brought several dramatic

economic changes in the country, Mohammad Reza Shah was more than ever the absolute ruler of the country...” (Bakhtiari, 1996: 47).

6. Conclusion

In this chapter the historical background of the Iranian parliament in the context of Constitutional Movement has been explored. It was shown how Iranian modernists, mostly including Pro-Western intellectuals, introduced the modern political philosophy of the West to Iranian traditional society whose main political character was autocracy and despotism. The influence of the Western pattern to shape the new political system was undeniable as the drafter of the first Iranian Constitution mostly translated the Belgian and Bulgarian Constitutions and some part of the French Constitution word by word.

By explaining the social forces that backed the Constitutional Movement which was reflected in the Constitution, the root of the main limitation upon the power of the parliament in Constitution was shown. Although the parliament and parliamentary government were at the centre of the social forces there were some strong institutional obstacles which precluded the modernists from establishing a legislature which operated like its counterparts in the West:

First the traditional and Conservative socio-political forces of the Constitutionalism Movement in Iran challenged the new political concepts and institutions in favour of Islamic rules. Some high ranking clerics denied support to the ultimate power of the parliament and wanted to limit its power. The creation of a committee of high ranking clergy for supervising the laws and regulations approved by the parliament was the result of their attempts. Although this institution was weakened and did not operate during the First and Second Pahlavi Eras it played a main role after the establishment of Islamic government following the 1979 Revolution. The religious nature of some

articles of the Constitution (mainly Article 2) and the secular roots of the rest of the Articles and the essence of the Constitution itself created a kind of duality, which was the main character of the Iranian Constitution of 1906-7. The Iranian Constitution can be categorized among the contradictory constitutions which contain heterogeneous elements.

The second obstacle which limited the parliament in functioning strongly was the form of real separation of powers in the political structure. As it was explained, the main goal of the constitutionalists was to limit the absolute power of the monarchy. So in the Constitution the heart of the political power was vested in the parliament. Although the king had some privilege according to the Constitution especially in relation to executive power, his formal and constitutional power was tremendously constrained in the first Iranian Constitution and its Supplement. As a matter of fact the new political regime, which was copied from the Belgium Constitution, would be a constitutional monarchy according to which the king or queen acts in all matters on the advise of cabinet and their authority is rather symbolic and formal than real. But this system which was framed in the Constitution failed to apply in real politics. Since the king was commander in chief and because of the institutionalized nature of the monarchy in the political structure of Iran, he was able to dominate the executive power and then impact upon the composition of the parliament. He could intervene in the elections and handpick the deputies and as result subordinate both the executive power and parliament to the monarchy, except in a short period of time in which the monarchy was weakened as a result of external variables such as war or economic crisis, which was the case especially in First and Second Pahlavi Eras. During these periods the distinction between the executive power of the king and the independence of the parliament and the judiciary had been weakened and all were under the control of the monarchy. All important decisions were by decree. The king as commander in chief

supported by his army against his opponents and it was the country's only institution around which all powers revolved without any checks and balances.

On the basis of this analysis of the evolution of the first Iranian Parliament and its limitation one may categorise the Iranian Parliament as a rubber stamp of monarchical decisions with minimal or little law making power. Although constitutionally the Iranian Parliament was not weak in relation to the executive power i.e. prime minister and his cabinet, in practice it was powerless in front of the monarchy. To put it another way, it might be said that there was an imbalance in the relationship between the executive and parliament in favour of the latter but finally both of them were subordinate to the monarch.

Chapter Four:

Parliament in the Islamic Republic Era

1. Introduction

In the previous chapter, it was stated that Mohammad Reza Shah from the 1960s onwards became more autocratic than before and during these years he dissolved the parliament and ruled by decree. In the 1970s, apart from those political parties which were created by Mohammad Reza Shah himself such as the New Iran Party or Rastakhiz Party, there was no independent opposition party and this empowered radicalism in Iran.

The despotism of the Second Pahlavi Era, along with many other socio-economic problems (including land reform, increasing the oil price in 1973, urbanization, increasing poverty, and so on) in the 1960s and 1970s led to the second revolution of Iranian society which caused upheaval in the ruling class and political system. The same approach which was used to analyse the Constitutional Revolution, according to which the social forces behind the revolution was explained, is employed to explain the political system of Islamic Republic Revolution.

2. Political factions in pre and post revolutionary Iran

As a whole, those political forces which constituted the main blocs of political power that participated in the second revolution and played an important role in forming the structure of political power after the revolution might be categorized into two broad groups and parties: religious groups and parties and secular ones.

The first category might be divided into two important groups: Islamic fundamentalist groups and Islamist radical groups and parties (Bashiriyeh, 2002: 27).

Non liberal and Islamic fundamentalist groups mainly included clergy who “were not content with a change in the political system from the monarchy to a republic; their main objective was the unification of the religion and the state” (Bashiriyeh, 1984: 128). They were formed mostly according to the ideas of the Aytollah Khomeini who gradually rose to a very popular position in the course of pre –revolutionary events, and supported the establishment of a religious government through which it would be possible to implement the Islamic laws. Ayatollah Khomeini's leadership was certainly a major factor in the success of the Islamic Revolution in Iran and his key political ideas were advanced in the book named *The Rule of Theologian*. This was one of the main sources of the current Iranian Constitution. In this important book he stated that *Velayat e Faqih* (the rule of the theologian) means leading and administering the society according to the commands of God and implementing the provisions of the sacred law. He strongly rejected the separation of religion and politics as a Western idea, and “argued that in the absence of the divinely inspired Imam, sovereignty devolves upon qualified jurists or Shi'ite religious leaders, as the authoritative interpreters of the sacred law, who are entitled to rule” (Amir Arjomand, 1988: 99).

He stated that since the rule of Islam is the rule of law only the clergy and no one else should take the political power in Islamic society. They are the ones who can govern as God ordered and the contemporary jurist is the successor of the Prophet Mohammad. Whatever is entrusted to the Prophet has been entrusted by the Imams to the jurists. The jurists have authority on all matters. He theorized the power of the jurist in the implementing of the sacred laws as follow:

“Who was to hold the executive power? If the Prophet (s) has not appointed a successor to assume the executive power, he would fail to complete his mission, as the Quran testifies. The necessity for the implementation of the divine law, the need for

executive power, and the importance of that power in fulfilling the goals of the prophetic mission and establishing the just order that would result in the happiness of the mankind all of this made the appointment of a successor synonymous with the completion of the prophetic mission” (Khomeini, Rohollah, 1970: 16).

This approach toward political power has historical roots. In Iranian ancient times, before the Islamic period, the possession of 'God's Grace' (Farrah-ye Izadi) justified the position of the power holder and after the invasion of Iran by the Arabs during which time Islam became the dominant religion of the country, the same philosophy legitimized the power of the ruler by giving titles such as “Shadow of Almighty” and the “Centre of Universe”. “The Qur'anic verse which orders the believer to obey 'God, the Prophet, and the holders of authority (ul al-Amr) among you' ... was often invoked to legitimize earthly rule, is ambiguous, and so it has been subject to various conflicting interpretation” (Katouzian, 1997: 60).

During the Safavid Dynasty between the years 1501 and 1722 in which Shiism became the official faith of the Iranian people, Safavid rulers called themselves *zelollah* or the shadow of the God. The Shah “was living emanation of the godhead, the shadow of God upon earth. ... As representative of the Mahdi, the Safavid Shah was closer to the source of absolute Truth than were other men, and consequently disobedience on the part of his subject was sin” (Savory, 1980: 33).

This way of legitimizing political power, which is very similar to possession of the Grace of God, might be said to be the key to understanding the complicated puzzle of political power in Iran.

On the basis of such political philosophy Ayatollah Khomeini also expressed his view about the laws which should be enacted in Islamic society by saying that according to the Quran the ordinances of Islam are not limited to a specific time or place

but are forever and must be observed till the end of the time. He pointed to the tremendous difference of the Islamic government and constitutional monarchy or representative government by saying that in the latter legislators are the representatives of the people or the monarch while in the former form of government “legislative power and competence to establish laws belongs exclusively to God Almighty. No one has the right to legislate and no law may be executed except the law of the divine legislator” (Khomeini, 1981: 29). He believed that the Islamic Assembly should enact a programme only on the basis of this fundamental law and there should be no deviation from it.

Ayatollah Khomeini in his book “*Islamic Government*” clearly contrasted the idea of the Islamic government with that of the representative government. As Mill (1861: 37) explains in representative government, which is one of the models of democratic government, sovereignty ultimately is placed in the hands of every individual citizen “[b]ut since all cannot in a community exceeding a single small town, participate personally in any but some very minor portions of the public businesses” representative government must be the ideal type of government (Ibid: 47). Therefore citizens should elect their representatives through an electoral system, which is a fundamental institution in representative democracy, to sit in a forum or an assembly and represent them. Representative assembly is a legitimate sovereign and can give assent to the policies of the government because its power derives from the will of the people who have the right to re-elect their representatives or withdraw their vote and elect someone else in the next elections. “Lincoln’s Gettysburg Address has the formula precisely, representative democracy is ‘government of the people, by the people and for the people’” (Hirst, 1990: 24).

This above-mentioned formula is not compatible with Ayatollah Khomeini’s idea of the Islamic government according to which “... sovereignty belongs to God alone and

law is His decree and command. The law of Islam, divine command, has absolute authority over all individuals and the Islamic government” (Khomeini, 1981: 29). In fact, Ayatollah Khomeini formulated a theocratic government within which clerics, as representatives of God, are the main power holders and have exclusive right to supervise government and implement God’s laws. Nevertheless Khomeini’s theocratic idea in the course of the Islamic Revolution did not remain intact. In practice and for many different reasons he had to accept some secular institutions which had no consistency with his Islamic theocracy. Firstly, what Ayatollah Khomeini called God’s laws only comprises basic and general laws. It has nothing to say about many different areas of public policies and day to day aspects of society (Chehabi, 2003). In addition, “[t]he major problem in implementation of devine law (*shari’a*) is that, while its theoretical foundations are beyond dispute, there is great disagreement among jurists about its particulars. The fact that no *mojtahed* [*source of imitation*] is allowed to follow another perpetuates disagreement ... For the purpose of the modern nation-state, the *Shari’a* had to be codified. But even among the ruling clerics there were disagreements as to what the codes should be (Chehabi, 1991: 80). Therefore, it was accepted that the parliament in Islamic government could address these sorts of secondary issues but only according to the basic laws of Islam and under supervision of the Religious Leader or a council on his behalf. Secondly, as it will be explained, secular parties and groups were one of the main driving forces of the Revolution of 1979 and played a very important role for toppling Pahlavi’s regime. They stressed the democratic rather than the ideological character of the movement, so democratic institutions like parliament were crucial from their point of view. So finally Ayatollah Khomeini agreed an “Islamic Republic” as a form of post-revolutionary government. It was stated that Khomeini never believed in Islamic Republic and that he considered it “to be the appropriate form of government only for the period of transition to the truly

Islamic government” (Amir Arjomand, 1989: 118). As it will be explained in this chapter, after the transitional period and when the government became relatively established the theocratic element of the Islamic Republic dominated the secular elements.

After the Revolution in 1979, the followers of the Ayatollah Khomeini established a strong party, named the Islamic Republic Party (IRP) which according to their manifesto, believed that “sovereignty originates in God and that all laws must be based on the Islamic law, with the head of state a theologian or Imam” (Bashiriyeh, 1984: 129).

This party played an important role in the course of preparing the draft of the Constitution and formed the essential circle of political power that interpreted the Constitution according to the aforementioned ideology of the Ayatollah Khomeini. Some politicians who currently have key positions within the structure of political power in Iran, such as Ayatollah Khamenei (current Supreme Leader), Hashemi Rafsanjani (the head of Expediency Council) and Mahdavi Kani (prominent figure and secretary general of the Jam e Rohaniyat e Mobarez), were members of this party. Following the overthrow of the Shah, the Islamic Republic Party leaders continued to use their extensive contacts with Ayatollah Khomeini to mobilize popular support throughout the country. However, since there were two different approaches toward the economy, society and foreign policy within the IRP, the tension between them increased and ultimately with the agreement of Ayatollah Khomeini the IRP was dissolved and split into two separate factions: those who were Conservative and supported privatization and a more open foreign policy but wanted more closed internal social and cultural policy led by Jammee Rohaniyate Mobarez e Tehran and those who advocated the intervention of the government in the economy and supported the idea of exporting the revolution and formed the Majmaa Rohanion e Mobarez. The former faction and its

affiliated group which formed the Conservative camp and known as the Right wing among Iranians, supported “balanced budget, business incentive, open market, relaxation of the price control, an end to rationing, privatization of industries, free-trade zones, removal of red tape and trade restrictions, tax holiday for wealthy entrepreneur, and attraction of foreign capital including from Western Europe and North America” (Abrahamian, 1998: 341). Despite their economic approach they supported the closed social and internal policy. It is noteworthy that the Conservative camp mostly consisted of lower members of the clergy and was supported by bazaar merchants and guilds who had an extensive social base in Iranian society at that time. On the other hand, the *Majma e Rohanion e Mobarez* was in the faction which was deemed Left wing and supported “economic planning, price controls, rationing, subsidies for social programs, job creation project, low-income housing, antipoverty and anti-illiteracy campaigns, nationalization of industry, land reform, redistribution of wealth, and national self sufficiency” (Ibid: 341). They were supported mostly by the worker associations, students who were the members of the *Daftar e Tahkim e Vahdat*, and some members of the Revolutionary Guard.

Among religious groups there were some that were radical and originated from the middle class and consisted of Islamist well educated and modern intellectuals. They were highly nationalistic, putting emphasis on the struggle against imperialism and the influence of Western capitalism in Iran. “Their catch-word was 'council democracy' or the establishment of councils in all institutions, which according to their understanding was the basic concept of government in Iran” (Ibid: 130). In comparison with Islamic fundamentalist groups they had little social base; they mostly consisted of students and urban educated youth. The most famous of these groups was *Mojahedin-e- Khalgh*.

The second category (the secular) might be divided into liberal bourgeois and leftist groups. The liberal-bourgeois groups represented the new middle class which largely

was raised during the Second Pahlavi Era. They sought to keep the social structure existing under the old regime, and wanted to change the political system structure by the establishment of a more liberal regime. “In fact in one stage they had been willing to accept the constitutional monarchy according to the old Constitution (of 1906), but later they insisted that the same constitution should provide the framework the new political arrangements. They had put their emphasis on a political change from authoritarianism to parliamentary democracy” (Bashiriyeh, 1984: 126).

The leftist groups mostly consisted of intellectuals and students and called for the nationalization of industries and banks, ending the dependent relationship with US imperialism, creating a new popular military structure, and autonomy rights for ethnic groups. In comparison with Islamic fundamentalist groups, they lacked a considerable social base in the rural and urban lower classes. The most famous of these groups was the Tudeh party.

After the revolution the initial alliance of different blocs of power which had been formed against the old regime turned into a clash over the nature and the form of the new political regime. In particular, the Islamic Republic Party leaders prevented the secular, leftist, and more liberal Islamic parties from being in the main circle of political power. Therefore as early as the summer of 1979, the IRP encouraged its followers to attack political rallies and offices of these other parties.

While in the early stages, the revolution seemed to be a democratic movement it gradually changed into an Islamic fundamentalist movement and as a result the secularist groups, either liberalist groups or leftist, were ousted from power and fundamentalist groups under the leadership of Ayatollah Khomeini consolidated their power. His supporters steadily and progressively took hold of the revolutionary institutions at the managing levels and setting aside all other political competitors who had different approaches toward political system. The years that followed the return of

Ayatollah Khomeini and his supporters to Iran and their success in possessing the political power in 1979 and 1980 resulted in the establishment of a particular kind of theocratic government and a special type of separation of powers all of which were enshrined in the Constitution of 1979 and its amendment in 1989.

The Islamic Republic Party (IRP) was dissolved in 1987 and divided into two political factions which dominated the Iranian political scene till 1997. These factions consisted of Leftist camp (Left Wing) led by Association of Combatant Clerics and Conservative camp (Right Wing) led by Combatant Clergy Association. Following the Presidential Election of 1997, when Mohammad Khatami as Leftist camp's candidate won the election, few numbers of new political groups and factions emerged which essentially originated from aforementioned political camps and have been active till present time. They can be divided into two broad categorisations: Conservative and Reformist bloc. In Recent years the marginal groups of Conservative camp recognised as the New Conservative won the Manicipal Elections of 2003, Parliamentary Elections of 2004 and Presidential Elections of 2005 and appeared as powerful political faction. As it will be explained in detail in following chapter the Conservative, the Reformist and the New Conservative are the main current political factions within the political system which have impacted upon the major political institutions such as parliament and executive.

3. Distribution of power in the Constitution of the Islamic Republic of Iran and its duality

The first effort to draft a constitution to represent a revolutionary system in Iran began in Paris in the early phases of the revolution. It was prepared by the religious, well educated intellectuals in the revolutionary movement. The preliminary proposal

was presented to a commission of secular and clerical politicians who revised it and eventually the result was published in June 1979 (Schirazi, 1997: 22).

Except for the provision of a clerical commission, or Guardian Council, inherited from the 1906-7 Constitution, according to which six high ranking clerics and six lawyers would monitor the laws which parliament passes, particularly in terms of their compatibility with Islamic laws and Constitution, the preliminary draft of the Constitution was mostly secular. In fact it was in many respects the Constitution of 1906. The leader of the state was not mandated to be from the circle of the Islamic jurists, nor were there any provisions in the Constitution for the empowerment of any particular clerical council, or any Islamic jurist. To put it another way, the preliminary draft of the Constitution was far from the Ayatollah Khomeini's thesis of the Velayat-e Faghih, or the "rule of the theologian". Although the Ayatollah Khomeini insisted that the first blueprint of the constitution be to put a referendum, the Prime Minister Bazargan requested the establishment of an Assembly of Experts to examine the Constitution.

As a first step, in March 1979 a referendum was held for determining the form of the state according to which the voters were given a choice of whether the form of the future state would be an Islamic Republic or not. The turn out in the referendum was high and 98.2 percent of those who participated in the referendum said "yes" to the Islamic Republic (Schirazi, 1997).

A few months after the holding of this referendum, another election was held to choose the aforesaid Assembly of Experts that would revise the preliminary draft of the Constitution. Although the participation of the people was extremely high, the election itself was marked by corruptions such as ballot rigging, fraud, coercion of candidates and giving false information to the participants (Ibid).

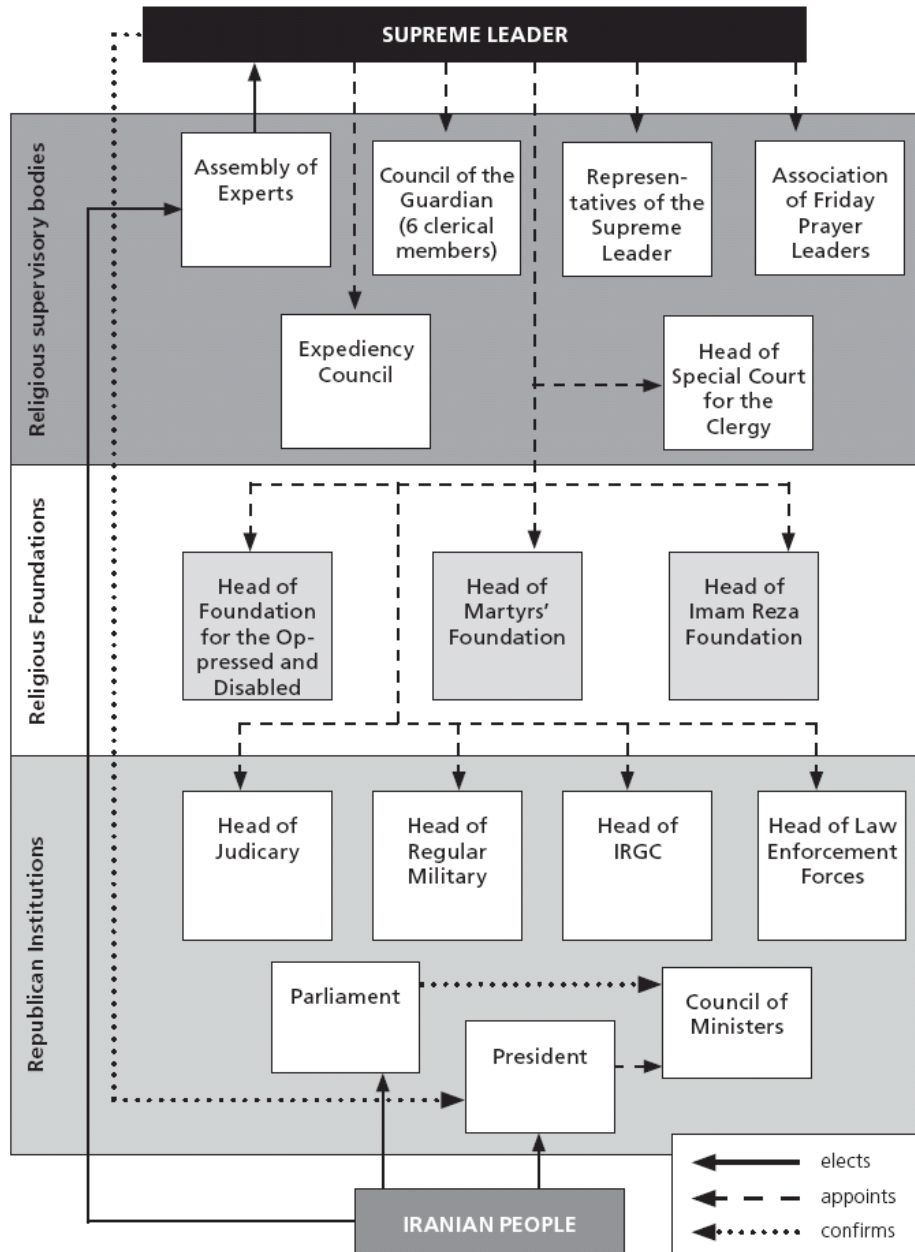
As a result of this election sixty percent of the fundamentalist clerics, most of whom were under the influence of Ayatollah Khomeini and had sympathy with the Islamic Republic Party (IRP), occupied the Assembly of Experts. They set aside the first preliminary draft of the Constitution and rewrote it according to the idea of the “mandate of jurist” or the rule of the theologian. In other word the political system in Iran was framed according to a particular kind of theocracy within which the ultimate power vested in the hands of the religious leader. In a theocratic political system, the sanction of laws does not derive from the will of the majority, or human rules, “but in absolute standard revealed to man by divine agency, so that in theory at least the real ruler of the community is the divine agency that sets the standards, while the earthly ' rulers' are in the nature of high priests whose task is to interpret and enforce them. The exact nature of the divine agency concerned is irrelevant to the definition; what matters is that the ultimate author of all laws, whether written or unwritten, be said to be divine”(Bluck, 1955: 96). If we pay close attention to the main parts of the Iranian Constitution the footprint of such an approach could be found within that. In the Iranian Constitution there are some concepts such as law, sovereignty of the people, nation, the rights of the nation, the parliament, the judiciary, republic, consultation of the people and elections; behind these concepts stands a complex of norms, values, institutions, procedural rules, and organization, as well as a range of established political and economic ideas unknown to the Shari’a. In fact they are meaningful in political systems in which democratic principles have already been accepted but are not in harmony with a theocratic system according to the idea of the “rule of the theologian”.

Among those who had great influence upon the second preliminary draft of the Constitution were Ayatollah Montazeri and Ayatollah Beheshti. Montazeri, one the prominent figures of the revolution and of the followers of the Ayatollah Khomeini, wrote many comments on the draft of the Constitution; in the main parts of these

comments he proposed the idea of the Velayat-e Faghih or the rule of theologian and rejected the idea of the separation of powers. He believed that in an Islamic state there is one centre of power and any other power centres should be subordinate to the religious leader. Another well-known political figure whose ideas influenced the Iranian Constitution very much was Ayatollah Beheshti who was the vice-president of the Constitutional Assembly and played an important role in promoting the principle of Velayat-e Faghih as the basis of the Constitution. He supported the maximum power of the Velayate Faghih by saying that people who vote for the Islamic Republic in fact vote for the ideology of Islam and it means that they limit themselves in the boundaries of Islamic laws.

Although, after the revolution, Islamic fundamentalist groups took most of the political power and played the main role in establishing the new constitution, it may be said that the Constitution of 1979 had been under the influence of two opposite political forces i.e. religious and secular parties and groups which was reflected in the Constitution. Under the influence of the diversity of the revolutionary forces, mainly categorised as religious and secular groups who actively participated in overthrowing of the Second Pahlavi government, the Constitution of the revolution was filled with contradictions which in fact reflected this diversity. “On the one hand, this document accounts for the secular principles of rights, equality, and justice and, on the other hand, it acknowledges the supremacy of restrictive Islamic views on rights, justice, and equality. It even goes further than mainstream Islamic limitations by recognizing the undisputed right of the clergy to govern and by giving primacy to the interests of the regime” (Tamadonfar, 2001: 206).

Figure (4-1): Distribution of power within Iranian political system



Source: Buchta, W., (2000), Who rules Iran-The Structure of Power in the Islamic Republic, (Washington: Washington Institute of Near East Policy, diagram 1, p: 8

On the basis of the above table above the Supreme Leader; the Assembly of Experts; the Council of the Guardian; the Expediency Council; the heads of those institutions that are appointed by the Supreme Leader, such as the head of the judiciary, the commander of the regular military (Artesh); the head of the Islamic Revolutionary Guard; the

representatives of the Supreme Leader in all important state institutions such as universities and governmental departments, and in the provinces and cities such as Friday Imams; and the chairmen of the different religious foundations such as *Astane Ghodse Razavi* and *Bonyads* that are also appointed by the Supreme Leader, are the main power holder in the political system of the Islamic Republic of Iran. After this circle of power one can put the elected institutions such as the executive power and the parliament with their power subordinated to the aforementioned circle. When there is friction between these two kinds of institutions, a political crisis can be expected.

The Iranian political system is therefore a combination of pluralistic and authoritative theocratic elements that are in constant conflict. For example, in Article 56 the Iranian Constitution starts by stating: “people are the sovereign.” But it continues saying: “God has absolute sovereignty over the world and man”.

This duality lost its balance in favour of an authoritative theocratic element in the Constitution amendment of 1989. According to Article 57 “[the] sovereign powers in the Islamic Republic of Iran consist of the Legislature, the Executive and the Judiciary, which shall be exercised under the absolute Velayate-e Amr va Imamate-e Omat [Authority and leadership of religious leader] in accordance with the following articles of this law. These powers shall be independent from each other.”

Four, instead of three, branches of power can be seen in this article; however the power and authority of the Supreme Leader is not comparable with others. In other words the balance of power as we will see in following pages, is in favour of the Supreme Leader whose power was described as absolute in the amended Constitution of 1989. Some writers believe that the distribution of power which was enshrined in the current Constitution is a formal separation of power rather than a real separation (Ehteshami, 1995). In fact it is better to say that on the basis of the Iranian Constitution there is one major power centre which controls and regulates the other power centres.

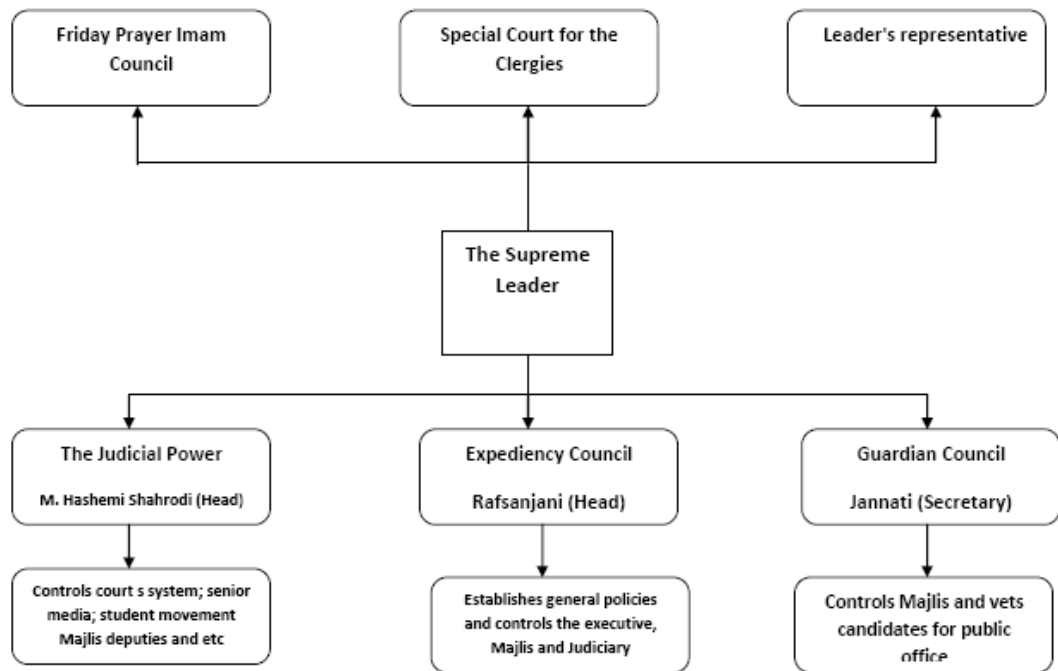
Many writers recognised the paradox within the Constitution which undermines the democratic characteristic of the Iranian political system. Strictly speaking the process of the Supreme Leader's election as the main power holder may not be justified according to democratic criteria: On the basis of Article 107, the task of appointing the Leader shall be vested with the experts (Expert Council) whose members' qualification for standing in the election should be recognised by the Council of Guardians. Members of the Guardian Council who are divided into two groups (clergy and lawyers) are directly or indirectly appointed by the Supreme Leader (as we explain in detail in the following pages). "On this account, the Leader was no longer appointed by the people" (Rasekh, 2008: 73). In fact the Constitution established a closed circle of power which is not compatible with any democratic political power circulation.

Therefore the centre of political power in the Islamic Republic of Iran does not revolve around the relationship between the executive and parliament. The power of the different branches of the Iranian political system cannot be assessed unless we analyze the influences of this duality upon other organs of the political system, particularly legislative power. Apart from this duality within the formal institutions of the Iranian political system, some writers recognised another group of institutions which are described as informal and which are totally under the control of the Supreme Leader. As Kamrava and Hassan-Yari (2004: 508) stated "in fact, these informal centres act as powerful instruments through which the Leader controls key institutions and/or resources within the system and, at the same time, guards against threats from within or from outside of the political establishment".

It might be said that Iran's political system remains rife with functional overlaps and institutional friction. There are some institutions in the Constitution which have parallel functions. For instance, the executive branch has functions and responsibilities that are divided between the leader and the president; the legislature is comprised of the two

separate institutions of the Guardian Council and the Islamic Consultative Assembly; and, within the Judiciary there is a separate court that deals specifically with cases involving deviant clerics (Special Court for the Clergies).

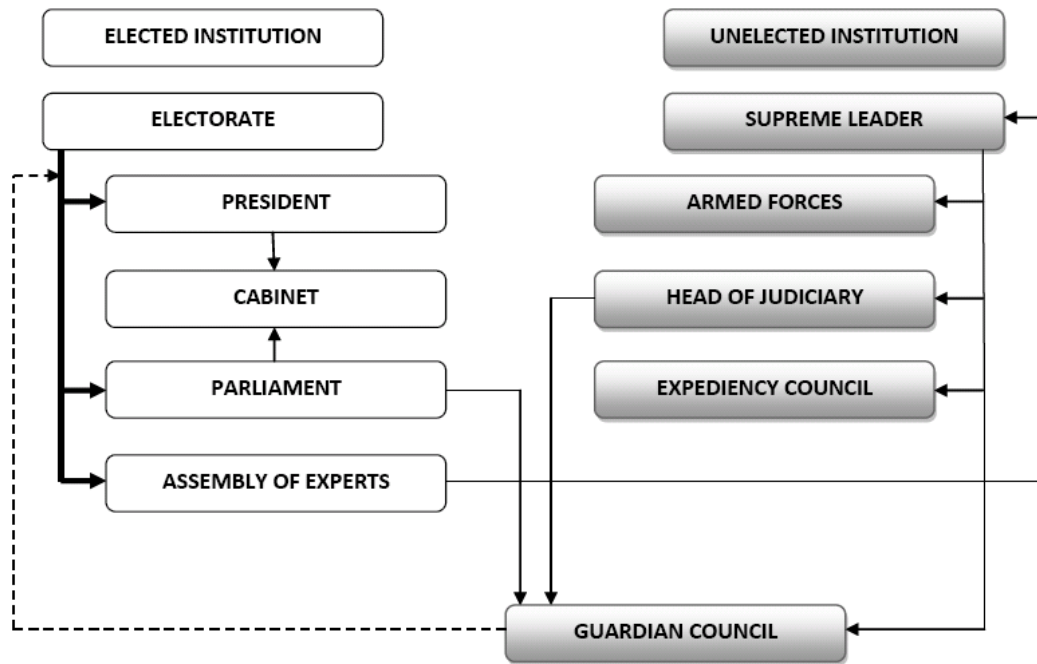
Figure (4-2): Duality of the political power within Iranian political system



Source: Kamrava, M. & Hassan-Yari, H. (2004, p.508)

From this point of view and in terms of the legislative function of the parliament in Iran we can recognize two kinds of political institutions which participate in the law making process: the Islamic Consultative Assembly (Majlis) and the executive as elected institutions and the Guardian Council and Expediency Council as unelected institutions which act on behalf of the Supreme Leader. It might be said any attempts to categorise the Iranian Parliament in terms of legislative typology should be according to the analysis of the elected and unelected institutions relationship and not simply the executive power and Majlis relationship.

Figure (4-3): The relationship of elected and unelected Institutions



Source: extracted from BBC News (2009)

4. The place of executive power (elected institution) in the amended Constitution of 1989

Executives in most political systems are very important institutions in terms of the significant roles which they play within the system. It might be said that they have three important functions: decision making through the initiation of bills and formulating public policy, implementation of policies which has been enacted by the parliament, and coordinating different affairs of the state through regulation of the relationship between the different branches of government.

The type of relationship between parliament and the executive can define the law making power of the parliament. As Olson and Mezey put it “[t]he strength of the legislature's policy making role is most frequently connected to its capacity to resist or modify policy initiatives emanating from the executive branch” (1991: 8).

Usually the powers and authority of the executive power are stipulated in the constitutions of the countries so studying their articles help to know the place of them.

According to the Constitution of 1979 and before its amendment executive power in Iran was in the hands of prime minister and his Cabinet which had to get a vote of confidence from parliament. Thus the position of the President in the Constitution and also in practice was more formal and the framers of the Constitution of 1979 designed a very weak and divided presidency office. Different reasons might be found for designing a weak presidency, principal among them is the tremendous power which was vested in the hands of the Supreme Leader. As we mentioned before, the Constitution of 1979 created four branches of power, one of which had concentrated power while the others were relatively weak and subordinated to the first without having any kinds of responsibility to the people. Also it was said that the wish for having a weak president had historical roots since “the “*ulama*” [high ranking clergy] still remember how the Pahlavis conveniently ignored Article II of the [1906-] 1907 Constitution, which granted the leading “*ulama*” the power to veto Majlis legislation, and thus keep them out of the corridor of the power” (Milani, 1992: 89).

During the revision of the Constitution in 1989 the post of prime minister was abolished. Under the Constitution of 1979 and before its amendment the duties of the executive power, except those tasks delegated directly by the Constitution to the Supreme Leader, should be performed by the President, the prime minister and the ministers. In fact the prime minister and his Cabinet were responsible before the parliament for the main affairs of the country.

In practice however, this system, which resembled the French political system, generated a lot of tensions between the first President of the Islamic Republic Abol Hassan Banisadr and Mohammad Ali Rejaee as Prime Minister. There was serious tension also between the third President (Khamenei) and the Prime Minister (Mosavi)

with implications for executive power as well. Furthermore, after finishing the war with Iraq the economy of the country was in a dire situation so reconstruction and economic reforms seemed necessary and a strong executive power with enough authority was seen as necessary.

Therefore in 1989 Ayatollah Khomeini issued a decree for constituting the Assembly to revise the Constitution of 1979. Two major approaches arose during the debates around the form of the executive power: on the one hand, one group supported strengthening the prime minister's post and reducing the presidential office to a ceremonial appointment. They warned against despotism of the powerful President and argued that the Iranian political system was not ready for a strong President since other political institutions such as the Majlis or judiciary were not institutionalized and strong enough to provide a system of checks and balances through which different centres of power control each other (Milani, 1992). On the other hand, the second group advocated the abolition of the premiership in favour of the presidency and making the President an executive officer. They criticised the arrangement of the 1979 Constitution mainly because of the lack of a clear accountable body in the divided executive. For instance Khamenie, who was the President in that time, was one of the prominent critics of the divided executive power who supported the presidency with centralized power. Also Abdollah Nuri one of the influential clerics stated that “[g]overnments of the world either have one or two centres of [executive] power. In Iran there are 50 too many centres of power” (Milani, 1992: 94). Also Hashemi Rafsanjani did not accept the possibility of a despotic President, since the more powerful Supreme Leader was able to control the executive power easily.

Finally, the presidential post which shall be elected by the people directly replaced the position of prime minister and the political power in the executive branch was more

concentrated. Currently the President is the only nationally and directly elected official in Iran.

Under Article 113: “ Next to the Leader, the President shall be the highest official State authority who is responsible for the implementation of the Constitution and, as the Chief Executive, for the exercise of the executive powers, with the exception of those matters that directly relate to the Leader”.

Under the amended Constitution of 1989, although the President shall be elected directly by the people, he must be confirmed by the Supreme Leader. Some writers (Buchta, 2000: 23) believe that “it is the system in which the entire executive branch is subordinate to a religious authority – the Vali-ye Faghih (ruling jurisprudent) – and is at least theoretically the executive organ for his directives; according to the Constitution, only the supreme jurisprudence possesses competence in all general political issues”. It was stated that “[t]he country has one official and one hidden executive power. The former is led by the president and the latter, mainly consisting of the revolutionary foundations, by the leader” (Rasekh, 2008: 73). Further consolidating the position of the Leader, the Appraisal Council deleted the position of the council of leadership which could have been constituted if the appropriate person could not be found for the leadership position.

Nevertheless, according to the Constitution the President has various kinds of responsibilities; some of the more important of them are as follows:

a.) As was mentioned, the President as holder of the executive power after the Supreme Leader is the highest official authority in the State and he is responsible for the implementation of the Constitution (Article 75 and 113). Yet because of Article 57 which states all powers of the State shall be under the absolute power of the Supreme Leader, he and the institutions which depend on him cannot be supervised by the President for the purpose of the implementation of the Constitution (Hashemi, 2000).

For instance, in the Iranian political system there are lots of foundations (Bonyads) whose managers are directly appointed by the Supreme Leader and as will be illustrated later on there is no control on them by the President or even by parliament. Also the Supreme Leader is the commander in chief of all types of armed forces (provision 4 of Article 110).

b) The President has responsibility for state planning and the budget and administrative and civil services of the country which is extraordinarily important in the drafting the economic policy (Article 126). Also according to Article 52 “[t]he Annual State Budget shall be drawn up by the Government in the manner provided by law, and submitted to the Majlis for its review and approval. Any amendments whatsoever in the figures of the Budget shall also be subject to the provisions of law”. If one considers Articles 113 to 142 of the Constitution, it can be seen that the main responsibility of the executive and administrative organizations of the State are vested in the hands of executive officials while they have responsibility before the deputies of the parliament in respect of their duties and parliamentarians can strongly scrutinize them according to the provisions of the Constitution.

In the Iranian political system there are various kinds of institutions which have huge economic activity yet the executive power has no control over them. In fact their economic policies and activities are under the full control of the Supreme Leader and as we will see later even the parliament cannot investigate them without the permission of the Supreme Leader. It was stated that “[a]lthough the foundations [Bonyads] are allocated 58 percent of the state budget, the executive branch does not have precise information regarding their economic activities or the number of businesses they operate” (Buchta, 2000: 73).

c.) In international affairs he is responsible for signing treaties, contracts, conventions, agreements (Article 125). Also he shall appoint the ambassadors and

receive the credential of foreign ambassadors (Article 128). Yet the President has a marginal role in conducting the foreign policy of the country with guidelines for foreign policy being determined by the Supreme Leader (Buchta, 2000).

d.) The President is the head of some important councils such as the National Security High Council and the Cultural Revolution High Council. Also he is one of the members of the Constitutional Review Council (Article 117). Some of these councils, such as the Cultural Revolution High Council, are appointed by the Supreme Leader and have important authority in cultural and educational affairs including enacting important laws and regulations which threaten the law making power of the parliament in Iran (Schirazi, 1997).

e.) The President as the head of the executive power has various kinds of responsibility such as leading the Cabinet, leading the institutions dependent on the executive power such as the Management and Planning Organization (which was dissolved by President Ahmadinejad), the Nuclear Power Institution and the like. Although he is responsible before the parliament for the activities of those organizations, the representatives of the Supreme Leader monitor all activities of these organizations and bodies as well and directly intervening in their internal affairs.

f.) The President has different kinds of tasks and responsibility in relation to the other branches of government i.e. the legislature and judiciary. The relationship of the executive power and parliament will be examined below for recognizing the type of political regime in the Iranian political system.

5. The type of political regime according to the amended Constitution of 1989

There are two ways by which the separation of power principle could be applied. First the territorial separation of power which refers to a country whether it is federal

such as United States, unitary such as Iran or confederal such as Switzerland. The second way is when government is divided into three branches: legislative power, executive power and judicial power. Allocation of the political power according to each country's constitution defines the political model of that country whether it is a presidential, parliamentary or hybrid political system. It is noteworthy that the separation of all branches of government is not possible completely which is prescribed by a pure concept of separation of powers, but they are relatively linked to each other or in other words check and balance each other.

The relationship between parliament and the executive power is central to studying the law making power of the parliament. Executive power as an external variable can confine parliament in the law making process. In terms of the relationship between these two branches of political power, whether it is a parliamentary, presidential or hybrid regime is very important. For instance it was stated that the “[t]he policy activity of legislatures will be greater in presidential than in parliamentary systems” (Olson and Mezey, 1991: 8)

Regarding the main question of this research, recognising the kind of relationship that exists between parliament and the executive according to the Iranian Constitution is crucial for assessing the lawmaking capacity of the Iranian legislature. Besides, due to the special characteristics of the Iranian Constitution and institutions such as the Guardian Council and Expediency Council which are directly involved in the law making process, we have to consider them and assess the amount of influence they have upon parliament.

As we stated, the Iranian Constitution is full of perplexities and power centres which makes it difficult to recognize the type of political regime. There is an Assembly (parliament) whose members according to the Constitution shall be elected directly by the people. Also there is a President that shall be elected by the same method. More

important than that, there is a leadership institution, and institutions dependent on it, which all the branches of government are under his supervision of. Regarding the separation of powers in the Iranian Constitution, recognizing the political regime in Iran is difficult and complicated. In the following pages it will be discussed in detail.

5.1 The Presidential system and political regime in Iran

In this system the executive is elected independently from parliament. The President who is both head of the state and head of the government is elected directly by the people for a fixed, constitutionally prescribed term and owing to that he is directly responsible to people who elected him. Also the term of the legislative power, unlike in a parliamentary regime, is fixed. The President usually has the right to appoint his or her cabinet of ministers who are not at the same time members of the legislature; however their appointment may depend on the advice or approval of the legislature. Unlike a parliamentary system in which ministers have collegial responsibility before parliament, in a presidential system the President is responsible solely. This responsibility is not before the assembly but to the constitution. The President cannot dissolve the assembly and at the same time nor can the assembly dismiss the President from office. The President may have authority to make laws in a presidential system (Lijphart, 1992).

In the US presidential model which is the prototype of this political system it has been demonstrated that the assembly cannot force the resignation of the president any more than he can dissolve the assembly. Moreover, both branches of government may find that their actions are declared unconstitutional by a third power, the judiciary. "Yet in a very real sense it is the assembly which is ultimately supreme. The president may have considerable authority allocated to him in the constitution but he may be powerless unless the assembly grants him a necessary appropriations. If he acts unconstitutionally the assembly may impeach him. In the event of serious conflict even the judiciary must

bow to the will of the assembly because this body has the right to amend the constitution” (Verney, 1979: 44, 45).

According to Article 114 of the Iranian Constitution the President shall be elected directly by the people. He is responsible for the executive power according to Article 60 and he is the one who can appoint the ministers and introduce them before the parliament for confirmation. This process is very similar to presidential systems where “the President is elected for a definite term of office. This prevents the assembly from forcing his resignation (except by impeachment for a serious misdemeanour) and at the same time requires the President to stand for re-election if he wishes to continue in office” (Ibid: 41).

In the Iranian political system ministers shall remain in office as long as they have not been dismissed or the parliament has not passed a vote of no confidence against them as a result of impeachment or motion for a vote of no confidence (Article 135). This is contrary to a presidential system in which the president appoints secretaries who are responsible to the president and therefore do not depend on the confidence of parliament.

The Iranian President has power to dismiss the ministers and in this case he has to introduce the new ministers for confirmation by the parliament (Article 136). As in a presidential system “members of the assembly are not eligible for office in the administration and vice versa” (Ibid: 43).

According to the Constitution, after giving a vote of confidence to the government by parliament, should half of the members of the council of ministers be changed then the President shall again request the parliament for a fresh vote of confidence for the council of ministers (Article 136).

As we mentioned before, the President is chief of the executive power but his power is limited in comparison with the power of the Leader in so far as in Article 113 it was

clearly stated that the President is the highest official State authority next to the Religious Leader. If one compares the authority of the executive power with the Supreme Leader whose authority is stated in Article 110 of the Constitution, one may find the executive power operating as one of agencies in the hands of the Religious Leader. As we can see, there are some similarities between the structures of executive power in the Islamic Republic Era and the First and Second Pahlavi Eras which were explained in the previous chapter. Executive power in both of them is under the control of a Supreme Leader. In the Pahlavi Eras it was the king and in the Islamic Republic Era it is the Supreme Leader. It has been stated that the Iranian presidency even after the revision in 1989 remained unique: “it is the only system in the world in which the elected president must be ‘approved’ by an unelected *faqih*. It is the only system in which the removal of the president ultimately depends on the decision of the *faqih*... and it is the only system in the world that the executive branch exercises no control over the armed forces” (Milani, 1992: 95).

The important point in terms of the law making role of the parliament is that determining the General Policies of the state is one the main responsibilities of the Supreme Leader after consulting the Expediency Council. (See No. 1 of Article 110). Therefore the executive power has to present bills according to these General Policies. For example the privatization of the economic system is one of those General Policies for which the executive power has to present appropriate bills for applying in the economic system. The Guardian Council has objected to several bills and parliamentary proposals due to their incompatibility with the aforementioned policies. This will be discussed in detail in the following chapter.

According to this analysis it seems there is no special power or control mechanism for the President to control and limit the parliament whereas the parliament has different ways to threaten the President. However, both of these institutions are subordinate to

other unelected institutions (Expediency Council, Guardian Council) as we mentioned before.

5.2 The Parliamentary system and political regime in Iran

The parliamentary system can be defined as a form of constitutional democracy in which executive power rises from and is responsible to legislative authority. In parliamentary systems, the executive branch of government is dependent on the direct or indirect support of parliament, often articulated through a vote of confidence (Carey, and Soberg, M. 1992). Therefore there is no straightforward separation of powers between the executive and legislative branches of government in this political system. Besides the head of the government is selected by parliament and the cabinet has collegial responsibility to parliament. In a parliamentary system, parliament “is the forum of the nation’s ideas, and it is the school where future political leaders are trained. For parliamentarism to succeed, the government must not fret at the constant challenge which the assembly offers to its programme, nor wince at the criticism made of its administration. The assembly in turn must resist the temptation to usurp the functions of government” (Verney, 1979: 38). Many characteristics were enumerated by Verney (1957) which constitute the parliamentary system such as:

- a.) Assembly turns to the parliament
- b) The executive is divided into two parts
- c) The head of the government should be appointed by the head of the state
- d) Ministers should be appointed by the head of the government
- e) The ministers have collegial responsibility
- f) The government is responsible to the assembly and indirectly to the electorate
- g) Ministers usually are members of the parliament

h) Head of the government is able to dissolve the parliament or may ask the head of the state to do so

i) Parliament is at the heart of the political system

The political regime of the United Kingdom is the foremost and traditional example of parliamentary government and many countries political system have been shaped according to that.

It was mentioned before that according to the Article 133 of the Iranian Constitution, after appointment of the ministers by the President, he has to introduce them before the parliament for a vote of confidence. Similarly in a parliamentary system (Newton and Deth, 2005: 64), the government is dependent upon the support of parliament, which may refrain from giving a vote of confidence to the executive power. The executive (government) is also dependent upon the legislature (parliament) because the latter can reject, accept, or amend legislation initiated by the government

In Iranian political system the law making power, though not exclusively, is given to the parliament: “The parliament may within the limits of the constitution, enact laws on all matters” (Article 71).

According to Article 137 the ministers have political responsibility before the President and the parliament: “Every individual Minister shall be responsible vis –a vis the President and the {parliament} for his own especial duties ...” The sanction of this responsibility has been stated in Article 89: “... the representatives of the {parliament} may impeach the Council of Ministers or any of the Ministers in cases deemed necessary by them.” Thus ministers shall remain in office as long as they have not been dismissed or the parliament has not passed a vote of no confidence against them.

Unlike the parliamentary system where parliamentary government is only indirectly responsible to the electorate, in the Iranian political system it seems the executive power

also is directly responsible to people since the President should stand for election every four years.

Apart from the people, the President has political responsibility before the religious Supreme Leader and parliament. In Article 110, which is about the functions and authority of the Leader, in provision 10 of this Article one of the Leader's powers is “to dismiss the president of the republic by taking into account the interests of the country, after the supreme court has given a verdict on the violation by President of his legal functions or the vote of his incompetence has been passed by the [parliament] ...”. Article 122 states that “ the President shall be responsible vis – a – vis the Nation, the Leader, and the Islamic Consultative Assembly [parliament], within the limits of his authorities and responsibilities undertaken by virtue of the Constitution and/ or ordinary laws”.(see also Article 134).

5.3 The Iranian political regime and hybrid system

The idea of a semi-presidential or semi-parliamentary regime can be traced back to the French Fifth Republic and the works of Maurice Duverger. In his view, a semi-presidential system consists of a directly elected president, who is accountable to the electorate and a prime minister, who is appointed by the president. The government consist of the cabinet formed by the prime minister and ministers who can be dismissed by a parliamentary vote. In fact the president as head of the state and prime minister as head of government share executive power and must coexist (Duverger, 1992:142). Despite the president being independent from parliament, the prime minister and his/her ministers are subject to a parliamentary vote of confidence (Elgie, 1999).

Shugart (2005: 2) explained that, if one studies the many political regimes one may find that most of them “contain some elements of one and some elements of the other,

and are thus hybrids. However, not all combinations of these elements qualify a regime as semi-presidential, unless that term is nothing more than a synonym for ‘hybrid’.

Duverger, (1980: 142) enumerated three core elements for the semi presidential regimes: “(1) the president of the republic is elected by universal suffrage; (2) he possesses quite considerable powers; (3) he has opposite him, however, a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to him ...”. According to this explanation it could be said that a hybrid government has the following characteristics: a president who is popularly elected, and has considerable power constitutionally and a prime minister and cabinet who are subject to the confidence vote of a majority of the assembly. In the legislative studies literature the French government is the famous example of such a system. In a semi-presidential system the prime minister may belong to the opposition party and be involved primarily in domestic policy and have some responsibility to the legislature.

Although there are some elements of both presidential and parliamentary systems in the Iranian Constitution it is far from a typical hybrid system because, contrary to the semi presidential system, the President is responsible to the parliament and Leader. Also the members of the cabinet do not have any kind of authority to be involved in legislative activity. Furthermore the President is not allowed to dissolve parliament whereas in a semi-presidential model the president can dissolve parliament and call a referendum.

To sum up it might be said that the Iranian political regime is not compatible with those three main forms of political regime which prevail in most political systems in the world but it is a combination of these three models of political systems without having their logical consistency and coherency. It might be said that the political regime according to the Constitution of 1979 resembled the Fifth French Republic while as a

result of the revision which took place in 1989 it turned toward the US presidential system (Milani, 1992). Nevertheless, there is no dispute that the Iranian political regime remains unique. It seems that there are three bodies which in fact act as agencies of one main branch of power which is the power of the religious Supreme Leader. This point has been asserted clearly in the Article 57 of the Constitution: “The powers of government in the Islamic Republic are vested in the legislature, the judiciary, and the executive powers, functioning under the supervision of the absolute Religious Leader and the leadership of the *ulama*, [high ranking clergy] in accordance with the forthcoming articles of this Constitution. These powers are independent of each other.”

The current Iranian political regime based on the Islamic Republic Constitution of 1979 and revised in 1989 is very similar to the political system which was established by the Constitution of 1906 where the prime minister was not commander of the armed forces. “More importantly in both constitutions, a powerful and bigger-than-life figure stands above the three branches of the government. That figure is the centre of power and the heart of the system: he is called shah in one system and *faqih* [clergy] in the other” (Milani, 1992: 96).

Reviewing the articles of the Iranian Constitution, particularly Article 57, shows the absolute supremacy of the Leader over all principal bodies, especially elected institutions. As we will explain in the next chapter, unelected institutions are predominant and the elected institutions are subordinate to them.

6. The place of the Islamic Consultative Assembly in the amended Constitution of 1989

As we mentioned before, the main institutions of the Iranian Constitution have been framed according to the Ayatollah Khomeini's ideas. One of the Iranian writers mentioned in his book who interviewed Ayatollah Khomeini before the revolution

reported that his idea about the legislative function of the parliament was as follows: “there are certain matters which are executive affairs such as urban and traffic regulations. These are not related to {sacred} laws, and it is beneath Islam to concern itself with them; they are not related to basic laws. In Islam there is no room for the institution of basic laws and if an assembly is installed it will not be a legislative assembly in that sense, but an assembly to supervise government” (quoted in Amir Arjomand, 1988: 148, 149). Also after the revolution in 1981 he revealed his approach toward the parliament when he stated that “If laws are needed Islam has established them all, there is no need ..., after establishing the government, to sit down and draw up laws” (Khomeini, 1981: 137, 138).

The Islamic Consultative Assembly is an elected institution; however the nomination process is controlled by the powerful twelve-member Council of Guardians who are constitutionally empowered to examine the application of all prospective candidates. Legislatures are the main representative body in democracies, and therefore it must directly be elected in order to reflect public opinion. But with this mechanism the members of the Guardian Council can easily impact upon the composition of the assembly and therefore weaken the representative function of the parliament. The system of parliament in Iran is twofold, including the main Assembly and the Guardian Council without which the Assembly has no validity.

6.1 Electoral system of the Iranian Parliament

People elect their representatives to the parliament every four years through, direct and public elections (Article 63). The electoral law gives voting rights to those aged eighteen and over and introduces a double-balloting system.

Candidates must obtain a majority of one fourth of the votes in his or her constituency. Those who achieve this majority will be automatically elected as members

of the parliament. If more candidates than are required achieve this majority, candidates with the highest number of votes will be elected and if two or more candidates have exactly the same number of votes, a lot will be drawn to recognise the elected candidate. Constituencies which do not fill their allocated seats at this stage of the elections should enter in the second round of elections which shall be held a few months later. Constituencies that do not fill their allocated number of seats in the first round of elections will have to field candidates equivalent to twice the number of their remaining unfilled seats. Candidates chosen to participate in the second round of elections are based on the remaining candidates of the first round with the highest number of votes. All other candidates are disqualified at this stage. If there are not enough candidates in a constituency equivalent to twice the number of unfilled seats, all remaining candidates will be chosen to stand in the election again. It is deemed improbable for there to be fewer candidates available than the number of remaining seats. At this round of elections as in the first round, candidates that achieve a one fourth majority of the vote will be elected as members of the Majlis. Should no candidates achieve this majority or there are still seats unfilled, then candidates with the highest number of votes will be elected as members of the parliament.

If more than the needed numbers of candidates attain this majority, candidates with the highest number of votes will be elected. Should two or more candidates have exactly the same number of votes, a lot will be drawn to determine which candidate is elected.

Parliamentary elections in the Islamic Republic of Iran should be run according to the procedures of the election law which was ratified in 1999. The law comprises the conditions and qualifications required for candidacy, and the procedure for screening candidates. An eligible candidate must be an original Iranian citizen, at least 30 years old, must have a record clean of “moral corruption”, and under article 28 must show his/her belief in and practical commitment to Islam and the Islamic Republic system.

Also according to this article one of the important conditions for a candidate is absolute loyalty to the Supreme Leader and the principle of *vilayat al-faqih*.

The qualification of the candidates is examined in three stages: First, the Elections Executive Committee which is formed by the Interior Ministry considers the qualifications of the candidates in every constituency. The Election Executive Committee may investigate many things such as employment background, political attitudes of a candidate and most important of all asking about his/her loyalty to the Islamic Republic.

The second stage involves the Elections Supervisory Committee, which is fully under the control of the (Conservative) Council of Guardians. Most of the above mentioned procedures in the first step are repeated again in this stage. If the executive power be dominated by the non Conservative camp, especially the Reformists, a severe clash will be inevitable. During the Khatami Presidency most of the candidates who were qualified by the Elections Executive Committees were disqualified by the Elections Supervisory Committee in the second stage.

The third stage consists of a review of the qualifications of the candidates by the Guardian Council, which has the power to take the final decision on candidate approval or rejection. The important point here is the Council may reject candidates who were accepted already by one or both of the committees, or it can accept candidates that either or both have rejected. According to the law, appeals against rejection must be submitted to the Guardian Council itself. Official campaigning may only begin after the Council has issued a final list of candidates. According to Article 9 of the Election Law “candidates shall be barred from launching any election campaign activities on the IRIB (Radio/TV) or through Friday Prayers sermons or any other official or government channels”.

6.2 The main functions of the Islamic Consultative Assembly

The functions of parliaments differ between countries. Although the parliament is known by its law making function, legislatures can fulfil a variety of functions within a political system. Various factors such as the constitution, party system, political culture, the role of the interest groups as external characteristics of parliament, can define the number of its functions and their importance.

As was shown the law making function is not the only task of the legislature but, as many writers mentioned, the key functions of modern parliament also are: scrutiny of the executive and the administration, legitimating, recruitment, socialization and training (Packenham, 1970: 86-95 and Lupo, 2001: 36). Mezey divides some common activities of the legislatures into three broad categories: policy making activities, representational and system maintenance activities. He explains that policy making activities might be the initiation of the policies or approving the policies which are initiated elsewhere or at least deliberation on it. Intermediating between government and the people, the representation function means articulating the interest of the constituencies. And finally the system maintenance function consists of those activities which enhance the stability of the political system and its survival. Through public support for the system parliamentarians are able to demonstrate fulfilment of this function (Mezey, 1979).

Like other legislatures the Iranian Parliament has some functions which can be fulfilled through various types of parliamentary commissions. The deputies are normally members of three types of parliamentary commissions: the first type comprises the fifteen Specialized (permanent) Commissions which cover all executive administrations though are not parallel with them (Article 26-57 of Internal Regulation of the Majlis). The second type comprises Joint Committees which may be composed of two or three Specialized Commissions and should be formed when the Board of the

Speakership decides that some bills or proposals must be considered by such a commission (Article 58 of the Internal Regulation). The third one comprises ad hoc Commissions which may be formed if at least fifteen deputies of the Majlis request that on the basis that there is an extraordinary and important situation in the country (Article 59 of the Internal Regulation).

The Islamic Consultative Assembly shall meet in open session and discussion is normally in public by radio broadcasting and the minutes published in the Official Newspaper (*Roznam e rasmi*). However, in special circumstances and exceptional cases a closed session may be held upon the request of the President, or one of the ministers or ten deputies. The President and his ministers may participate in the open sessions of the Majlis either collectively or individually.

Considering the particular separation of powers discussed before, the main functions of the legislature in Iran may be categorised as follow:

6.2.1 Representative function

In a democratic political system, members of the parliament are supposed to be the representatives of the people and therefore they must directly reflect public opinion. As Judge (1993) explains [h]istorically, parliament fused the principle of consent with that of representation and served to legitimate government policies and changes of government itself” (Judge, 1993: 2). Also different political parties and people who represent the political interest of specific groups or specific areas of the country should be free to participate in elections and be elected as members of the parliament. Delegation of popular sovereignty usually comes through an electoral system. So “[t]he electoral system is an important variable, in that it facilitates or limits the access of parties to the parliament... Laws governing the nature and conduct of parties (for instance, stipulating the conditions under which parties may form and contest elections,

and the financing of parties and campaigns), or imposing a threshold requirement for parliamentary representation, are also likely to affect the capacity of parties to achieve representation in parliament” (Norton and Ahmed, 1999: 5).

The election system in Iran is not democratic in comparison with the election process in most European democracies. According to Article 99 of the Constitution the “Guardian Council shall be charged with the responsibility of supervising the elections of the Assembly of Experts for Leadership, the President, the Islamic Consultative Assembly and referendums.” There have been many arguments about the supervising role of the Guardian Council but owing to the right of interpretation of the Constitution which is exclusively reserved for the Guardian Council according to the Article 98; this right is interpreted as approbatory supervision (Samii, 2001). On the basis of this mechanism candidates’ religious beliefs and commitment to the Islamic system and to the Supreme Leader should be proved by this Council. According to this authority the Council can arbitrarily exclude candidates who have different political positions to that of Guardian Council members who have been pro-Conservative since the establishment of the Council.

The Guardian Council has used this power in different kinds of elections. For instance in selecting candidates for the Fourth Parliamentary Elections in 1992, the Council of Guardians, led by traditionalist-right followers of Ayatollah Khomeini, rejected the majority of Islamic –left aspirants. This resulted in the Islamic left losing its parliamentary majority. Until then, the Islamic-left majority had kept in check, in part, the programme of domestic economic liberalization and foreign policy détente that then President Rafsanjani had pursued since 1989 (Buchta, 2000: 17).

In the Fifth Parliamentary Election only the credentials of 3276 out of 5365 people who registered were approved by the Guardian Council (Schirazi, 1997: 88). Also in the Sixth Parliamentary Election, shortly after the deadline for registration, 401 out of 6860

candidates were disqualified due to their political background and ideological belief (Samii, 2001). In the Seventh Majlis Parliamentary Election the Guardian Council barred almost half of the 8000 candidates, most of who belonged to the Reformists parties. Also from nearly 7000 candidates who registered in the Eight Parliamentary Elections, 40% of them were disqualified (BBC, 2008).

In fact many of them were rejected because they lacked the qualifications which were stated in the Article 28 of the Election Law according to which candidates must have a “belief in and [have] practical commitment to Islam and the Islamic Republic System” and be loyal to the religious Leader and the Constitution. Because of this system, the Religious Leader through the Guardian Council can completely control access to the parliament and mostly the candidates whose qualifications are approved by this Council represent the interests of the regime rather than people (Buchta, 2000).

This function of the Guardian Council has affected the political parties and interest groups who not only shape and control policy options, but also define and carry public opinion to a large extent to the parliament. Their participation has been limited in Iran since the revolution. Although in the course of the revolutionary movement between 1979 and 1981 there were many political parties with different political ideologies, and which participated in political activity, most of them were then barred, except parties such as the Islamic Republic Party (IPR) whose members were the loyal followers of the Ayatollah Khomeini. This party dissolved itself voluntarily because of internal conflict. Following this, two parties were created, one of them consisted of right wing conservative clergy (JRM) and the other one Islamic leftist (MRM) members who were loyal to the political regime. The activities of political parties such as the Tudeh party (secular leftist) and Free Movement of Iran and many other parties were banned (Firbanks, 1998).

The Iranian Constitution in Article 26 states: “ [i]t shall be allowed to form parties, societies, political or profession association and Islamic or other religious societies of the organized minorities, provided that they do not violate the principles of freedom, independence, national unity, Islamic standards and essential of the Islamic Republic. ...”. In 1981 the first Election Law was passed according to which all parties must get permission for their activities. In Article 10 a committee comprises of two parliamentary deputies, two delegates from the judiciary and interior minister may issue permission for establishing political parties. This committee also is assigned to supervise the activities of political parties and may dissolve them.

To sum up it might be said that due to the strict control of the political parties and interest groups activities in the Iranian political system, parliament in Iran can hardly exercise its representative function in the sense of representing the interests of the people. As Mezey (1983) mentioned “because interest groups are not very strong in these political systems [Third World countries], individual demands are not readily aggregated” and therefore the parliament is not able to perform its representative function efficiently.

6.2.2 Law making function

Another main function of the parliament is law making. “Legislatures historically are the authoritative source of statutory law. Statutory law, subordinate to constitutions, is superior to all other forms of law, including administrative regulations” (Olson, 1994: 6, 7). As the representatives of the people, legislatures translate preferences into policy through enacting legislation. As Norton put it they are established by the constitution “for giving assent to binding measures of public policy, that assent being given on behalf of a political community that extends beyond the government elite responsible for formulating those measures” (Norton, 1990: 1). Therefore the law making function of the legislature has a strong relationship with the representative function.

As already discussed, the representative function in Iran is influenced by the power of the other political institutions such as the Guardian Council. The law making function of the parliament also is under the influence of the some other power centres which partly are designated in the Constitution. Nevertheless it may be said that the law making function is the most important function of the Iranian parliament. From the date when the Iranian parliament was established until the end of 2005, 11412 laws were enacted, of which 2176 laws were passed by the post revolutionary parliament (Ghorbani, 2006). It indicates that at least quantitatively the Majlis has been used extensively its law making capacity. The Iranian Constitution expressly granted parliament the power to legislate on anything which is necessary. According to Article 71: “{t}he Islamic Consultative Assembly may, within the limits of the Constitution, enact laws on all matters.” This article shows that the jurisdiction of Consultative Assembly in its law making function is general. The first paragraph of Article 85 stipulated that “... the Assembly may not delegate the right to legislate to another person or committee.” However in exceptional cases the Constitution allows the Assembly to delegate its law making function to its internal committees. Members of the parliament can present their propositions if sponsored by at least fifteen representatives.

The most influential factors which normally play a major role during the law making process are “executive- centred elites, civilian and military bureaucracy, chief executives in presidential systems, cabinet members in parliamentary systems and party elites in those systems characterized by strong political parties” (Olson and Mezey, 1991: 6); however, in the Iranian political system these influences are located outside of the executive power.

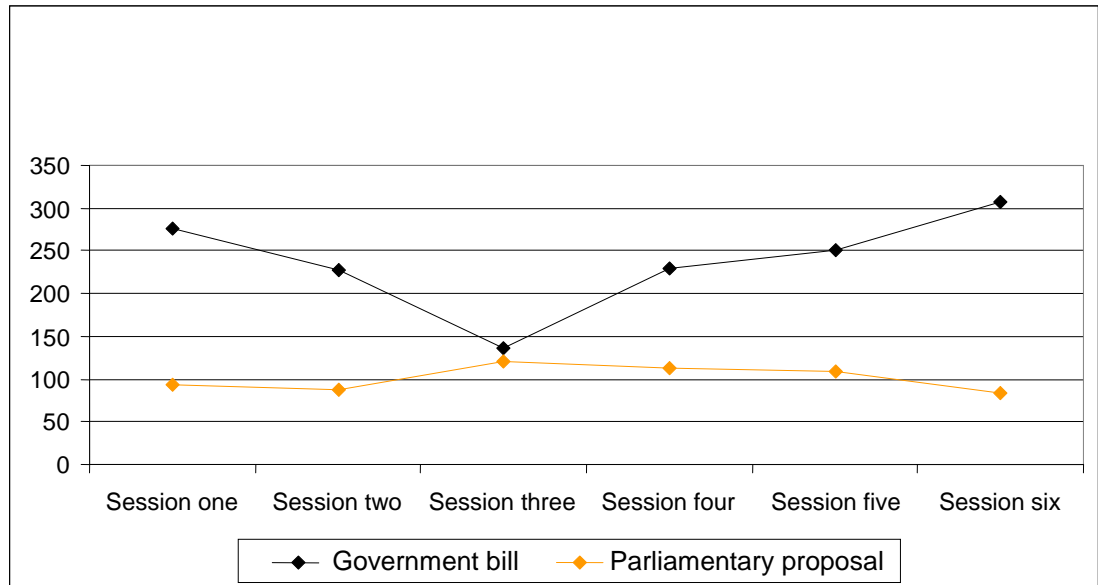
Under the Constitution of Iran there are three institutions which are involved in the law making process: The executive power as an elected institution and the Expediency

Council and Guardian Council as unelected institutions; their influence will be discussed in the following pages in detail.

6.2.2.1 The Contribution of the executive power as an elected institution in the law making process

The law making process according to the Iranian Constitution may be started either by the executive through a government bill or by a proposal from the parliamentarians. In the latter case it is necessary for at least 15 deputies to support the particular proposal. According to Article 75 “ Members' bills, and proposals and amendments to government bills proposed by representatives leading to the reduction in public revenues or increase in public expenditures, may be presented to the Islamic Consultative Assembly [parliament], only if they also include ways and means of making good the reduction in income or of obtaining new revenue.” Therefore the executive power has the main responsibility to run the public affairs through introducing the appropriate bills to the Islamic Consultative Assembly for enactment; initiation by parliament’s members is limited by the Constitution. Yet as the below graph shows the number of parliamentary proposals in comparison to the executive's bills is considerable though the number of executive bills is increasing.

Figure (4.4): The numbers of bills and proposals approved Over the Six sessions of the Majlis



Source: see raw material available in Publication of Islamic Consultative Assembly (2005)

* Data collected by Hassan Vakilian

After submitting the bill the executive may withdraw it for political reasons. For instance if the government believes that the present time is not appropriate for getting the assent of the Majlis or it predicts that the parliament will definitely reject the bill and for avoiding being politically embarrassed then the bill may be taken back if the council of ministers supports this decision and if the bill just has been considered in first reading in plenary session. But, after the second reading, when the principle of the bill has been enacted in the Assembly, it is only possible to withdraw it providing that one of the Members of the Assembly who is against this decision can talk in plenary session. Withdrawal of the bill may happen due to the tremendous number of amendments. Some Assembly amendments may totally change the content of the policies pursued by the executive. For instance President Khatami had to withdraw the bill according to which the power and authorities of the President would be increased owing to the huge numbers of amendments which the Conservative Seven Majlis made to the bill.

Although Assembly and executive powers usually interact during the law making process, particularly in the formulation and deliberation stages, “yet the Assembly has authority, according to the majority vote of the deputies to accept or reject the bills absolutely or to amend what ever part of that. Therefore on the basis of the Constitution the final destiny of the executive’s bills is in the hands of the parliamentarians” (Hashemi, 2000: 163,164). However the Majlis only has power to reject the executive’s bill and ask for new bill; it cannot formulate a new bill itself.

6.2.2.2 The role of the unelected institutions in the law making process

The Constitution of 1979 was the result of the revolution in Iran which was ideological in character. One can find this readily from the preamble of the Iranian Constitution where it is asserted that “the Islamic nature of the great Islamic revolution expressed the will 'of the Islamic people ' to establish the Constitution, on the basis of Islamic principles and guidelines”. The distinctive peculiarity of this revolution lay in its ideological and Islamic character. Furthermore in Article 12 it is expressed that “the official religion of the State is Islamic as interpreted by the Jafari (one of Shia's Imam) School of jurisprudence of the Twelver Shi'a. This religious definition of the State, in view of the eternal truth of Islam, can never be altered”.

One of the most important results of the ideological nature of the Islamic Constitution is that all laws and regulations including civil, criminal, financial, economic, administrative, cultural, military, political or otherwise, shall be based on Islamic principles. This article shall apply generally to all the articles of the Constitution and other laws and regulations. It shall be decided by the high ranking clerics of the Guardian Council as to whether such laws and regulations conform to this article (Article 4). As it is clearly stated in this article, the Constitution binds legislative power to the Shari'a (Islamic laws). According to this Article, parliament has been forbidden to pass laws which 'contradict' the principles and ordinances of the State religion.

6.2.2.2.1 The role of the Guardian Council in the law making process

The Guardian Council is one of the most important political institutions of the Islamic Republic which has the right of veto over parliamentary resolutions and in practice occupies a dominant position in the legislature. As discussed in the previous chapter, the history of this institution goes back to a century before when the first Constitutional Movement of Iranian society took place in 1906. When the demands for parliamentary democracy arose in the early 20th century, there was resistance. The clergy as a source of power representing the traditional parts of society tried to insert one article in the Constitution which was very important in terms of constraining the law making power of the parliament (Article 2 of the Constitution of 1906-7).

This Article is the historical root of the Guardian Council in the present Constitution of 1979 but this time it played a very important and essential role rather than a formal one. It seems that the voice of the Shykh Fazlollah Nuri in the course of Constitutional Movement of 1906 reverberated in the Constitution of 1979 and its amendment in 1989.

The Guardian Council is composed of twelve members of whom six are Faqihs (high ranking clergy) appointed by the Supreme Leader (Article 91). They have the right to veto the Assembly's resolutions if it is not compatible with the Shari'a. In addition the other six members of the Guardian Council are jurists, specialized in various branches of law, elected by the Assembly from among Muslim jurists proposed by the Head of the Judiciary who in turn is appointed by the Supreme Leader.

The most important point about the Guardian Council is stated in Article 93: "without the Guardian Council the Majlis [Assembly] shall have no legal validity except in case of approval of credentials of its representatives and election of six jurist member of the Guardian Council." Thus the powers of the Assembly are seriously

reduced in the Constitution by the right of veto exercised by the Guardian Council. One writer stated that:

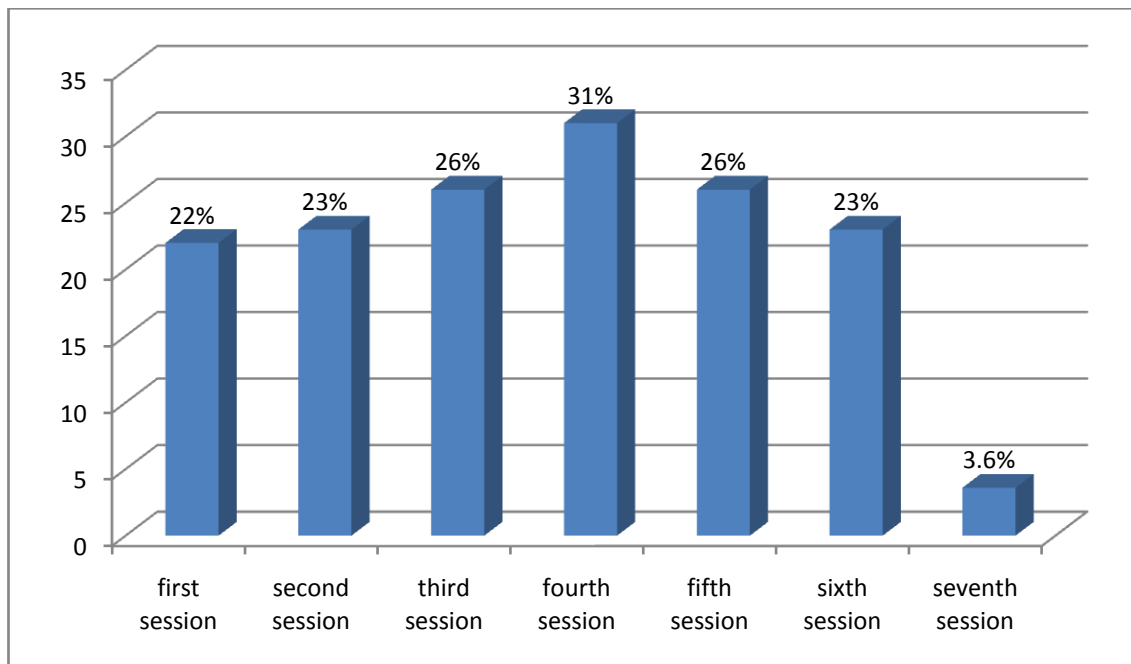
“If the implementation of the Constitution is the responsibility of the President, its interpretations is the prerogative of the Guardian Council, and its enforcement the duty of the Judiciary, the Majles has the right to legislate, that is to enact in specific laws the principles embedded in the general clauses of the Constitution. This prerogative of the Majles, however, is absolute only with respect to initiating legislation. As mentioned before, the Guardian Council could remand legislation it deems incompatible with the Constitution or Islam and, should an impasse then ensue between it and the Majles, the Interest Council {Expediency Council} would have the privilege of advising the Leader about the final shape of the legislation. In such cases the Leader, or in practice the Interest Council, in effect becomes the ultimate legislator” (Tabari, 2003: 107, 108).

In this research we are contending that the Islamic Consultative Assembly is a legislature which many unelected institutions impact upon given that it is subordinate to these institutions, but it is incorrect to say that essentially the parliament has no effect. As we will show, the influence of the Assembly in relation to the unelected institutions is marginal but in relation to the executive power especially in particular conditions, it is considerable.

If one reviews the different sessions of the Iranian Parliament from the time that it was established, one can find this reality: During the First Majlis, the Guardian Council raised objections to 82 out of 370 (i.e. 22 percent) of the bills or proposals approved by the Assembly, and sent them back to be amended. During the second Majlis, this figure rose 73 out of 316 (23 percent) and during the Third Majlis to 66 out of 256 (26 percent). This practice was continued with enthusiasm during the Fourth Majlis in which 105 bills were returned for revision out of 342 (31 percent). During the

Fifth session the Guardian Council rejected 95 enactments out of 359 (26 percent). Also in the Sixth session of the parliament 92 enactments vetoed out of 396 (23 percent) (Karname e Sale Avval ta Sheshom Majlise Shoray e Eslami).

Figure (4-5): The numbers of the enactments (bills and proposals) rejected by the Guardian Council



Source: see raw material in publications of Islamic Republic of Iran (2002)

* Data collected by Hassan Vakilian

Sometimes the Guardian Council rejected the bills or proposals several times whether in the name of the contradiction with Shari'a or the Constitution. The following table shows the number of bills and proposals rejected by the Guardian Council in the sixth Session of the Majlis during which the Reformist Majlis was blocked by the Conservative dominated Council:

Table (4.1): The number of the rejection of bills and proposals by Guardian Council in Sixth Majlis

The number of rejections by the Guardian Council (Sixth Majlis)	The number of proposals	The number of bills
One time	19	52
Two times	7	6
Three times	5	4
More than three times	2*	0

Source: See raw material available in publication of Islamic Consultative Assembly (2005)

* One of these proposals was rejected 4 times and the other one 7 times.

**Data collected by Hassan Vakilian

If one were to count the number of the articles, paragraphs and sentences to which the Guardian Council objected the percentage of the rejection of parliamentary initiatives would turn out to be much higher. It has been claimed that the importance of those bills and proposals which have been rejected by the Guardian Council are more important than those which have been passed (Schirazi, 1997). “Mohsen Alef, himself a member of the Guardian Council, has described the former category of resolutions as 'fundamental'. According to a report which he published in *Ressalat* (6-18/6/87), out of 64 parliamentary resolutions of fundamental importance 31 were rejected by the Guardian Council. These include resolutions that dealt with foreign trade, landownership, industrial law and the co- operative system” (Ibid: 92).

It is noteworthy that the intervention of the Guardian Council is not limited only to the enactments of the parliament but it has extended to the statutory instruments approved by the Council of Ministers and other executive institutions.

To sum up it can be said although the framers of the Constitution of 1979 assigned a significant role to the Islamic Consultative Assembly, they also enshrined a Guardian Council which is more powerful than parliament and is able to control its activities on behalf of the religious Leader.

6.2.2.2 The role of the Expediency Council in the law making process

One of the institutions which we can categorize as an unelected institution is the Expediency Council. This institution was founded by Ayatollah Khomeini and was set out in the Constitution during the amendments of 1989.

Members of the Council are composed of legal entities and non-legal entities. The legal entities consist of the President, the Speaker of the Majlis, the Head of the Judiciary, the six clergy members of the Guardian Council, and the minister concerned depending on the subject under discussion. The other members include clergy or laymen appointed by the decree of the Leader for five years (Article 112). The number of appointed members used to be 22; however in 2007 the Supreme Leader Ayatollah Khamenei enlarged the Council by appointing five new members. “Specialists believe that the new composition of the Council, which acts like the Senate of the former Iranian Parliament (or the House of Lords in the UK), shall increase the powers and authority of the body” (Ahadi, 2007).

On the basis of Article 112 “... regulation related to the Majma [Expediency Council] shall be prepared and approved by the members of the Majma itself and ratified by the Leader.”

The first chair of the Expediency Council was Ali Akbar Hashemi Rafsanjani, who simultaneously was the Iranian President. After the election of 1997 according to which Khatami became the President, Hashemi Rafsanjani continued to hold his position in Council by decree of the Supreme Leader which has extended till today. It has seven permanent Commissions in different areas of policy making including the infrastructure, macro economy, politics and defence commissions. Also there is a Strategic Research Institution which has become more active in recent years.

The Expediency Council justifies laws which are not directly matched to Islamic laws or even is contradicted by them. “[A]s a principle or method of law, this doctrine derives its validity from the idea that the basic purpose of legislation in Islam is to secure the welfare of the people by promoting their benefits and by protecting them against harm” (Tamadonfar, 2001: 213). In fact this is a religious principle regarding legislation in Islam; however, there are two interpretation of this basic principle. Some Islamic thinkers read this principle from a limited perspective. They accept the Zarorat (expediency) Principle in so far as it has not conflicted with implicit and explicit rules and ordinances of Shari’a law. This approach toward this principle may be said to be a traditional and limited version of the Zarorat Principle. The second interpretation of the Zarorat Principle, which is rather wide and unprecedented in Islamic jurisprudence, emerged after the Islamic Revolution. Facing many practical problems in reconciling Islamic rules and ordinances with contemporary emergency needs of society, Ayatollah Khomeini provided a new interpretation of the Zarorat Principle. He believed that the ruler of Islamic society in emergency conditions temporarily was able to set aside primary rules of Islam. “The government is empowered to unilaterally revoke any *Shari’ah agreements* which it has concluded with the people when these agreements are contrary to the interest of the country or Islam”. He even added that the “government can also prevent any devotional (*Ibadi*) or non-devotional affair if it is opposed to the interest of Islam and or so long as it is so. The government can prevent hajj, which is one of the important divine obligations, on a temporary basis, in case when it is contrary to the interests of an Islamic Country... . Apparently, Khomeini was suggesting, in an unprecedented way, that the doctrine of *Vilayat-e Faqih* (leadership of the jurisprudent) is a central injunction while prayer and pilgrimage are secondary injunctions” (Ibid: 214). This new interpretation of the Zarorat Principle was adopted by the Reviewing Council in the course of reviewing the Constitution in 1989.

According to the Constitution, the Guardian Council was in charge of determining the compatibility of laws with the Islamic rules (Article 66). In practice, this council took a very inflexible approach to its role by rejecting many parliamentary decisions due to its incompatibility with Islam. Frustrated by the inefficiency of the legislative process, Ayatollah Khomeini reacted to this situation by ruling that parliament could pass any laws when it was necessary for the system by a two-thirds majority. The Assembly used this rule to pass a contentious piece of legislation, the Temporary Cultivation Law. The Guardian Council had strongly objected to this law which gave landlords' property to occupying farmers, on the ground that the Islamic rules have not accepted the confiscation of private property.

Since the continuous dispute between the Assembly and Guardian Council paralyzed the legislative process and made parliament inefficient in terms of its law making function, Ayatollah Khomeini decided to institutionalize the idea of expediency by establishing a council for determining what the expedient was or in the interests of the state or Islam (Schirazi, 1997). The Expediency Council was the result.

6.2.2.2.1 Functions and authorities of the Expediency Council

On the basis of Article 112 the Council's functions can be categorised into three groups: settlement of disputes between the Majlis and Guardian Council, solving difficulties of the system and giving advice to the Supreme Leader.

6.2.2.2.2 Settlement of disputes between Majlis and Guardian Council

According to the first part of Article 112 “[t]he Expediency Council shall be convened at the order of the Leader to determine such expedience in cases where the Guardian Council finds an approval of the Majlis against the principles of the Shari’a or the Constitution, and the Majlis in view of the expedience of the System is unable to

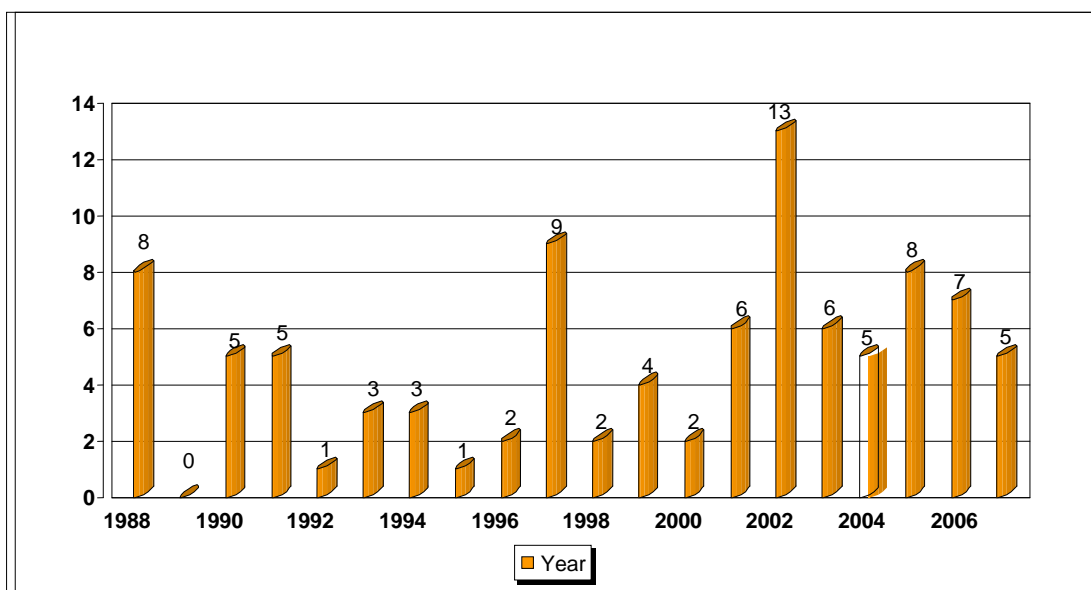
satisfy the Guardian Council,....” In fact this was the main reason for establishing the Council.

This Council which was enshrined in the amended Constitution of 1989 and became a major player in the legislative process was responsible for determining what was in the interests of the political system. It is stated that despite the Guardian Council which considers parliament’s enactments in terms of their compatibility with Shari’a and Constitution, the Expediency Council may go beyond this and take decision according to the *expediency of the system* (Zaraie, 2004).

Despite some writers (e.g. Tamadonfar, 2001) who believe this Council was authorized to frame laws independently of the Assembly and the Guardian Council, others believe that it is not a legislative body and just is authorized to settle disputes between the Majlis and the Guardian Council and provide advice to the Supreme Leader (Zaraie, 2004). Nevertheless, in practice, the Council has extended its power to pass laws and regulations even without any stalemate between the Assembly and the Guardian Council especially in important policy areas (Schirazi, 1997: 234). By employing this Council, the government passed a great deal of legislation referred to as the State Ordinances (*Ahkam-e hokumati*), which practically suspended or violated Islamic ordinances. Therefore the Expediency Council can be involved in the legislative process; however it does not represent the people and its members are not elected directly by them.

The Expediency Council from the date when it was established decided on many important issues such as the law of urban lands, labour law, Islamic criminal law, divorce law, election law and the like on which Assembly and Guardian Council had disagreed.

Figure (4-6): Number of disputes resolved by the Expediency Council (1988-2007)



Source :(Majma a, 2008)

*Data collected by Hassan Vakilian

6.2.2.2.3 Solving difficulties of the system

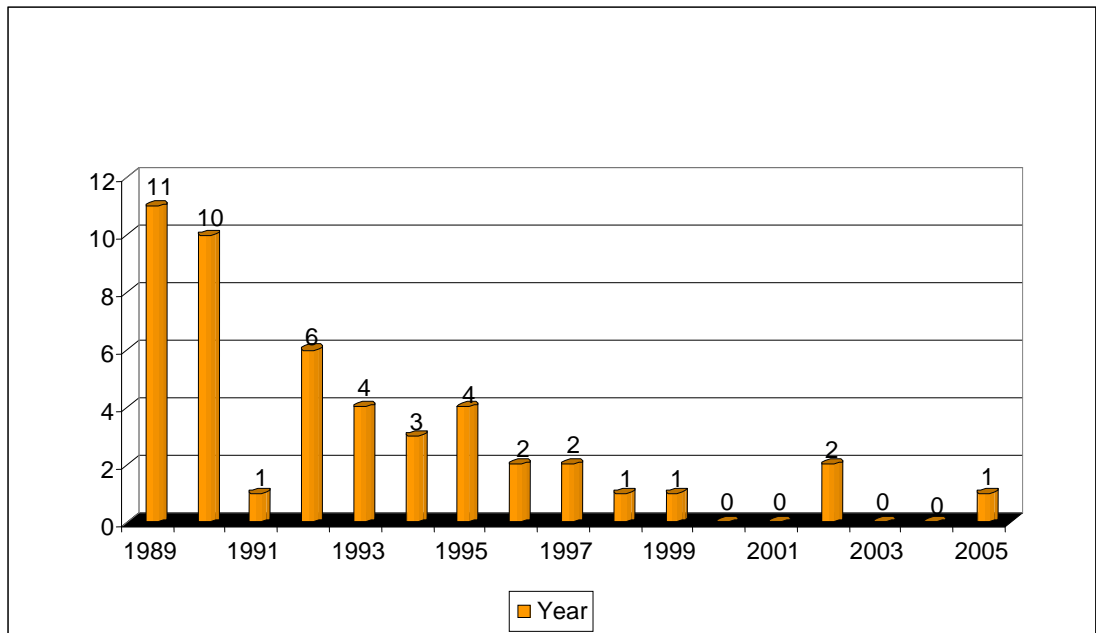
Article 110 of the Constitution enumerated the power and authorities of the Supreme Leader. According to provision 8 of this Article the problems and difficulties which cannot be solved by normal methods by the three branches of the State, shall be resolved by the Supreme Leader through the Expediency Council. The root of this Article dates back to the period of war between Iran and Iraq during which many emergency problems emerged which needed to be resolved in the shortest possible time. Since decision making through the normal process needed a long time and any delay might endanger the national interest of the country, dealing with these problems was referred to the Leader who was the only one that could identify an issue as a difficulty of the state and then refer that to the Expediency Council for discussion and making a decision. When Ayatollah Khomeini ordered a review of the Constitution, this capability of the Council for solving problems was mentioned in his order. Some writers

(Hashemi, 2000 and Mehrpour, 1992) criticised this process and stated that “solving difficulties of the system” without defining its limits was too dangerous as it might be misinterpreted by the Leader who has the exclusive right to identify what is the difficulty. The same problem also arose in the expression of “normal process” and paved the way for the creation of a parallel legislative power. In practice it appeared that executive bodies used this article to bypass the legislative power. If the executive power guesses that the Majlis or Guardian Council may reject its bills then it chooses to attain its aim through this process. For instance many laws regarding regulating land and properties, some crimes such as fraud, drug trafficking, banking policies, defining the jurisdiction of the judicial courts, and the Fourth Five-Year Development Plan which reasonably were possible to be dealt with through the normal process have been enacted by the Expediency Council under the title of the difficulties of the State (Hashemi, 2000 and Majma, 2008).

According to the interpretation of the Guardian Council, the enactments of the Expediency Council are compulsory and the Majlis or any other legislative authorities such as the Supreme Council of the Cultural Revolution or the council of ministers and the like are not allowed to enact laws or regulations incompatible with them.

The below figures show the number of difficulties which has been referred to the Expediency Council by the Supreme Leader. Although this trend has declined considerably, it has the potential to be deployed as an alternative legislative power for promulgating laws non-democratically.

Figure (4-7): Number of difficulties resolved by the Leader through Expediency Council (1989-2005)



Source: (Majma b, 2008)

*Difficulties of system mean those problems in political system which may not be solved through ordinary processes. These difficulties encompass a wide range of issues and only the Supreme Leader has authority to define whether a problem is a difficulty of the system or not.

**Data collected by Hassan Vakilian

6.2.2.2.2.4 General Policies of the system

Under the first and second provisions of Article 110 the Supreme Leader has the following duties and powers: delineation of the General Policies of the Islamic Republic of Iran after consultation with the Expediency Council and supervision over the proper execution of the General Policies of the system.

The important point is the meaning of General Policies. What does it mean? Are there any similarities or differences between this term and the *public policies* which is one of the key terms in the legislative studies literature? This is important because

usually the executive and legislature are involved in policy making and if we conclude that General Policies in Iranian Constitution means the same as in legislative studies literature then it means that instead of them the Supreme Leader is the policy maker.

Some commentators (Amirarjoman, 2002 and Zaraie, 2001) have tried to clarify the vagueness of this term which was used for the first time during the 1989 revision of Constitution. In the first draft which was prepared in the sub committee for defining authorities of the Supreme Leader, determining the goals and General Policies of the state after consulting with Expediency Council was suggested to be one of the privileges of the Supreme Leader. Also he should have the right to supervise the implementation of General Policies and finally to dissolve the Majlis after approval of the majority of the Expediency Council (Mashrohe Mozakerat, 1989). According to the minutes of the meetings of the aforementioned Council some members of the Committee supported that suggestion on the basis that only the Religious Leader has the right to lead the country in the right direction since he knows the Islamic rule better than anybody else. Should the Majlis fail to observe these General Policies, the Supreme Leader shall have the right to dissolve it (Daneshzadeh, 1989: 649,650). Some members of the Committee strongly disagreed with the privilege of the Leader to dissolve the Majlis but most of them accepted his right to delineate the General Policies of the state. Only a few people such as Hashemi Rafsanjani commented that delineating the General Policies made the Majlis and government meaningless because these were the assignment of the Majlis and the government's routine task (Hashemi Rafsanjani, 1989: 679). Finally the privilege of the Supreme Leader to dissolve the Majlis was deleted but his right to determine the General Policies remained nearly the same as suggested in the first draft. After revision of the Constitution, Ayatollah Khamenie even without consultation with the Expediency Council issued the General Policies of the Second Five-Year Development Plan of the country and this in turn added to the confusion of the meaning

of the General Policies because it was supposed that he should consult with the Expediency Council before delineating the General Policies. However later on he issued a decree to the Expediency Council and mentioned that a special office shall be established for providing the expert reports and information for examining the General Policies of the State.

Regarding the vagueness of the term General Policies, and reviewing the minutes of the meeting of the Council, Amir Arjomand argued that the General Policies meant “public policy” which should be delineated by the Supreme Leader through the Expediency Council (Amir Arjomand, 2002: 82). He quoted the Head of the Expediency Council’s idea about the meaning of the General Policies in his article as follow: The General Policies shall be essentially distinguished from regular statutes. It is not possible for any body to assign it to the executive bodies except the Supreme Leader. They are policies which should be reflected in the various kinds of laws and regulations, provisions which are enacted by the Council of Ministers and all state bodies should observe them in practice. For example no court can refer to these policies and they should issue verdicts on the basis of the laws. Those who enact laws or executive provisions shall do it according to these policies. Especially when government and Majlis want to formulate the Five-Year Development Plans these policies should be considered by them. Also both of them have an obligation to observe them when they prepare regular bills or proposals (Hashemi Rafsanjani quoted in Ibid: 82, 83).

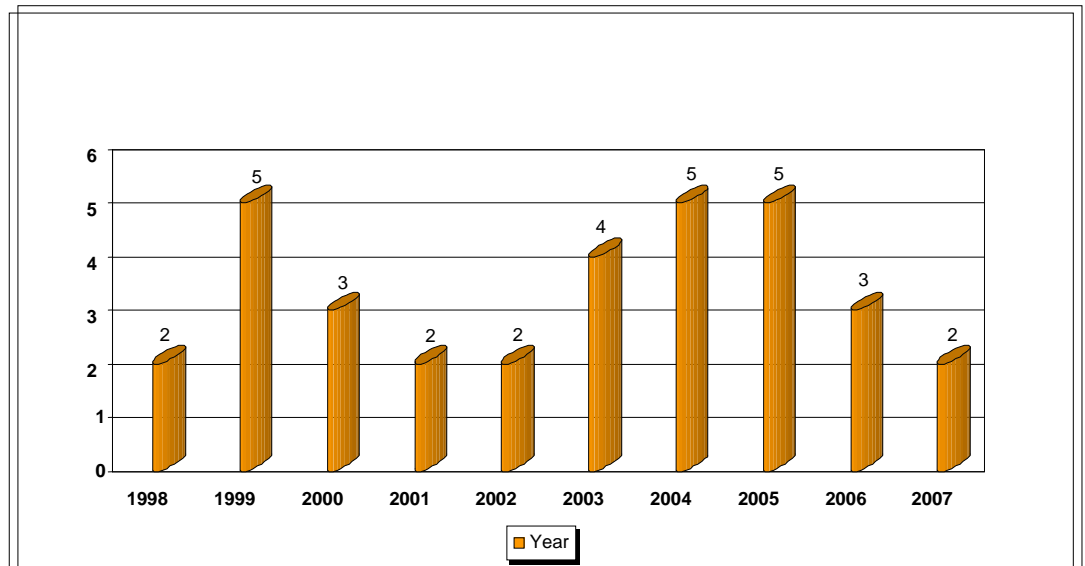
Despite many attempts, as Amir Arjomand put it, the meaning of the General Policies has remained unclear. He explains in his article that the Guardian Council rejected the enactment of the Majlis with recourse to the General Policies while it only can do so when the enactment of the Majlis has a discrepancy with the Constitution or Shari’a. He concluded that if the General Policies were interpreted so broadly, it

definitely would reduce the main branches of the government, particularly the Majlis, to subsidiary offices of the leadership institution (Ibid).

On the basis of reports provided by the Expediency Council (Majma, c, 2008) for implementing provision one of Article 110 of the Constitution, which concerns the duty of the Supreme Leader for determining the General Policies of the system after consulting with the Expediency Council, the advisory proposals presented have included: General Policies on oil and gas, the Third and Fourth Five-Year Development Programme of the Islamic Republic of Iran, General Policies on transportation, national security as well as many other important subjects in different policy areas.

The graph below shows the number of the General Policies which have been delineated by the Supreme Leader through the Expediency Council.

Figure (4-8): Numbers of General Policies* of the State delineated by the Leader through the Expediency Council (1998-2007)



Source: (Majma, d, 2008)

*General Policies are the general approaches of the system which are determined by the Supreme Leader after consulting with Expediency council. All branches of government have to act within the guidelines of these approaches.

**Data collected by Hassan Vakilian

To sum up, it might be said what the Expediency Council and some other quasi legislative institutions do in practice, i.e. to enact laws and regulations, has weakened the law making function of the Iranian parliament. As Rasekh (2008: 73, 74) mentioned:

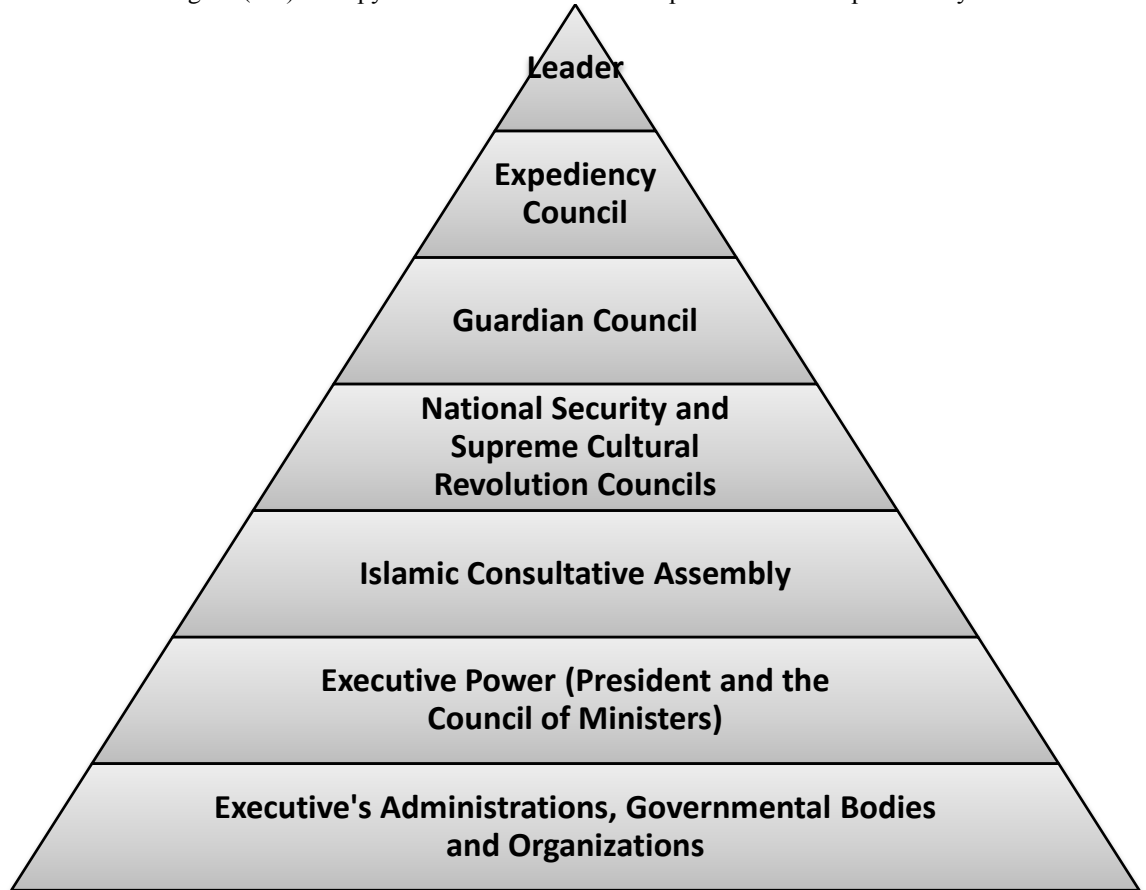
“On one hand there is an official unelected rival to the Parliament (Majles). The Majles consists of representatives of the people and according to the constitution is the sole competent legislating authority. Members of the rival institute, namely the State Expediency Council, are all appointed by the absolute Guardian and despite its mandate – that is, to play the role of an umpire in cases where there is a tie situation between Majles and the Council of Guardians concerning an enactment - in many cases changes the enactments of Majles and indeed legislates. On the other hand, there are dozens of various supreme councils, such as the supreme Council for national security that indeed pass laws and regulations”.

In fact many important and controversial policies, specially the major economic plans which normally should be brought into parliament for enactment, have been approved in other bodies which do not have law making jurisdiction. That is why some authors (Mezey and Olson, 1991: 1) believe that in developing countries “legislatures play less of a policy making role than the modal European case. The consensual view was that these legislatures exist for the primary purpose of providing a democratic façade for the authoritarian political system.”

The pyramid (Figure 4-9) indicates the main decision making stratification in the Iranian political system. As we can see the unelected institutions which are fully under the control of the Leader, stand above the elected institutions. Yet it should be explained that the ranking of the Majlis and executive power at least in real politics may be

changed according to their political attitude as we will examine in detail in the next chapter.

Figure (4-9): The pyramid of decision makers' power in Iranian political system



Source: Zarei, 2001: 199

6.3 The function of scrutinizing the executive power and its administrations

Another primary function of legislatures is monitoring executive power and administrative offices of the state in terms of their efficiency, probity and fidelity. Different legislatures usually have the right to oversee the activities of the executive power because they have to make sure that policies which had been enacted in parliament have been implemented properly and consistently with the intentions of the law makers.

Such as with other functions of legislatures, the power of the parliament for supervising the executive power depends on many internal and external variables. For instance the constitutional arrangements or the form of the political regime whether it is parliamentary or presidential may be definitive.

The oversight function of the parliament may be exercised through questioning the President or prime minister and members of the cabinet on the floor or hearing in specialized commissions or establishing ad hoc committees for investigating specific subjects and so on. In the relationship between parliament and the executive power there are many ways by which parliament may exercise this function:

6.3.1 Question time

In most political systems, the president or prime minister and ministers have to be present in parliament to answer the questions of the parliamentarians. In the Iranian political system, whenever at least one-fourth of the total number of representatives of the Islamic Consultative Assembly have a question to ask of the president, or any of the representatives from the responsible ministries on a subject relating to their duties, the President or the minister concerned, as the case may be, shall be required to appear before the Majlis and answer the question. Such answers shall not be delayed for more than one month in the case of the President, or more than ten days in the case of the ministers, unless there is a plausible excuse, as decided by the Majlis. Despite the President never being questioned by parliamentarians until now (Seven Majlis), ministers have been summoned to the parliament many times, though the members of the parliament always complain about the ministers who rarely appear before the Specialized Commissions or hardly give satisfactory answers to the questions of parliamentarians (Khatamai and Maidari, 2007).

Table (4-2): The number of questions by deputies over the seven sessions of the Majlis

The session of the Majlis	The number of questions by deputies
First Majlis	124
Second Majlis	83
Third Majlis	16
Fourth Majlis	51
Fifth Majlis	82
Sixth Majlis	155
Seventh Majlis	102

Source: see raw material in publication of Islamic Consultative Assembly (2008)

*Data collected by Hassan Vakilian

6.3.2 Investigation

The Majlis is authorized to conduct investigations and verifications in connection with all affairs of the country (Article 76). But Article 198 of the Internal Regulation of the Islamic Consultative Assembly excludes all institutions which are under the authority of the Supreme Leader. In other words, parliamentarians are not authorized to monitor important political institutions such as the Guardian Council and Council of Experts or economic institutions such as different kinds of foundations (Bonyads) which constitute the main part of the public sector economy and all armed forces, all of which are under the control of the Supreme Leader. Yet in the Sixth Majlis after affirmation of the Supreme Leader Ayatollah Khamenie, the Majlis had the opportunity to launch an inquiry into the financial affairs of the Islamic Republic of Iran Broadcasting which was controlled by the pro-Conservatives who were alleged to have abused the Iranian National Radio and Television organisation in favour of Conservatives.

Therefore the scrutiny function of the Iranian Parliament is limited to the executive bodies and administrations.

Table (4-3): The number of requests of the deputies for investigating the Executive offices over seven sessions of the Majlis

The session of the Majlis	The number of requests of deputies for investigating the Executive offices
First Majlis	0
Second Majlis	0
Third Majlis	13
Fourth Majlis	16
Fifth Majlis	13
Sixth Majlis	28
Seventh Majlis	19

Source: see raw material in publication of Islamic Consultative Assembly (1986-2008)

* Data collected by Hassan Vakilian

It is noteworthy that the investigatory functions of the parliament can be applied through relevant Specialized Commissions which have jurisdictions parallel to government administrations and mentioned in the Internal Regulation of the Majlis.

6.3.3 Impeachment and vote of no confidence

This is the ultimate power of the parliament which is mentioned in Article 89 of the Constitution under which the deputies of the Majlis may impeach the council of ministers or any of the ministers in cases deemed necessary by them. Also in the second part of this article it is stated that one-third of the representatives may impeach the president in respect of the discharge of his duties of management of the executive power and running the executive affairs of the state.

Parliament has used this power several times against ministers, especially in recent years when factional conflicts and clashes have increased; however it was never used

against the President. But in the Seventh Majlis, reformist parliamentarians started collecting signatures in the Majlis and demanded the impeachment of President Ahmadinejad. For doing so it required the signatures of 72 deputies; in the face of strong resistance of the majority new Conservatives of the Seventh Majlis they could collect only 38 signatures and the attempt failed (BBC News, 2007). Impeachment is a very efficient tool in the hands of the Majlis to put pressure on the government which has no majority in the parliament. The Seventh Majlis had intended to use impeachment against Khatami's cabinet. In the last year of Khatami's second term in office, New Conservatives who won in the Seventh Parliamentary Elections in 2004 impeached the Minister of Transportation, and gave a vote of no confidence to the new nominee for the job. Impeachment votes against the Ministers of Education and Interior Affairs, who were important to Khatami's reformist policies, had also been on the agenda but the Supreme Leader Ayatollah Khamenie ordered the parliament not to continue impeaching members of President Khatami's cabinet. He mentioned in his letter that it is not "fruitful" in the final year of Khatami's office (*Karnamee Sale Avvale Majlese Haftom*, 1383, [2005]).

Table (4-4): The number of impeachments by deputies over seven sessions of Majlis

The session of the Majlis	The number of impeachments
First Majlis	2
Second Majlis	0
Third Majlis	3
Fourth Majlis	2
Fifth Majlis	3
Sixth Majlis	5
Seventh Majlis	3

Source: see raw material in publications of Islamic Consultative Assembly (2008)

*Data collected by Hassan Vakilian

6.3.4 The Commission of Article 90

There is a permanent Specialized Commission in the Iranian Parliament through which the investigative power of the Majlis can be applied to other branches of the government particularly the executive power.

Anyone having a complaint against the manner in which the Majlis, the executive or judiciary is carrying out its functions, may submit a complaint in writing to this Commission. It shall then be bound to examine the complaint and give an adequate reply. In case the complaint relates to the executive or the judiciary, it shall demand proper investigation and they must reply to the commission, and then the results should be announced within a reasonable period of time; in cases where it relates to the public, the Majlis shall inform the public at large (Article 90 of the Constitution). The Commission of Article 90 has not been influential from the time it was established, however during the Sixth session of Majlis in which the Reformists had a majority, many complaints were presented especially regarding the performance of the judiciary and the members of commission tried to use their constitutional power and authority but most of their activity was frustrated. The judiciary is under the full control of the Supreme Leader and the Commission was denied the opportunity.

Table (4-5): The number of complaints presented before the Commission of Article 90

The session of the Majlis	The number of complaints presented before the Commission of Article 90
First Majlis	115438
Second Majlis	40925
Third Majlis	32077
Fourth Majlis	51305
Fifth Majlis	21540
Sixth Majlis	35971
Seventh Majlis	-

Source: raw material in publications of Islamic Consultative Assembly (2005)

*Data collected by Hassan Vakilian

6.3.5 The State Audit Office

The State Audit Office is another instrument by which parliament examines or audits, in the form which is stipulated by law, all accounts of ministers, government companies, institutions and other organizations which in any manner whatsoever benefit from the state budget, to ensure that no expenditure exceeds credit allocations and that each sum has been spent for its allotted purposes. The State Audit Office shall collect accounts and relevant papers and documents according to law and submit each year's budget liquidation report together with its own comments to the Islamic Consultative Assembly. Such reports must be made available to the public (Article 55). This Office is one of the parliamentary bodies and operating under the direct supervision of the Islamic Consultative Assembly. The power of this Office for scrutinizing the executive administrations mostly depends on the power of the whole Assembly.

6.4 Recruitment function

Another function of the parliament in Iran as with many other legislatures is training and preparing political activists for executive offices. Through parliamentary activities, deputies gain some precious experiences and “learn the norms of elites, they learn political skills, and they acquire visibility and prestige resources which are useful to them in acquiring, maintaining and utilizing these other roles” (Packenham, 1990: 90).

Paying close attention to the Table 4-6, it shows that apart from the first term of the Islamic Consultative Assembly during which 13 cabinet ministers came from the Majlis, the recruitment function of parliament is weak. The President prefers to appoint his colleagues through personal contacts and traditional networks. Due to the absence of modern political parties, government officials usually come from informal and personal circles of politicians.

Those parliamentarians who want to start working in executive offices cannot stay in parliament and have to resign. The table below shows just how this function of the Iranian Parliament is not very strong:

Table (4-6): The number of deputies recruited for executive office

The session of the Majlis	The number of deputies recruited for executive office
First Majlis	13
Second Majlis	0
Third Majlis	6
Fourth Majlis	2
Fifth Majlis	3
Sixth Majlis	2
Seventh Majlis	2

Source: Publications of Iranian Islamic Consultative Assembly (2008).

*Data collected by Hassan Vakilian

6.5 Legitimizing function

Popular consent is strongly required for the political system to survive (Judge, 1993). Parliaments as elected institutions are very important in terms of legitimizing the political system. “Simply by meeting regularly and uninterruptedly, the legislature produced, among the relevant populace and elites, a wider and deeper sense of the government's moral right to rule than would otherwise have obtained” (Packenham, 1990: 87). Also by giving approval to the bills of the executive power on behalf of the people who elected them, they legitimize the policies of the government. As Mezey noted “[l]egislatures, could have the effect of mobilizing public support for the regime and thereby of legitimizing the whole political system” (Mezey, 1979: 4, 5).

It seems in countries such as Iran, whose political system is a collection of democratic and non democratic institutions, parliament “by providing the symbols if not always the reality of democracy, can engender support for the regime” (Mezey, 1983: 527). Explaining the functions of the Third World countries Mezey believed that “if legislatures were not central to law making yet continued to exist, they had to be performing some other functions for the political systems in which they persisted. Such a line of inquiry yielded several alternative non law making functions, the most important of which centered on the legitimizing effects of the legislative institution” (Ibid: 512).

The table below shows the considerable number of plenary session of the Majlis in each term. The plenary sessions of parliament have been held at least three days a week and as a result the numbers of parliamentary resolutions are high:

Table (4-7): The number of plenary sessions over seven sessions of the Majlis

The session of the Islamic consultative Assembly	The number of Majlis plenary sessions
First Majlis	625
Second Majlis	540
Third Majlis	489
Fourth Majlis	426
Fifth Majlis	387
Sixth Majlis	432
Seventh Majlis	428

Source: raw material in publications of Islamic Consultative Assembly (2008).

*Data collected by Hassan Vakilian

In plenary session, a large amount of time is allocated to the speeches of the members prior to the deliberation process. If one considers the contents of speeches which were presented in the plenary sessions by deputies, one rarely can find those speeches which criticize the behaviour of the real power centres such as leadership institutions or the bodies dependent on them. In particular if exceptionally parliamentarians criticize the Supreme Leader they put at least their jobs at risk. For instance this was the case of Akbar A’almi who served in the Majlis for three consecutive terms (Fifth, Sixth, and Seventh). He attacked the Supreme Leader because of the Guardian Council’s approach toward the Eighth Parliamentary Elections and said “the Supreme Leader is equal to others in the eyes of the law, meaning that, in proportion to their powers, the Supreme Leader and his appointees are responsible to the people and must answer for their actions.” A’alami added, “According to Article 111 of the Constitution, if the Supreme Leader is unable to observe his legal duties or comes to lack any of the characteristic mentioned in Articles 5 and 109 of the

Constitution, he is by default demoted and removed from his position” (Roozonline, 2008). Due to his open criticisms the Guardian Council disqualified him to stand in the Eighth Elections.

7. Conclusion

In this chapter the Iranian Parliament was examined in the Islamic Republic Era. As with parliament in the pre revolutionary era, the role of the political forces was briefly explained and their influence upon the political structure was shown. It was stated that while the secular factions either with liberal or left attitudes were excluded from participation in political activities, the Islamic fundamentalists, including right wing (Conservatives) and left wing (Radicals) under the charismatic leadership of Ayatollah Khomeini, took control of the major political and economic institutions and ousted the other political parties from the centres of power. The Iranian revolutionary Constitution ultimately was written and established according to the religious and theocratic ideas of Ayatollah Khomeini within which the Leader was deemed have absolute power in the realm. Nevertheless since the first draft of the constitution was prepared by the more secular intellectuals some secular ideas remained in the Constitution and therefore a kind of contradictory constitution was established in 1979. Although the separation of powers was embedded in the revolutionary Constitution, it was too far from the real separation of powers principle recognized in democratic countries according to the Montesquieu doctrine. In the next step, the duality of the political power which is reflected in the Constitution was analyzed and it was stated that this duality originated from the heterogeneity of the political forces behind the Islamic Revolution. As a result of this heterogeneity two types of political institutions were established each of which possesses different amounts of political power and authority. The executive as an elected institution acts as an agent of the absolute religious Leader. Also the parliament,

whose members should be elected directly by the people, is surrounded by the two institutions which have members not directly elected by the people. The Expediency Council and the Guardian Council which are under the full control of Supreme Leader have a wide range of authority and political power. It was explained that in the pyramid of decision making power in the Islamic Republic unelected institutions have the upper hand over elected institutions such as the executive and parliament.

After explaining the key characteristics of the Iranian political system according to the Constitution the place of the executive power was discussed in detail and then the Iranian political regime was analyzed. It was concluded that the political regime in Iran is composed of three models of presidential, parliamentary and hybrid regimes. In fact it is compatible with none of them while it has some elements of each. It was seen in the relationship between parliament and the executive the first one has tremendous power vested in it. In fact many instruments were created in the Constitution which ensures the supremacy of the parliament and its priority over the executive.

In the next step, the place of the parliament was studied and it was stated that the Iranian Parliament is formally a unicameral legislature but one which in reality has two elements: the Islamic Consultative Assembly and the Guardian Council without which the Islamic Consultative Assembly has no validity. The different functions of the Iranian Parliament including representation, law making, scrutiny, recruitment and legitimizing were examined and it was stated that the executive (elected institution), Guardian Council and Expediency Council directly impact upon law making function of the parliament as well as its other functions. The executive plays the main role in formulating and introducing bills in the first stage of the law making process, while the power of the parliament particularly in financial proposals has been limited. But parliament in the deliberation and enactment stages has no constraints in terms of amending the government's bills.

The main limitation of the parliament and even the executive as elected institutions is located in the final stages of the law making process. It was explained that the Guardian Council, whose members are directly or indirectly appointed by the Supreme Leader, has different kinds of functions. For instance it has approbatory power in various kinds of elections including presidential and parliamentary elections. Through this authority it can influence the parliament's representation and law making functions. In terms of the law making function of the parliament it can veto the enactments of the parliament whether due to its discrepancy with Shari'a or incompatibility with the Constitution. It was shown statistically how many government bills and parliamentary proposals have been rejected by the Guardian Council. In fact it is the Supreme Leader who controls the power of the parliament through the Guardian Council. It was mentioned that the Guardian Council has historical roots in the Iranian political system and originated from traditional social forces in Iranian society.

Another institution which is directly involved in the law making function of the parliament is the Expediency Council. The historical background of this institution was analyzed and it was mentioned that it was essentially formed to mediate between the Islamic Consultative Assembly and give advice to the Supreme Leader. But in practice the Expediency Council, most of whose members are appointed by the Supreme Leader, has extended its powers and authority to legislation and acting as a legislative body. Also according to the Constitution, the Leader has the right to determine the General Policies of the political system after consulting with the Expediency Council. Both the executive and parliament have to observe and act within this framework. The activities of this institution were examined statistically and it was shown that the Expediency Council can greatly intervene in the law making process.

To sum up, it can be said that Iran has a contradictory constitution within which the main power is vested in the Religious Leader. Constitutionally the parliament has

supremacy over the executive but practically both of these institutions are subordinated to the Supreme Leader and the institutions which act on his behalf. In fact for understanding parliamentary behaviour we have to consider the unelected institutions which represent the real power centre which arguably are the main players in the law making process of the Iranian Parliament. In the next chapter the interactions of these institutions involved in the law making process will be considered in terms of real politics.

Chapter Five:

The Majlis in practice

1. Introduction

In previous chapters, the constitutional context within which the Iranian Parliament is supposed to operate was explained mostly through analysing the Constitution. Although analysing the law making power of the Majlis according to the Constitution is crucial, the picture of the Majlis in real politics is still not clear: To what extent is the Iranian Parliament really relevant during the interactions with other institutions involved in law making process? Is it able to implement its full power and authority?

Obviously to answer to these questions, we need to examine the parliamentary sessions after the revolution and test different hypotheses which we have already proposed. For doing so, the Sixth and Seventh Majlis were chosen because the dichotomy of the Conservatives/ Reformists as rival factions in parliament emerged from the Sixth term of parliament. Reformists dominated the Sixth Majlis and the Conservatives were in a minority. In the Seventh Majlis this situation changed and New Conservatives dominated the Majlis and Reformists were in a minority. Therefore through comparing and contrasting these two Majlis different hypotheses of the research can be tested. Also the scope of the thesis is limited to the budget policies during the aforementioned terms of the parliament; the reason for choosing this area will be discussed in the following pages.

2. Why the annual budget bill?

The annual budget bill as a short term plan of the country is one of the most important tools of macroeconomic management and resource allocation which normally is vested in the hands of officials of the executive.

Like some OECD countries that are trying to expand the power of their legislatures in the budget process “in developing and transition countries, too, there is a trend towards legislative budget activism, reflecting the process of democratization and the opening up of possibilities for legislative involvement in what was previously closed budgetary systems” (Stapenhurst, 2004: 3). Therefore the budget process becomes more and more critical since the confrontation of the legislature and executive take place in this process and they challenge each other’s power.

As Leston-Bandeira (2004: 103) has mentioned in her work, the budget season is one of the very important occasions through which the law making power of the legislature can be assessed accordingly. Every year in a specific time government should submit the budget bill and parliament must review the annual revenue and expenditure proposals. The budget bill is the annual plan of the government and is supposed to be a comprehensive statement of the nation’s priorities and parliament must make sure that the government’s bill has been prepared appropriately; otherwise, depending on the level of the parliament’s power, parliamentarians can show their disagreement. For instance the most powerful legislatures (such as the US Congress) are those that have the ability to draft a new budget bill and are able to alter expenditures and revenues in either direction, without the consent of the government: “the president’s budget only serves as a benchmark for the subsequent congressional action. Congress has unlimited power to make amendments to the president’s budget. Congress uses these powers extensively and designs its own budget. This power

founded in the constitution states that no money shall be drawn from the Treasury, but in consequence of appropriations made by law” (Blondal, 2004: 464). On the other hand there is another category of legislature (mostly the Westminster model) that has little impact on the budget bill or has ceased to exercise any influence on budgetary policy, and just gives assent to the executive draft budgets without any changes. For instance in the UK members of the the House of Commons are not able to increase expenditure or revenue items: “The House of Commons lacks effective power to increase or change the government’s expenditure estimates. Its main option for changing substantially the expenditure estimates would be to bring down the government via a vote of no-confidence. This has never happened in recent United Kingdom history, mainly because the Cabinet and the ruling party’s whip ensure that party unity is maintained” (Ibid: 422).

Therefore it seems that the number of the amendments that legislatures make to the budget bill constitutes an important yardstick which helps us to examine the law making power of the Iranian parliament.

3. Legal framework

In Iran as in many other countries, there is a legal framework within which the jurisdictions and functions of the government branches are defined. The laws that support the annual budget processes set a framework for the power struggles between legislature and executive. Legislatures approve annual budgets and receive different kinds of reports on budget execution. Executives prepare and submit national budgets to the legislature, implement the budget, and prepare accounts and fiscal reports. From a normative point of view to what extent is the legislature allowed to dictate the “rules of the game” during the budget process?

For knowing the law making role of the Iranian Parliament during the budget process, it is necessary to study the pyramid of related laws within the Iranian legal system. For doing so, the following three groups of laws and regulations will be examined: Constitution, organic laws, ordinary laws.

3.1 Constitution

The Constitution, as we have seen, is the most important official document in countries whose legal system is Roman-German and is the main place for understanding the system of separation of powers and authority of the different branches of political power. The constitutions specify the general rules of the executive and legislature, including a few essentials of the budget process. In other words, they often contain at least a few provisions related to the budgetary system which defines the ways that the budget system should operate. Regarding the role of the Islamic Consultative Assembly during the annual budget process, Article 52 of the Iranian Constitution states that: “the annual state budget shall be drawn up by the government in the manner provided by law, and be submitted to the Islamic Consultative Assembly for its review and approval. Any amendments, whatsoever in the figures of the budget shall also be subject to the provision of law”.

As can be seen, the Consultative Assembly is permitted to amend the annual budget bill which is prepared by the executive power, however, the limitations of these amendments shall be defined by other groups of laws and regulations.

Apart from that, Article 75 of the Constitution limits substantially the power of the representatives for amending the budget bill. Under this article, members' proposals and amendments to the executive bills leading to a reduction in public revenues or an increase in public expenditures may be presented to the Consultative Assembly only if they also include ways and means of making good the reduction in income or obtaining new revenues. But some writers (Fayazi and Lameai, 2007) believe that from the

perspective of the Guardian Council, which has the right to interpret the articles of Constitution, Article 75 is not relevant to the annual budget bill: “Article 75 does not address the member of Majlis’ proposals regarding the budget bill” (the interpretation of The Guardian Council quoted in Fayazi & Lameai, 2007: 4). It means that representatives of the Assembly have permission to change and amend the budget bill which is prepared by the executive power without any limitation. Despite this, the limitation of representative power during the budget process might be found in other groups of laws and regulation. This is possible because as it was said before, the power of the representatives to amend the budget bill shall be subject to the provision of laws which might be organic laws or ordinary laws.

3.2 Organic laws

Not all enactments of the parliament have equal importance and validity. In the pyramid of laws and regulations some of them directly help to exercise the articles of the constitution and also have a special procedure for their adoption and their alteration. These types of laws which normally are higher than ordinary laws and regulations and have priority over them are called organic laws (Blondal, 2004).

In the Iranian legal system, Internal Regulations of the Islamic Consultative Assembly and the Five-Year Development Plans are deemed organic laws which shall be considered in terms of the power of the Assembly's representatives:

3.2.1 Internal Regulations of the Islamic Consultative Assembly

After the Constitution, the Internal Regulation of the Assembly is one of the important legal frameworks which define the procedure of the operation of the Assembly. According to Article 65 “After holding the elections, the sessions of the Islamic Consultative Assembly be validly held with a quorum of two-thirds of the total number of representatives. ... For approving the Internal Regulations the votes of a

majority of two-thirds of those present shall be needed.” This especial quorum indicates that Internal Regulation of the Iranian Parliament is higher than the ordinary laws.

Reviewing the Internal Regulation of the Assembly one can see many important provisions which define the role of the Assembly during the budget process. Under provision 3 of Article 33, considering the annual budget bill is one of the main functions of the Specialized Commissions. Moreover according to Article 213 for examining the annual budget bill vigorously an ad hoc commission called the Consolidation Commission shall be constituted every year after the submission of the budget bill by the executive power.

Apart from a time limitation for submitting the new proposal by the parliamentarians there is a significant limitation for deputies to amend the budget bill. According to Article 224 of the Internal Regulation, all motions and proposals of the individual representatives and Specialized and ad hoc Commissions shall not have any discrepancy with the Five-Year Development Plans as a mid-term plan of the country. Other than this restriction, it seems that there is no limitation in the Internal Regulation for the parliamentarians to change the executive budget bill.

3.2.2 Five-Year Development Plans

There are two types of development plans in Iran: the annual budget bills as short term plans and Five-Year Plans as mid-term development plans. The Five-Year Development Plans explains the mid-term objectives and necessary actions for reaching these objectives.

Government planning has played an important role in Iran’s economy. Since the late 1940s the government has designed and implemented multiyear planning programmes with the goal of industrial diversification which has extended until now. After finishing the war with Iraq, which lasted eight years, many efforts were made to turn the

economic situation to a peacetime basis. A special committee was formed for providing the First Five-Year Development Plan (1989-/90- 1993/4) which consisted of sets of qualitative objectives with macroeconomic targets. This plan which was approved by the Majlis in January 1986 “provided an important framework within which government could embark on a program of structural reform and economic liberalization” (Shokoohi, 1996: 35). Following the first one, the Second, the Third and the Fourth Development Plans were approved by the Majlis with the same goals for reconstituting the country, especially in the macroeconomic area. In other words until now many of Iran's budget bills have been guided by the frameworks and targets of these Four Five-Year Development Plans. These frameworks define the macroeconomic aggregates, establish the overall revenue and spending targets, broad sector spending priorities, and set the direction of expenditure management policies. They are used as a constant point of reference in preparing and justifying budget proposals, and deviations from the plan are monitored and reported to parliament according to them. The implementation of development plans is one of the main tasks of the executive agencies and the President is required to give progress reports to parliament regarding their implementation every year. These development plans establish a relatively coherent framework based on consensus among ministers and parliament on the key economic matters. As mentioned before, it has priority over annual budget bills and parliamentarians are not allowed to submit proposals which are not compatible with that during the deliberation of the annual budget bill.

3.3. Ordinary laws and regulations

These are the rules whose subject matters are not mentioned in the constitution or organic laws and are passed by a simple majority of the Majlis. Different ordinary laws and regulations govern the budget process in Iran of which the most important are:

3.3.1 Plan and Budget Law

The Plan and Budget Law was approved in 1972 and only minor amendments have been made in it since then. This law contains ten chapters which mostly define the procedures of preparation and formulation of the annual budget bill. According to Article 4, the head of the Plan and Budget Organization should be appointed by the President, and in accordance with Article 6 the deputy heads of the Organization are proposed by the head and must be approved by the President. On the basis of Article 5 the most important functions of the Plan and Budget Organization are as follows: Carrying out studies and economic surveys, preparation of long term economic programmes, drawing up the Five-Year Development Plans, suggesting budget policies to the Economy Council, preparation and compilation of the budget, supervision of development plans, harmonization of statistical methods and programmes of the country and assessment of the efficiency of executive agencies.

The Plan and Budget Law is the most important normative source for the process of formulating the annual budget bill but it is silent about the parliamentary stage of the budget process and concentrates on the tasks and functions of the executive power.

3.3.2 State Budget Auditing Law

This law was approved for the first time by the National Consultative Assembly at the beginning of the formation of the Constitutional Movement, and has been amended several times since then. The latest amendment was made by the Islamic Consultative Assembly in 1987. Since that time some changes have been made in different articles of the law. The most important parts of this law are the definitions of budget, ministerial bodies, government institutes, non-governmental public institutions, fiscal year, credit, articles of expenses, public revenues, government's receipts, other sources of financing,

public funds, special income, income of government companies and so on. It also has some articles regarding the implementation of the annual budget bill and financial supervision.

To sum up it might be said except for the Five-Year Development plans as organic law which define the limitations of the annual budget bill and limit the law making power of the parliamentarians, in other laws and regulations which are directly about the annual budget bill, there is no prescription which limits the power and authority of the parliamentarians during the process of reviewing the annual budget bill.

4. Review of the budget process

Normally the budget process consists of: preparation of the draft of the budget bill and submission of it to the legislature, the parliamentary stage within which the government's bill is discussed in detail in parliamentary commissions and finally ratified on the floor either with amendment or without any changes. The next step is the implementation of the budget bill which is the responsibility of the executive power. The penultimate step is dedicated to the right of the parliament to control the implementation of budget bill by the government and eventually, in the final stage it is the turn of the independent external audit office to audit the financial accounts.

In the Iranian budget system the main branches of government are involved in all phases of the budget process. The executive prepares the budget bill. Thereafter the legislature examines and adopts the executive proposals. The executive has responsibility for implementing the bill which has been ratified by the legislature and at the end either the judiciary or legislature can investigate and monitor the implementation of the annual budget bill by the executive power. In this research we

want to focus on the two steps i.e. preparation of the annual budget bill by government and the second stage i.e. the parliamentary stage.

4.1 The role of the executive power in the budget process

The executive power as one of the main branches of the political system in Iran consists of several departments which are administered by ministers who are appointed by the President and approved by the Majlis. There are different types of organs and entities under each ministry; some of them are directly under the ministries, while others are supervised by the ministers or nominally controlled by them. These include departments, public institutes, state banks, and social security organizations. It should be noted that since the Constitution prescribed that the President and his cabinet ministers collectively and individually are held accountable to the Majlis, all governmental organizations must be affiliated with one of the ministers or the office of the President, unless they are under the control of the Supreme Leader.

As we mentioned before according to the first part of Article 52 the executive has responsibility for preparing and compiling the annual budget bill. The Management and Plan Organization and Ministry of Economic Affairs and Finances are under the presidency and play the main role during the budget process. The first step of the budget process begins with the Circular issued by the President. This Circular should be prepared by the Management and Plan Organization (MPO), and then be approved by the Economy Council. The Budget Circular is the most important part of the budget process because it consists of policies, the general principles envisaged for the budget of the following year, the ceilings of incomes and expenses of the budget, time schedule, forms and instructions used for preparation of the budget. The Management and Planning Organization (MPO) whose director is appointed by the President plays a very critical role during the budget process between the legislative power and executive agencies. Occasionally parliament is involved in this step of the budget process. For

instance in 2005, the head of the Budget and Plan Committee wrote a letter to the parliament speaker and mentioned the key items which the executive power should consider for preparation of the next year's annual budget bill (Panahi, 2008 interview 25 February).

After receiving the Circular, central budget offices of ministries and other entities and their sectors, specify instructions and send them to spending units. In the next step, the ministers and head of spending units discuss the priorities and budget instructions and then spending units prepare their budget requests and send them to their main ministry. The central offices of ministries review and compile the budget of various spending units and prepare each ministry's request. MPO's specialized offices for each ministry which have responsibility to review the proposed budget of each executive agency study them and after consultation and negotiation with the relevant ministry confirm their annual budget. The consolidated budget of all agencies will be presented to the cabinet for its review and approval. Following the changes made in the budget bill by the cabinet, the Management and Plan Organization prepares the final budget bill and, together with its attachments, sends them to the President for presentation to the Islamic Consultative Assembly (Farzib, 2001: 35-48). The annual budget bill which should be submitted to the Majlis usually consists of the "president's speech to the Parliament, one short volume containing the budget notes, the main volume of the budget, which include summary tables, sources, and uses ([t]his was 1030 pages in 2002/3, and is what is usually referred to as the budget); Appendix 1 listing development projects; Appendix 2 containing the provincial budget; and Appendix 3 with summary budgets of public enterprises and banks" (The Islamic Republic of Iran, 2005: 56). In fact, in this time the first phases of the budget process i.e. preparation and formulation of the annual budget bill by the executive power come to its end. In 2007 President Ahmadinejad despite the objections of many experts (Pajoyan, 2006)

dissolved the Budget and Plan Organization, which was at least 60 years old and had played the main role in the preparation and formulation of the annual budget bills, and brought it under his direct control.

4.2 The role of the Islamic Consultative Assembly in the budget process

Like other legislatures, the legislative oversight of the Iranian parliament over the budget is one of the very important functions of the Majlis. It might be said that legislatures which are not seriously involved in the annual budget are ineffective legislatures. Parliament's power of the purse is applied by the internal organizations and divisions that work within them. Once the annual budget bill is submitted to the Majlis it will be passed to the Specialized Commissions and then the budget Consolidation Commission, each of which may propose their own amendments. When the amendments are accepted in the plenary session, it will be sent to the Guardian Council for approval. If no discrepancy is found between the budget bill and the Shari'a and Constitution, it will be submitted to the executive power for implementation, otherwise if the Majlis and the Guardian Council dispute the budget bill then the Expediency Council has the main role in determining the destiny of the budget bill. These stages will be examined in detail in the following pages.

4.2.1 Specialized Commissions and budget bill

“As Laundry notes, ‘[a]ll parliaments work to a greater or lesser extent through committees’ ” (Longley and Davidson, 1998: 21). The committee stage in the budget process is a very crucial moment which can define the fate of the budget bill in parliament. Where committees or commissions are powerful, there is more chance for parliamentarians to go into technical detail and review the plans and estimation of the government. The amount of time dedicated to commissions for debating a government's bill, and the interaction between them, as well as the commission's access to

independent research and departmental information are among the most important factors which define the power of the commissions.

In fact parliament is a critical institution which can influence the annual budget bill through its Specialized Commissions over a period of 2-3 months. There are 14 Specialized Parliamentary Commissions and every parliamentarian should register for one of them and most of them are involved in the first part of the budget process in the Majlis. Twelve Commissions are directly involved in the budget bill which consists of: Training and Research Commission, Social Commission, Economic Commission, Social Security and Foreign Policy Commission, Energy Commission, Plan and Budget and Accounting Commission, Sanitation and Treatment Commission, Industry and Mines Commission, Development Commission, Culture Commission, Legal and Judiciary Commission and Agriculture, Water and Natural Resources Commission.

These commissions are able to meet when no plenary debate is scheduled. According to the Internal Regulation of the Assembly the annual budget bill shall be examined in parliament in three stages: in the first stage the executive proposal will be debated in the 12 Specialized Commissions. Deputies shall submit their motions and amendments within 10 days to these Commissions. Their proposals will be debated as far as it does not contradict the Constitution, or Five-Year Development Plans. Apart from the aforementioned limitations there are no constraints for the members of the Commissions to change or amend the budget bill. At this stage usually they add or remove some lines of the bill which are totally in contrast to the government's will. It was stated (Haddad Adel, 2007: 3) during the consideration of the budget bill of 2006/2007 that parliamentarians proposed approximately 6000 proposals, among which 2549 proposals were published and 347 were debated in the plenary session. Specialized Commissions shall investigate the parliamentarians' proposals within ten days and submit their report to the Consolidation Commission. The sessions of the Specialized Committees are not

open to the public. According to notification 2 of Article 33 of the Internal Regulation, the Specialized Commissions may employ experts and advisors through the speakership board of the Islamic Consultative Assembly for fulfilling their tasks. They can call the ministers to appear before them; however as Khatami (2007 interview 27 March), the first vice speaker of the Sixth Majlis, mentioned “they do not take very seriously the parliamentarians’ request for coming to the Specialized Commissions. Deputies also rarely have enough knowledge about the mostly complicated budget bill. In addition the government reports submitted to the Commissions are not transparent enough to help members of the parliament to consider budget bills properly.

4.2.2 Consolidation Commission and budget bill

In the second stage the Consolidation Commission starts working on the proposals of the individual legislators and Specialized Commissions. According to Article 213 of the Internal Regulation of the Consultative Assembly the Consolidation Commission consists of all members of the Plan and Budget Commission whose members are selected from the majority and opposition parties and two representatives of each Specialized Commission. The Consolidation Commission consists of three sub-Committees including the Social Affairs Committee, Defence and Public Affairs Committee and the Economic Affairs Committee each of which debates their own subjects in the annual budget bill and submits their reports to the parent Commission. According to the Internal Regulation the most important criterion for the selection of the members is not their party affiliation but their specialization and experiences in budget affairs. Also two members of each Specialized Commission, who attend on behalf of their Commission, present their Commission’s point of views. In fact the Consolidation Commission acts as a coordinating body for other relevant Commissions. The decisions in the Consolidation Commission should be made according to the majority votes of

their members. “In the past few years, the discussion of budget proposals in the Consolidation Commission has been accompanied initially by a lot of criticism from the members, who have maintained that the revenue and expenditure figures were too optimistic. Yet each year, the criticisms subside with passage of time and even more funds are added to the bill presented by the government” (The Islamic Republic of Iran, 2005: 61).

4.2.3 Plenary session and budget bill

Debates about the annual budget bill in parliaments, in the chamber-oriented parliaments mainly take place on the floor rather than in the parliamentary commissions while in committee-oriented parliaments these discussions are carried out in the committees.

In the Iranian parliament the plenary stage is the last phase of the second stage of the budget process. In fact in this stage general discussion and deliberation take place and consideration of the policy proposals of the government in detail left to the Specialized Commissions.

Following the presentation of the budget bill to the floor, the plenary session of the parliament will be held consecutively. The debates on the bill are divided into two parts. In the first part revenues are examined and then the expenditure is reviewed and in the end votes will be taken on proposals in each part. The proposals can be passed normally by a majority vote of those who attend. The attendance of at least two-thirds of parliamentarians is needed to hold the session. Parliamentarians can introduce unlimited and new proposals during the debates of the budget bill on the floor and they are free to either support the government budget bill or the Consolidation Commission’s report. But usually they back what the Consolidation Commission submits to the plenary session; occasionally parliamentarians support the government budget bill and speak against the Consolidation Commission’s report. Debates and consideration of the annual

budget bill usually take place within one or two weeks and generally are open to the public. It seems at least in the budget area the Majlis is Commission-oriented because it is only at this stage that technical debates take place and major amendments proposed by the parliamentarians. In fact the main changes and adjustments to the budget bill happen in the specialized and Consolidation Commissions and most of the time the Consolidation Commission draft is ratified in the plenary session.

4.2.4 Majlis Research Centre and budget bill

The access of parliamentarians and commissions to independent research expertise can enhance the power of the legislature when confronted with the government during the budget process. Many of the more active parliaments have influential budget research institutions which help the deputies to analyze the government's budget bill. Their staff members provide general or specialized research and information and give services to the legislators especially in the budget season. The staffs are responsible for providing non-partisan and independent evaluation of the plans and policies of the government and responding to the questions of the deputies. Regarding the budget bill the primary aims of these institutions are to research and deliberate on important issues of economic and fiscal policy such as overall economic management and budget formulation and reviewing the revenues and expenditures which are provided by the government.

The Iranian parliament also has a Research Centre that assists parliamentarians who are members of the Specialized and Consolidation Commissions in all stages of the legislative process. They are supposed to provide various kinds of qualitative and quantitative research to relevant Commissions. This centre consists of nine research offices. According to Article (2) of MRC Functions Act, the obligations and functions of this centre are as follow:

- a) Studying, researching, and commenting on all drafts and bills;
- b) Compiling, evaluating and preparing the comments of the researchers of university and research centres, executive systems, institutions, political party and groups and public ideas on society needs;
- c) Studying and carrying out scientific research on good law makings and other legislative observatory aspects, and also make suggestion to address executive problems;
- d) providing information services to parliamentary committees and representatives by providing access to research information services;
- e) Research or undertaking case studies in terms of all requests of parliament representatives, committees, and the board of committee chairmen;
- f) Performing particular tasks or assignments which are related to parliament libraries and controlled directly by the (Majlis) Speaker;
- g) Distributing research studies results and papers by publishing books, papers, bulletins, and other publications and reflecting effective comments to related organs and systems by order of the board of parliament committee chairmen and the head of MRC.

Regarding the budget bill this centre examines the different sections of the budget bill and presents its finding to relevant sector committees. Standing and consolidation committees may also call outside experts to take part in this proceedings and debates.

4.3 Guardian Council and annual budget bill

When the Assembly passes the budget bill, it needs to be approved by the Guardian Council to see whether it is compatible with the Constitution and Shari'a or not. If the Guardian Council believes it has some kind of discrepancy with the aforementioned laws, the budget bill will be returned to the Assembly for reconsideration. If the Assembly disagrees with the Guardian Council, it can send back the bill to the Guardian

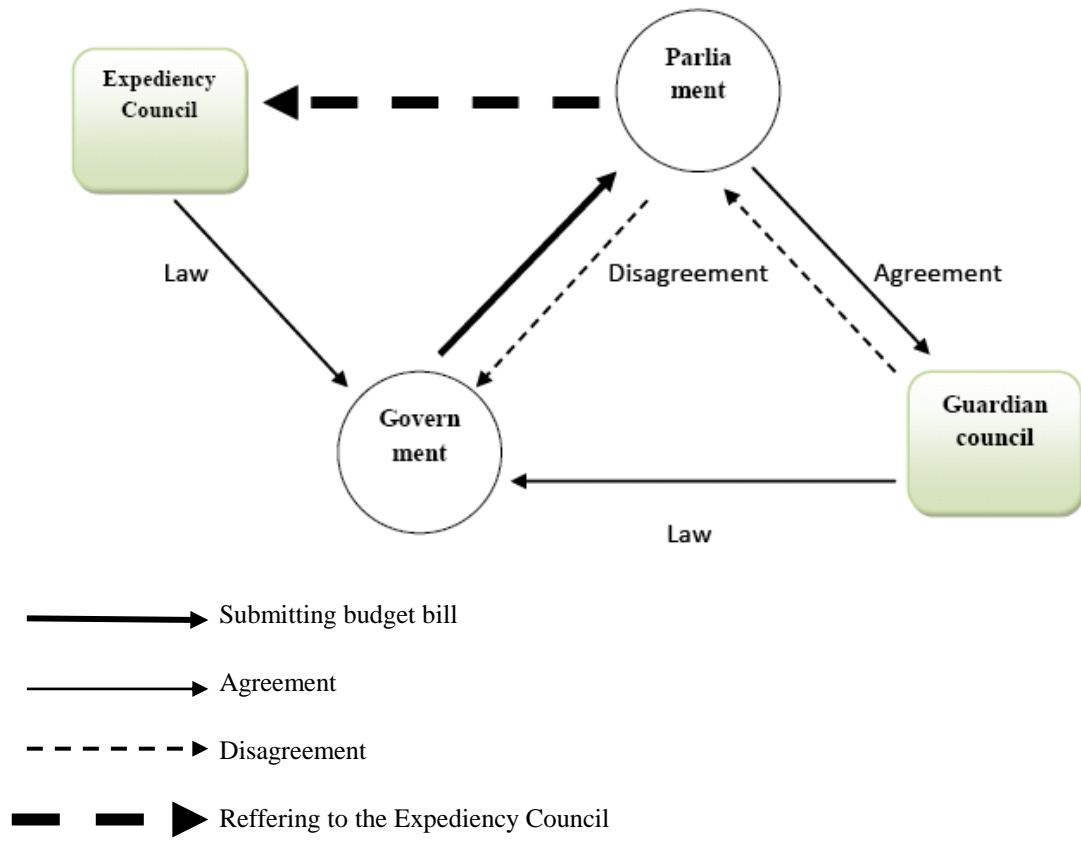
Council and in the event that both of them insist on their ideas, the Assembly can refer the dispute to the Expediency Council. The impact of the Guardian Council on the budget bill in the Sixth and Seventh Majlis will be discussed in detail in the following pages.

4.4 Expediency Council and budget bill

The Expediency Council also is one of the formal institutions which may be involved in the budget process. For the first time since its establishment, it happened in the budget bill of 2002/2003. Since that time the Expediency Council has tried to mediate between the Assembly and Guardian Council when there are any differences regarding the budget bill. But in the budget of 2008/2009 the Expediency Council functioned as a lawmaking body and directly intervened in the content of the annual budget bill. This might constrain the law making power of the Majlis even more than before. This also will be explained in detail in the following pages.

The process of the budget bill formulation and initiation, its deliberation and enactment by the Majlis, its ratification or rejection by the Guardian Council and the possible involvement of the Expediency Council is shown in the below figure:

Figure (5-1): Elected and unelected institutions' contribution during the budget process



The Figure 5-1 shows the overall process of the budget law making: after preparation of the annual budget bill, the president submits it to the Majlis. The Budget bill will be examined by the Specialized and Consolidated Commissions in the Majlis and after its enactment in the plenary session it will be sent to the Guardian Council (unelected institution) for monitoring. If this Council approves the Majlis enactment the budget bill will be sent to the executive for its implementation. Should the budget bill be rejected by the Guadian Council, it will be returned to the Majlis for reconsideration. The Majlis may satisfy the Guardian Council by accepting its point on the bill otherwise and in the case that the Majlis insists upon its enacted policies and after the shuttling the budget bill between the Majlis and the Council, the former may send it to the Expediency Council which has power to take the final decision. Although the Expediency Council (Constitutionally) only has authority to mediate between the Majlis and the Guardian

Council, as will be shown below, this Council may adopt new policies. The enactment of the Expediency Council directly and without engagement of the Guardian Council will be sent to the executive for implementation.

5. Analyzing the law making power of the Majlis in the budget bill

Now we will test the research hypothesis in two terms of the Majlis: the Sixth and Seventh Majlis. To what extent could the Majlis shape the budget policies? Is it in Norton's terminology, a policy making legislature which can formulate and initiate bills and proposals as well as can reject or modify them? Or is it only a policy influencing legislature which just can reject or modify the proposals but not formulate or substitute proposals with their own? Or finally is it a parliament with little or no policy effect which is not important in the budget policy making process at all?

5.1 Sixth Majlis

5.1.1 The Sixth Majlis in context

The Sixth Majlis Election was one of the very important turning points in the relationship of the Conservative camp and Reformist Movement which had started after the Seventh Presidential Elections during which Seyed Mohammad Khatami was elected as an Iranian Reformist President in 1997. Many different factions became more active after that election including the Reformist clerics organised in the Majma-e Rouhanioun-e Mobarez (the Militant Clerics Society), an extremely closed circle of the former populist-revolutionaries organized in the Sazman-e Mojahedin-e Enghelab-e Islami (The Islamic Revolution Mojahedin Organization), the State's bureaucrats and

pragmatist-politicians organized in the Kargozaran-e Sazandagi-ye Iran (Iran's Servants of the Construction), Melli-Mazahabi groups, Daftar e Tahkim e Vahdat (consists of students who support the Reformists) and a small number of progressive reformists organized in the Jebhe-ye Mosharekat-e Iran-e Islami (The Islamic Iran Participation Front). These political groups formed a loose coalition which could win the parliamentary election of 2000. It should be noted that the Reformist bloc mostly originated from the Radical Leftist bloc who reassessed their previous strategies and policies and began moving toward a more moderate ideology and emphasising the rule of law, personal freedoms, and a more positive approach toward the West. It has been stated (Rasekh, 2008: 87) that "the expansion of middle class, ideologically alien with an oligarchic system, expansion of education that helped the expansion of middle class, development of urban life, division among ruling groups, international pressure in the field of economics, communications and culture, appearance of democratic and pluralistic interpretation of Islam and different crisis within the system (crisis of legitimacy, participation and sovereignty)", led to the considerable victory of the Reformists.

Prior to 2000, the Fifth Majlis has been dominated by the Conservative bloc, who was supported by both traditionalist clerics and the traditional merchant class of Iran that had been a driving force behind the Islamic Republic Revolution. They supported a more open, market oriented economy, in opposition to the planned system of the Radical Leftists who had dominated the Majlis from 1980 till the end of the Third Majlis. The Conservatives came to power in the Fourth Majlis from 1992 and could pose considerable problems to Khatami's government and his policies for three years, from 1997 till 2000 during the Fifth Majlis. The political composition of the Fifth Majlis was formed from three distinct blocs. The first comprised 170 Conservatives who divided into two groups: a hundred Conservative parliamentarians who opposed

any form of cultural relaxation and were closer to the Supreme Leader Ayatollah Khamenei and seventy Conservative members who had more liberal approaches toward culture and strongly supported Hashemi Rafsanjani. The second bloc which constituted the minority of the Majlis consisted of forty economic statisticians who on many issues sided with President Hashemi Rafsanjani against the Conservatives. The third bloc contained thirty independent parliamentarians who had no clear political strategy and, depending on the subject, sometimes backed the Conservatives and sometimes sided with the Reformists (Abrahamiyan, 1998).

During the Fifth Majlis which was dominated by the traditional Conservatives, they moved against policies and several of Khatami's supporters and impeached his key Cabinet ministers Abdollah Nuri the Minister of State and Ata'ollah Mohajerani the Minister of Culture.

After the Sixth Parliamentary Elections it became clear that the Conservatives had lost the majority of seats of the Majlis to the Reformists identified with President Khatami. As the below table shows, in the election of the Sixth Majlis in 2000, 189 seats went to the Reformists under the name of 2nd Khordad Front (Jebhee Dovome Khordad) while the Conservative coalition gained only 54 seats including 12 Conservative groups which created an alliance named The Front of the Followers of the Imam's and Leader's Line (Jebhe-ye Piravan-e Khat-e Imam va Rahbari).

Table (5-1): Summary of the 10 February and 23 May 2000 Iran election results

Orientation of candidates	seats	% of seats
Reformists	189	65%
Conservatives	54	19%
Independents	42	14%
Armenians recognized minority religion	2	0.6%
Chaldean and Assyrian Catholic recognized minority religion	1	0.3%
Jewish recognized minority religion	1	0.3%
Zoroastrian recognized minority religion	1	0.3%
Total	290	100

Source: Nation Encyclopaedia, (2008)

Therefore the Reformists took control with an almost two-thirds majority of the Majlis. On the basis of the result of this election it was contended that “for the first time, there [was] a balance of power between two rival factions: Fundamentalists and Reformists. The former has the structural power within the state, the latter has the power of popular support, and the pragmatists play a balancing role between them” (Saifzadeh, 2002, para: 4). Yet, the minority Conservatives of the Sixth Majlis, who emphasized the need for improving the economic conditions rather than political reform, could count on the absolute support of the Guardian Council and to some extent the Expediency Council given that most of its members were from the Conservative camp (Gheissari and Naser, 2006). Even after the election, the Guardian Council was reluctant to accept the victory of the Reformists and wanted to recount the votes in Tehran. The Minister of State stated in the official session that “there were many strong pressure on the Guardian Council to abolish the result of [the Sixth Parliamentary] Elections in Tehran” (Roozonline, 2007). In such

circumstances the deputy speaker of the Consultative Assembly Mr. Armin described the desirable situation of the Reformist camp. He (Nowrooz Newspaper, 16 April 2001: 8) said:

“It seems that the Reformists and the 2nd Khordad movement are in a favourable situation. Usually when a current party takes over the executive management and authority of the Majlis and the administration, it will suffer discord, branching, and diversion. Its solidarity capacity will be reduced and the coalitions thus formed will be broken. On the contrary, the minority and losing party gains a better solidarity capacity. But the current situation of the reformists may be one of the rare and exceptional situations where despite having the majority in the Majlis and control of administration, and also despite all the anticipations and efforts made by the Conservatives, no change may be sensed in the degree of solidarity of the groups and parties forming the 2nd Khordad front as compared with that of the 2 Khordad [Front in the presidential elections of May 1997]”.

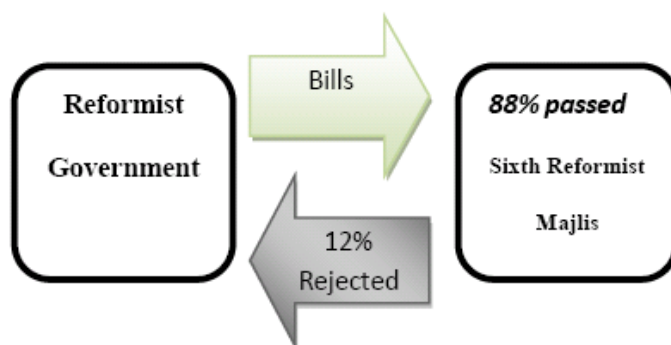
The Sixth session of the Iranian Parliament started the democratization and liberalization of the political system by introducing the proposals for changing the election laws, freedom of speech, empowering civil society institutions through funding the NGOs and political parties, encouraging foreign investment, and so on. On the other hand, having lost their power on the Majlis, Conservatives tried to use their influence in the judiciary and bureaucracy to control the Reformists' Movement which they perceived as threatening their economic and/or political positions. During the Sixth Majlis the judiciary prosecuted the Reformist parliamentarians and ignored parliamentary immunity several times. Several lawmakers, most notably Loqmanian and two others, Mohammad Dadfar and Fatemeh Haqiqatjou, were caught by the judiciary for their critical comments on political developments which were prevented by the

Conservatives, and some 60 others were reportedly being prosecuted by the court (Payvand News, 2001).

At the same time that President Khatami's government was trying to clip the Guardian Council's wings, the Council was trying to increase its authority by establishing supervisory institutions at the provincial and local levels. These efforts were proving just as controversial as the March 2003 decision of the Expediency Council to significantly increase the Guardian Council's budget. Also the Conservative camp tried to use many pressure groups which were backed by the Revolutionary Guard, and secret groups. They even physically attacked the key ministers of Khatami's government in Friday prayer ceremonies in public.

Taking control of both the Consultative Assembly and the executive power by the Reformists, it might be said that the government could pass its bills easily through the majority Reformist Assembly. As the graph below shows Majlis passed 88% of the bills which were submitted to it. However as we will see later, in comparison with the Seventh Majlis it seems that the Sixth Majlis' viscosity was relatively high.

Figure (5-2): The percent of Reformist government bills enacted by the Reformist Sixth Majlis



Source: Karname e Majles e Sheshom, (2000-2004)

Despite the close relationship between the Assembly and the executive power, the most crucial bills and parliamentary proposals which were enacted by the Sixth Majlis

faced severe resistance from the unelected bodies particularly the Guardian Council. The most important bills and members' proposals which were challenged by the Guardian Council were:

The Majlis in 2001 passed a bill that aimed to encourage foreign investment by removing unnecessary regulations and guaranteeing investors' profits. In fact it was the first bill relating to foreign investment since the Revolution. But the Guardian Council rejected it and argued that it is not compatible with the Constitution. Rejecting the amended versions of the bill by the Guardian Council, parliamentarians preferred to send it to the Expediency Council which finally passed it with many changes. Ultimately, in 2003 the bill was submitted to the government for implementation when the Khatami's second term was coming to an end in 2004.

In September 2002, President Khatami submitted new bills to the Majlis designed to make ineffective the obstacles which prevented his Reformist ideas: One new bill aimed to increase the President's power to issue warnings when state institutions trespassed on the principles of the Constitution. President Khatami had issued numerous such warnings over the years to protest against the illegal closure of newspapers or the jailing of opposition political activists, but his warnings had not been noted. Khatami believed that in the current situation, the President's role is just "office coordinator" or, as he said only *tadarokatchi*. He stressed that there is no balance between the power and responsibilities of the President and in this situation he was no longer a serious decision maker but just implemented other power centres' wishes.

There was another bill which was designed to limit the powers of the Guardian Council to veto electoral candidates. According to this bill the "approbatory supervision" of the Guardian Council would be removed. Although at the end of the year as it was expected, the bills had passed by Majlis easily, the Guardian Council vetoed both bills immediately and sent them back to the Majlis for further amendment.

The twin bills had been referred to the Guardian Council and had been rejected by them more than once. Finally President Khatami stated that he would not be referring the bills to the Expediency Council, the next part of the political process, and expressed the hope that the dispute between the Majlis and the Guardian Council be resolved before the next Majlis elections but this was not achieved. In another case the Guardian Council rejected on three occasions the bill regarding the issue of juries for press and political trials.

In 2002, the Majlis enacted a bill according to which some health-related functions of the Emdad Imam Khomieni Foundation which is under the direct control of the Supreme Leader would be transferred to the health care bodies which were under the control of the government. The parliament believed that this change would improve transparency and accountability. The Guardian Council, however, said that the bill would undermine the Supreme Leader's prerogatives so it was against Shari'a and therefore it was rejected.

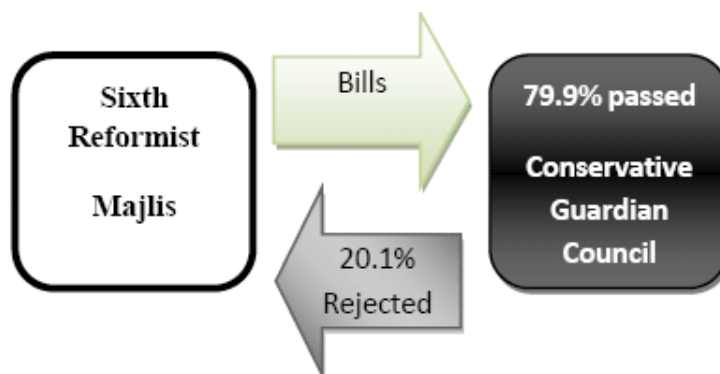
Abedin has noted that during these years “[t]he Reformers faced an uphill battle against entrenched hard-line interests. Over the past four years, the Conservative-dominated judiciary shut down over one hundred reformist periodicals and jailed hundreds of liberal political activists, journalists and students. Numerous pieces of reform legislation were approved by parliament only to be vetoed by the un-elected Guardian Council.” (Abedin, 2004: para: 6). For example during 2000 and 2002 the Guardian Council used its veto power nearly 50 times in encounters with the Majlis' proposals and Khatami's government bills (BBC News, 2002).

Referring to the obstacles which the Guardian Council made for the Majlis, Fatimeh Rakei, the parliamentary representative of Tehran, was reported as saying that “when the Constitution was drawn up (in 1979) nobody imagined that the empowerment of the Guardian Council would so obstruct the legislative process, “Aftab-i Yazd” reported the

next day. Rakei urged the Supreme Leader to caution the Guardian Council to respect the limits of its powers and responsibilities” (RadioFarda, 2002).

If we compare the percentage of the executive’s bills which were rejected by the Majlis and the figures below which show the percentage of the bills which were rejected by the Guardian Council, we find that the Council challenged the executive bills much more than the Majlis. In other words the unelected institution of the Guardian Council was a more influential variable than the Sixth Majlis as an elected institution for preventing the government following its plans and policies. While the Majlis rejected 12 percent of the executive’s bill, the Guardian Council rejected 20.1 percent of them. This might be explained by saying that the political composition of the government and Majlis during the Sixth Majlis (Reformist) was the opposite of the political composition of the Guardian Council (Conservative).

Figure (5-3): The percentage of Reformist Majlis bills rejected by the Conservative Guardian Council

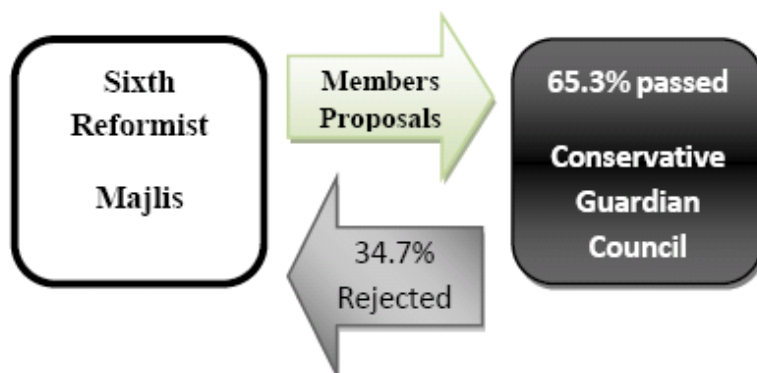


Source: Karname Majles e Sheshom (2000-2004)

Also the figures below indicate the situation of member proposals which were approved by the majority Reformist Majlis but rejected by the Conservative dominated Guardian Council. It should be noted that of 95 member proposals approved by the Majlis, 33 (34.7 %) were rejected by the Guardian Council. Also 55 member proposals

were withdrawn by the parliamentarians. The members' proposal regarding the "Establishment of the Press Jury Board" was rejected seven times and the proposal on banning torture was rejected four times by the Guardian Council which shows the very serious clash between elected institutions and unelected institutions. Also 27 member's proposals were rejected between one to three times by the Guardian Council.

Figure (5-4): The percent of MPs proposals of the Reformist Sixth Majlis rejected by the Conservative Guardian Council



Source: Karname Majles e Sheshom (2000-2004)

If we add the percentage of the members' proposals and executive's bills which were rejected by the Guardian Council we can see that in the Sixth Majlis, from 2000 to 2004, the Guardian Council rejected 32 percent of bills and member proposals. It should be noted that the Sixth Majlis was coincident with the last year of the first term and three years of the second term of Khatami's presidency, known as the Reforms Movement in Iran. Therefore we can come to the conclusion that when the Majlis and government were dominated by the Reformists the most important challenge is not between the legislature and executive, both of which are elected institutions, but between these two and the Guardian Council whose members have been appointed from Conservative clergy and lawyers directly or indirectly by the Supreme Leader.

5.1.2 Elected and Unelected institutions and their impact upon the budget bill

The Table 5.2 shows that the Sixth Majlis generally enacted the government's budget bills without significant alterations. In fact the average variations dictated by the Majlis to the Budget Bills of 2001/2002- 2004/2005 were only 14.3 percent. Nevertheless, there are some notable alterations: In the Annual Budget Bill of 2002/2003 the Majlis increased the government revenues by increasing the figure of the sale of financial assets from 31762 billion Rials up to 55012 billion Rials (73.2 percent). In order to cover the increased budget resource, the Majlis permitted the government to withdraw 35420 billion Rials from the "Oil Stabilization Fund"¹ and also to sale some government-owned companies (mostly companies affiliated to the Oil Ministry) (Sadab, 2004). Requiring the government to sale the government-owned companies, the Majlis accelerated the privatization plan which was one of the main targets of the Fourth Five-Year Development Plan and the government had to formulate annual budgets according to it. At the same time, the Majlis increased the government expenditures by requiring it to pay off the greater amount of foreign debts. For this purpose the Majlis increased the figure of holding financial assets from 7117 billion Rials up to 29617 billion Rials (316.4 increase) in this year.

The Sixth Majlis also increased the other government revenues in the Budget Bill of 2003/2004 by increasing the general revenues figure from 97238 billion Rials up to 204508 billion Rials (110.3 percent) without increasing the expenditures in this year (Sadab, 2004). These revenues consisted of income from the government ownership of informatics and communication technology, ownership of oil and incomes of the

¹ - The "Oil Stabilization Fund" (OSF) was established in 2000 with two stated objectives: the stabilization of oil revenues by building up reserves and support of investments in the private sector to increase employment and non-oil exports (Islamic Republic of Iran, 2005: 27).

“targeted subsidies scheme”¹. In fact in this fiscal year the Majlis helped the government to overcome budget deficit which has been common in annual budget bills after the revolution. Therefore, it can be said that the Majlis alterations helped the government to implement its policies rather than impeding them (Hoseini, 2009, interview 8 March).

¹ - “Targeted Subsidies” was a scheme, under which government spending will be diverted to those social groups that need it most (Hoseini, 2009, interview 8 March).

Table (5-2): The average alterations of budget bill, made during the Sixth Majlis (majority Reformist) by the parliamentarians

Annual Budget Bill Composition		2001/2002			2002/2003			2003/2004			2004/2005		
		Bill (in billion Rials)	Law (in billion Rials)	Percentage of variations	Bill (in billion Rials)	Law (in billion Rials)	Percentage of variations	Bill (in billion Rials)	Law (in billion Rials)	Percentage of variations	Bill (in billion Rials)	Law (in billion Rials)	Percentage of variations
Budget resources	Revenue	68098	72501	6.5	79344	82669	4.2	97238	204508	110.3	223860	222665	-0.53
	Sale of financial assets	-	-	-	31762	55012	73.2	61754	64194	3.95	77594	86425	11.4
	Sale of capital assets	68516	68653	0.2	100453	102558	2.1	126170	126851	0.54	150700	150833	1.7
	General government resources	136614	141154	3.3	211559	240239	13.5	285162	395554	38.7	452154	459924	1.7
Budget expenditure	Expenditures	102472	104427	1.9	150256	155635	3.6	169050	285749	69	316886	315710	-0.37
	Holding financial assets	102582	104537	1.9	7117	29617	316.14	34649	35553	2.6	40187	44372	10.44
	Holding capital assets	34032	36616	7.6	54185	54987	1.5	81463	85206	4.6	95081	99841	5
	Total	136614	141154	0.2	211559	240239	13.5	285162	395554	38.7	452154	459924	1.7

Source: Consolidation Commission reports of 2001/2002- 2004/2005 budget bills, (2005)

Despite the Majlis, which had really minor influence on the budget bill of the government, during the Sixth Majlis the Guardian Council strongly blocked them several times:

For example after approval of the Annual Budget Bill of 2002/2003 by the Islamic Consultative Assembly, the Guardian Council disagreed with it and the Assembly insisted on its own enactment for the second time. When the Guardian Council rejected it again, the Budget Commission of the Consultative Assembly sent the budget bill to the Expediency Council for taking the final decision (Article 112 of the Constitution). The Guardian Council objections to the Budget Bill of 2002/ 2003 were as follow:

- a) “Allocation of funds for political parties. In the budget bill of this year the Sixth session of the parliament allocated 50 billion Rials for supporting the political parties.
- b) A provision and financial guarantees for foreign investors in response to investment of up to \$3.5 billion through the Central Bank of Iran. Also insisted on buy-back guarantees according to the provisions of the Third Five-Year Development Plan.
- c) Allocation of financial support to social and sport activities for religious minorities recognised in the Constitution.
- d) Monitoring the budgets of Bonyads enterprises which are completely under the control of the Supreme Leader.
- e) Decreasing the budget of the Islamic Republic of Iran Broadcasting which is directly run by the Supreme Leader” (Roozonline, 2007).

After referring the disputes to the Expediency Council, the members of the Council held sessions and partly accepted the Guardian Council's point of view and in some parts confirmed the changes which had been made by the Assembly.

Table (5-3): The number of rejections of the budget bill by the Guardian Council in the Sixth Majlis

Term of the parliament	Years	The number of rejections of budget bills by the Guardian Council	The items of the rejections
Sixth Majlis	2001/2002	-	-
	2002/2003	2	19
	2003/2004	1	53
	2004/2005	1	9

Source: Consolidation Commission reports of 2001/2002- 2004/2005 budget bills, (2005)

During the Sixth Majlis, the Guardian Council took further steps and obliged the Assembly and Executive to include what they wanted to be in the budget bill. For example in the Annual Budget Bill 2003/2004 the executive increased the Guardian Council's budget to 44 billion Rials and the Assembly ratified that. But the Guardian Council rejected the bill and asked the Assembly to increase its budget to 160 billion Rials. The conflict over the Guardian Council's budget again was referred to the Expediency Council and finally Guardian Council budget increased to 100 billion Rials. This process entailed "sharp criticism from the deputies who maintained that the Council had bypassed the legislative in approving the budget rise" (Pyavand's Iran News, 2003, para: 8). Mohsen Armin, Second Deputy Speaker of the Sixth Majlis, stated that parliamentarians would "under no condition ever accept the recent verification by the Expediency Council (EC) to increase the annual budget of the Guardian Council (GC). The Expediency Council decision in favour of the Guardian

Council has been politically motivated and efforts to approve the Guardian Council huge budget rise has all been meant to humiliate the Majlis and the government” (Ibid).

In another case after the ratification of Annual Budget Bill 2004/2005, the secretary of the Guardian Council returned the bill to the Majlis and noted “in the review of the country’s budget bill, eight points were found to be contrary to the Constitution and one point contrary to the Shari’a” (Jannati, 2004). Not foreseeing the source of revenue, the unclear amount of expenses, and the non budgetary nature of some sections were among the Guardian Council’s objections to the annual budget bill of 2004/2005.

5.2 The Seventh Majlis

5.2.1 The Seventh Majlis in context

Elections to the Seventh Majlis took place in February and May 2004. Prior to that, the Reformists’ domination was nearly complete in respect of elected institutions i.e. executive power, Majlis and Municipal Councils but the Conservatives did not give up. They turned their attention to the Municipal Elections which took place in 2003 and won all the seats and then prepared themselves for the Parliamentary Elections of 2004. The Guardian Council disqualified nearly 2500 candidates; among them there were 80 prominent Reformist parliamentarians of the Sixth Majlis. Following that, 120 Reformist deputies of the Majlis staged a sit-in and Mohammad Reza Khatami, First Deputy Speaker of the Majlis and the head of Islamic Participation Front Party, stated that “we have no hope that a fair, free and legitimate election can be held on February 20. So in the current circumstances we cannot participate” (Khatami, 2004). The Guardian Council was accused of trying to open the way for Conservatives to enter the Majlis and establish a pro-Supreme Leader parliament. The Interior Ministry declared that it was impossible to hold free and fair elections.

Despite raising political tension between the Reformists and Conservatives it was decided that the election be held and in the final report before the election the Spokesman of the Guardian Council stated the causes of the disqualification of the candidates (mostly Reformists) as follows: “12.5 percent financial corruption, 13.5 percent moral corruption, 14.5 percent sympathy towards or membership in counter-revolutionary groups, 13.5 percent lacking belief in principles of Islam, 6.8 percent publication of untrue statements and disturbing public opinion, 15.7 percent having ill repute, 6.5 percent having acted against national security, 16.5 percent lacking belief in the Constitution” (Jahromi, 2004, para: 2).

In contrast, the candidates of the Conservative camp, mostly from the alliance of Islamic Iran Developers (Eatelafe Abadgarane Iran e Eslami) including the Society of Devotees of the Islamic Revolution (Jamiyat-e Isargaran-e Enghelab-e Eslami), the Islamic Society of Engineers (Jame'e-y-e Eslami-e Mohandesin), Hay'at-e Motalefe Eslami, Jame'e-ye Ruhaniat-e Mobarez, Jame'e-ye Modarresin-e Howze-ye Elmiye-ye Qom were almost fully approved by the Guardian Council. Some writers believe that in the Seventh Majlis a new generation of Conservative politicians was raised which controlled most of the political sphere of Iran and has continued to do so and called them “New Conservatives” (Ehteshami, and Zweiri, 2007).

After the Presidential Election of 1997 when the Conservative candidate lost the election to Khatami and after the domination of the Majlis by the Reformists in the 2000 Parliamentary Elections, some groups of Conservatives started to review their policies and their approaches toward political activities. “Many on the old right clung to revolutionary tenets denouncing the West and preaching selflessness, with a particular stress on “martyrdom” as the sacrifice of one’s life—literal and figurative—for the sake of Islam” (Khosrowkhavar, 2004, para: 6). Instead New Conservatives who mostly consisted of Conservative clerics, at the head of them Mesbah Yazdi, Revolutionary

Guard (Sepah e Pasdaran) officials (who have a very strong financial basis) and many well educated figures, emphasised more economic development and prosperity, strong government, social services, efficiency and so on. They mainly stressed state-building and development combined with asserting the ideological values of the Islamic Republic. In the Parliamentary Elections of 2004, they introduced a slogan which showed their new strategy in the election: “a free, developed and joyful Iran” (Iran-e azad, abad va shad). This was in contrast to the Reformists who put more stress on political and cultural development and tried to apply the Eastern Europe and Latin America model of development; the New Conservatives “preferred the East Asia model, with its combination of authoritarianism, economic progress, and emphasis on indigenous values. Conservative leaders often talked of their vision to turn Iran into an “Islamic Japan”, and they referred to the “China model” as the preferred development path for Iran” (Gheissari and Nasr, 2006: 145, 146).

In the Parliamentary Elections of 2004 the Conservative camp took the majority of seats in the Assembly while the executive was still under the control of the Reformists till 2005.

Table (5-4): Result of the Seventh Parliamentary Elections

Orientation of candidates	Seats	% of Seats
Conservatives	149	54
Reformists	40	13
Independents	31	11
Elected in second round	59	20
Armenians recognized minority religion	2	
Chaldean and Assyrian Catholic recognized minority religion	1	
Jewish recognized minority religion	1	
Zoroastrian recognized minority religion	1	
Total (Turnout around 50 %)	290	

Source: IPU, (2007)

As a result of the Seventh Parliamentary Elections Conservative groups “obtained some 149 of 290 seats in parliament which gave them the absolute majority while the Reformist only won some 40 seats” (IPU, 2007). The Seventh Majlis was composed of three political factions: The first was the New Conservative faction named “Abadgaran” which had very close links with the Islamic Revolutionary Guard and its affiliated organisations and had a majority in the Assembly. Most of these parliamentarians were new faces in the political scene and had quite poor knowledge of domestic and international politics; however they had very strong loyalty to the political system under Velayat e Faghih and had a critical approach toward Rafsanjani’s and Khatami’s policies.

The minority faction was formed mostly by the Reformists with 40 deputies. Since almost all the prominent figures of the Reformist camp were disqualified by the Guardian Council there was no influential leader to lead the minorities in the Majlis and the Specialized Commissions. The last faction included the independent deputies whose views were closer to the New Conservative faction. New Conservative deputies criticized cabinet members, requesting a wide range of changes in the composition of the ministers. They started to question and impeach Khatami's ministers who resisted Conservative demands. The Assembly challenged Khatami's government mostly in foreign policy, economic strategies and cultural issues (Takhshid, 2005).

For example the economic figures of the Seventh Majlis supported introducing a proposal which prevented increasing the price of gasoline, electricity, water, postal services and telecommunications which was predicted in the Fourth Five –Year Development Plan. This enactment of the Seventh Majlis could create a budget deficit and was against the mid term plans of the country which was started by Hashemi Rafsanjani’s government. Also experts on the economy believed that it was

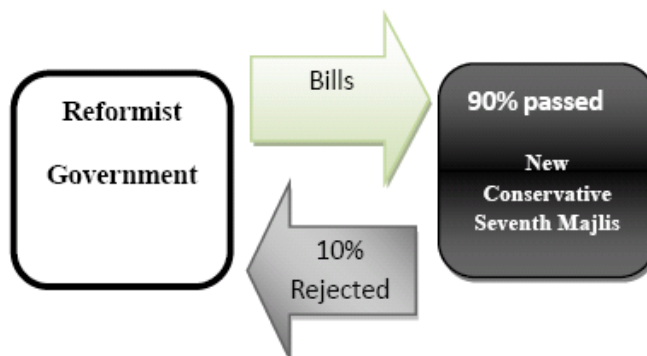
antidevelopment and against the privatization policy of Khatami's government (BBCPersian, 2004). The government spokesman argued against this proposal and said it would prevent the government from implementing its social and economic plans as scheduled. He asked the Guardian Council to oppose the proposal and said it would lead to a high inflation rate. Also the Minister of Economy and Financial Affairs objected to the proposal and said he did not see any economic benefit in this proposal. Nevertheless, the said proposal was enacted in the Assembly and the Guardian Council ratified it. By ratification of this proposal the Seventh Majlis could frustrate the attempts of the thousands of experts and bureaucrats who had been working for many years on economic strategy (Donyaye Eghtedsad, 2007).

It seems the law making power of the Assembly increased in the first year of the Seventh Majlis where the main policies of the government were challenged by the Majlis, firstly because a strong opposition formed in this session of parliament against the executive which was under the Reformists. Secondly, the real power holders of the legislative system i.e. the Conservative Guardian Council obviously supported the Conservative opposition faction in the Assembly against Reformists who controlled the executive. As the figure below shows the New Conservative dominated Seventh Majlis rejected 10 percent of the bills of Reformist government of Khatami in one year while the Sixth Majlis whose majority was Reformist rejected only 12 percent of the Khatami government's bills during four years. In addition 73 bills of the Khatami government during one year were left in the Commissions of the Majlis without any decision being taken on them and delayed till the second term of Khatami's presidency had expired.

Comparing the aforementioned figures in both Majlis indicates that the law making power of the Majlis increased sharply during the first year of the Seventh Majlis. Although the influence of the Majlis in this period reached its maximum level, it does not mean the Majlis can be categorised in the policy making group according to

Norton's categorisation of legislatures since it could only reject the bills or delay them without having the ability to formulate and substitute a new bill instead.

Figure (5-5): The percent of Reformist government's bills rejected by the New Conservative Seventh Majlis (2004-2005)



Source: Karname e Majles e Haftom (2005-2008)

This trend changed in 2005 when the New Conservative candidate Mahmoud Ahmadinejad surprisingly won the Ninth Presidential Elections. He was one of the fundamentalist politicians who had served in different units of the Islamic Revolutionary Guard. After the Second Municipal Election of 2003 in Tehran, in which the Principalist (Osolgarayan) faction of New Conservatives won the majority of seats of the City Council, he was appointed as the mayor of Tehran. In the 2005 Presidential Elections, while the main parts of the Conservative camp (traditional Conservatives) supported Ali Larijani in the first round, the candidates of the marginal parts of the New Conservatives supported Ahmadinejad who, compared to candidates of the Reformists and traditional Conservatives was less well known. In the second round of the Presidential Election he had to compete with Hashemi Rafsanjani, the former President whose term in office is known as the "Reconstruction Era". Ahmadinejad started to criticise the Reconstruction Era of Hashemi Rafsanjani and Khatami's presidency which were called the "Reform Era". He focused mostly on the uneven economic development

of Hashemi Rafsanjani and weak approach of Khatami toward the economy of the country and giving priority to political and cultural development rather than economic prosperity. He criticised the “oil mafia” in the country and promised to put the price of the oil in the hands of the people. He did not believe in the development programme which had been exercised in the Hashemi Rafsanjani and Khatami Eras and just put stress on efficiency and equal distribution of resources. “Ahmadinejad adopted a populist platform directed at the urban and rural poor. His focus on ‘bread-and-butter issues’ made the “the theme of the content ‘change versus the status quo’ rather than ‘reformers versus conservatives” (Mahdavi, 2006: 17).

Finally Ahmadinejad defeated Hashemi Rafsanjani in the second round of the election. Nearly 30 million people (or 62 percent of those who were eligible to participate in the election) voted in the first round during which Hashemi Rafsanjani was on the top of the presidential candidates and Ahmadinejad in second place. In the second round 27 million of the electorate voted, as a result of which Ahmadinejad won 61 percent of the votes and Hashemi Rafsanjani 35 percent of them (Gheissari and Naser, 2006).

Therefore the candidate of the New Conservatives once again won in the election. Ahmadinejad appointed his cabinet ministers mainly among those who served in the Islamic Revolutionary Guard or its sub organisations. As was expected due to his Conservative views and apparent support of the Supreme Leader, he got more cooperation and support from the deputies of the Seventh Majlis and particularly the Guardian Council whose members totally were from the Conservative camp. However it was not the case in the relationship between Ahmadinejad and the Expediency Council whose president Hashemi Rafsanjani was beaten by him in the bitter run off election. It seems the Majlis, government and Guardian Council, all of which were in the Conservative camp, did not incline to send the bills or proposals to the Expediency Council controlled by Hashemi Rafsanjani. Apart from Hashemi Rafsanjani, in the Expediency Council there was a combination of inner political factions including some

prominent figures that adopted a critical approach toward the policies of President Ahmadinejad. For instance Mohsen Rezaee, the former Commander of the Revolutionary Guard, who currently is one of the influential members of the Expediency Council, condemned Ahmadinejad several times for injecting huge amount of funds through local construction projects which he believed increased the inflation rate. If the activities of the Expediency Council in the Sixth and Seventh Majlis are compared different approaches can be realized: during the Sixth Majlis when the parliament and executive power were under the control of Reformists 31 bills and members' proposals were referred to the Guardian Council while in the Seventh Majlis dominated by new Conservatives this number decreased to 25 bills and proposals.

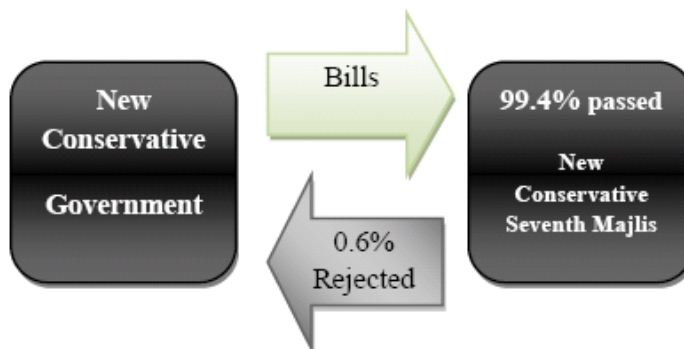
After the presidential election, the Majlis tried to show its independence from the executive especially during giving a vote of confidence to some proposed ministers for the cabinet. For instance New Conservative deputies did not give the vote of confidence to the candidates who were introduced three times as Oil Minister by President Ahmadinejad to the Majlis (BBC News, 2005).

Nevertheless it seems the Majlis remained subordinate to the executive for most of the time. As one of parliamentarians (Aboutaleb, 2007: 5) put it "following the presidential election, for whatever reason they moved toward supporting the government, consequently the Majlis become weak before the government. It has now reached the stage whereby the Majlis does not carry out even its basic and legal duties". One may be able to find the reason for the absolute support of the Seventh Majlis to the Ninth Government in the short words of the First Deputy Speaker of the Majlis and key politician of the Conservative camp when he said: "whether we like it or not the Ninth administration is all the Conservatives have" (Saraf, 2007, para: 1).

The below figure proves the absolute subordination of the Majlis to the government where approximately 99 percent of bills were passed by the parliamentarians. In fact the

viscosity of the Majlis reached its lowest level where almost all executive policies have been passed easily in the Seventh Majlis. Using Norton's terminology it can be said the Seventh Majlis had little or no policy making power in this period.

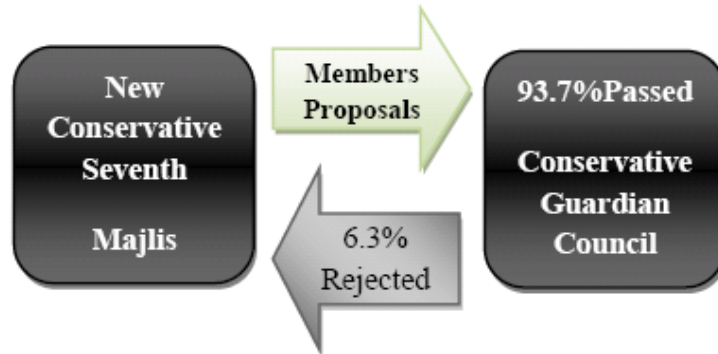
Figure (5-6): The percent of New Conservative government's bills rejected by the New Conservative Seventh Majlis



Source: Karname e Majlis Haftom (2004-2008)

Also the figures show the very good relationship of the Guardian Council and New Conservative majority of the Seventh Majlis: While in the Sixth Majlis the Guardian Council rejected 34.7 percent of the parliamentarians' proposals, in the Seventh Majlis it decreased to 6.3 percent. This type of relationship is understandable when we know the high ranking clergy (Ayatollah) who mostly had Conservative attitudes and had influential political positions praised the Seventh Majlis parliamentarians openly and repeatedly. For instance Ayatollah Meshkeni, one of Conservative clerics and the Head of the Experts Council, criticized the Sixth Majlis and stated that the Seventh Majlis parliamentarians had been endorsed by the holy Imam Zaman (Meshkini, 2004).

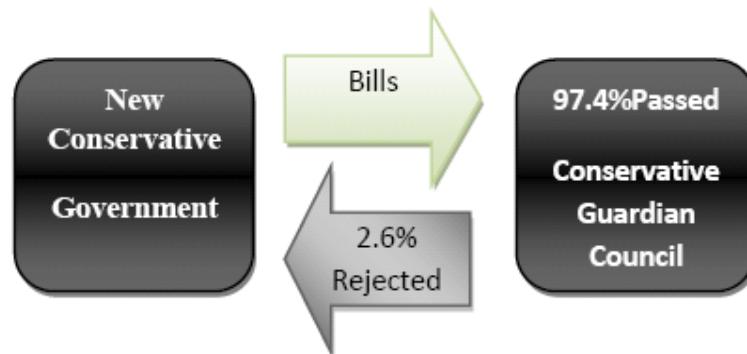
Figure (5-7): The percent of New Conservative Seventh Majlis MPs proposals rejected by the Conservative Guardian Council



Source: Karname e Majlis Haftom (2004-2008)

The Guardian Council, as expected, offered absolute support to President Ahamdinejad’s bills. As the figures below show, 97.5 percent of government bills were passed through the Guardian Council. It might be said that policies of President Ahmadinejad were mostly either implicitly or explicitly endorsed by the Supreme Leader on whose behalf the Guardian Council acts. If one compares the number of the executive’s bills in the Seventh Majlis which were rejected by the Guardian Council one realises that the Guardian Council supported the government even more than the Majlis as the below figures indicate.

Figure (5-8): The percent of New Conservative government’s bills rejected by the Conservative Guardian Council



Source: Karname e Majlis Haftom (2004-2008)

5.2.2 Elected and Unelected institution and their impact upon budget bills

The subordination of the Majlis to the Ninth government reached to its highest level during the preparation and ratification of the Annual Budget Bill of 2008/2009. Before submission of the bill, the government stated that the method of drafting the budget bill would be changed radically. According to these changes, first of all the government did not want to submit supplementary clauses but intended instead to submit a single article in conjunction with a handful of clauses or paragraphs. Also according to the new style of the budget formulation, the Ahmadinejad government decided that not all executive departments would be allocated specific budget allocations. Only 60 executive departments would receive funding allocations. These funds and allocation would be at the disposal of the highest ranking senior official in each executive department. The top senior official in each department would distribute the funds within his or her department. President Ahmadinejad enumerated the shortfalls of the previous method of annual budget drafting as follows: Lack of clarity, complexity in implementation, lack of clear distinction in the scope of responsibilities and authorities, impossibility for supervision, careful consideration, saving and so on. He stated that he had reduced the number of bodies which were accountable according to the Constitution from over 610 to 39. Therefore the number of executive bodies was reduced. There were many complications as well, as out of 180 mandates only a few were essential (Ahmadinejad, 2007). He added that the Annual Budget Bill of 2008/2009 was clear and gave enough time to the parliamentarians to consider all parts of the bill in detail. The bill was around 248 US billion dollars which underwent three major revisions by Ahmadinejad's direct order. Despite this, it seemed that parliamentarians were not happy with the new method of drafting the annual budget bill. One of the members of the Budget and Planning Commission of the Majlis stated that "this new method of allocating funds is

problematic. Apart from that it is contrary to the Fourth Five-Year Development Plan; it reduces the parliamentarians' power to haggle. Every parliamentarian from whichever constituency he or she may come from enters the Majlis for the problems which affect his or her constituency. If the annual budget were to be drafted in this way, then it reduces the power of the parliament as a whole" (Haghshenas, 2007, para: 18).

Also the Majlis Research Centre produced many expert reports and stated that the government had ignored the right of the Majlis in respect of the budget bill. For instance in one of their reports it was concluded that "depriving the parliament of its power to approve the budget bill, vesting him (the state) such powers absolutely regardless of laws and rules, is in breach of principle (85) of the Constitution" (Majlis Research Centre Report, 2008).

Despite many parliamentarians opposing the Budget Bill of 2008/2009, eventually a majority of members (159) gave a positive vote to it and it was ratified mostly according to the method and figures which President Ahmadinejad preferred (Hamshahri Newspaper, 2008). In some part the Majlis could change the executive's bill. According to one government official, the Majlis rejected the government's idea about the National Iranian Oil Company and the government had to modify its idea about that. Also regarding the number of the departments and bodies to which the budget should make allocations, the Majlis rejected the government's idea and increased their number from 40 to 247 departments (Hosieni, 2008).

Paying close attention to the relationship of parliament and government it can be said that the Seventh Majlis, whose majority backed President Ahmadinejad, walked with its own feet towards the slaughterhouse because it had sacrificed its law making power due to its unquestioning support for and collaboration with the Ninth Government. As one member of the Seventh Majlis put it "too much support for the administration in my opinion, did not allow the Majlis to supervise the expenditure of the country's revenues

in the past 4 years, which were unprecedented in the past 40 years, and implement economic reforms in the nation” (Moshiri, 2008, para: 5).

The Seventh Majlis did not defend its rights and jurisdictions against the attacks of the Ninth Government which enjoyed the absolute support of the Guardian Council and the Supreme Leader.

As Table 5-5 shows the budget bill was slightly altered by the Seventh Majlis and this variation indicates the poor law making power of the Majlis in this policy area. It could adopt the budget bill of the government just varying it by 6.2 percent as a whole while this figure was 14.3 percent in Sixth Majlis. Comparing these figures it might be said that the Sixth Majlis could influence the policies of the government approximately twice as much than the Seventh Majlis. Nevertheless, there are some notable differences between the government’s budget bill and what the Majlis’ enacted: in the Annual Budget Bill of 2005/2006 the Majlis increased the revenues of the government by increasing the figure of the sale of financial assets from 97808 billion Rials to 113601 billion Rials (16.1 percent). Also in the same year the Majlis increased the figure of holding financial assets from 27051 billion Rials to 42051 billion Rials (55.4 percent) (Sadab, 2008). With these alterations the Majlis required the government to sell a higher number of the government-owned companies which was one of the crucial policies of the Fourth Five-Development Plan. In order to cover the government budget deficit the Majlis allowed the government to withdraw from the “Oil Stabilization Fund”.

The Annual Budget Bill of 2006/2007 indicates a different approach of the Majlis toward the government’s budget bill. In that year the Majlis decreased the government resources from 182924 billion Rials to 149237 billion Rials (18.4 percent) (Ibid). In fact the Majlis reduced the revenues of the government through decreasing the trend of selling government-owned companies and also withdrawals from the “Oil Stabilization Fund”. The Majlis came to this conclusion that the government had not been successful

in implementing the privatization policies dictated by the Fourth Five-Year Development Plan and decided to reassess the effectiveness of this policy. Furthermore, the Majlis took the decision to stop the increasing trend of the government withdrawals from the “Oil Stabilization Fund” because this fund was established for stabilizing economic situation and not for spending on day to day affairs of the government (Hoseini, 2009, interview 8 March). In this year the Majlis decreased the expenditures of the government by reducing the figure of holding financial assets from 26664 billion Rials to 14084 billion Rials (-47.2) and changing the figure of holding capital assets’ figure from 184618 billion Rials to 156551 billion Rials (15.2) (Sadab 2008). In fact, the Majlis required the government to pay off the government debts to the internal banks (Ibid).

Table (5-5): the average alterations of budget bill, made during the Seventh Majlis (majority Conservative) by the parliamentarians

Seventh Majlis		2005/2006			2006/2007			2007/2008			2008/2009		
		Bill (in billion Rials)	Law (in billion Rials)	Percenta ge of variations	Bill (in billion Rials)	Law (in billion Rials)	Percenta ge of variations	Bill (in billion Rials)	Law (in billion Rials)	Percenta ge of variations	Bill (in billion Rials)	Law (in billion Rials)	Percentag e of variations
Budget resources	Revenue	270158	286887	6.2	239493	244455	2.1	261312	277508	6.2	33663	338753	0.62
	Sale of financial assets	97808	113601	16.1	182924	149237	-18.4	180108	186218	3.4	210484	222771	5.84
	Sale of capital assets	132260	137371	3.9	167865	154878	-7.7	171225	175725	2.6	173194	179961	3.91
	General government resources	500226	537859	7.5	590282	548571	-7.1	612645	639452	4.4	720341	741485	2.94
Budget expenses	Expenditures	368486	382829	3.9	379000	377935	-0.28	388007	399400	2.9	442524	463176	4.67
	Holding financial assets	27051	42051	55.4	26664	14084	-47.2	49594	55614	12.1	36409	35785	-1.71
	Holding capital assets	104689	112979	7.9	184618	156551	-15.2	175044	184438	5.4	241408	242524	0.46
	Total	500226	537859	7.5	590282	548571	-7.1	612645	639452	4.4	720341	741485	2.94

Source: the Consolidation Commission reports of 2005/2006- 2008/2009 budget bills, (2008)

Also the Guardian Council impact upon the budget bill decreased after the Seventh Majlis started working. As the figures below show the items of objection which the Guardian Council made during the Seventh Majlis declined in comparison with the Sixth Majlis. This is natural and is compatible with the overall approach of the Guardian Council to the New Conservative Seventh Majlis and Ninth Government.

Table (5-6): The number of the rejections of budget bills by the Guardian Council in Seventh Majlis

Term of the parliament	Years	The number of rejections of budget bills by the Guardian Council	The number of items of the rejections
Seventh Majlis	2005/2006	1	5
	2006/2007	1	13
	2007/2008	1	11
	2008/2009	1	1

Source: Ibid

In contrast, the Expediency Council resisted strongly the economic policies of the government. After the approval of the Budget Bill of 2008/2009 (1387) the Expediency Council intervened in the law making process on an unprecedented scale. The Head of the Expediency Council wrote a letter addressing the Guardian Council and mentioned that some items should be contained in the Budget Bill of 2008/2009. He contended that the annual budget bill prepared by the Ahmadinejad Government and passed by the Majlis had many discrepancies with the Fourth Five-Year Development Plan and the General Policies of Article 44 of the Constitution which had been issued on behalf of the Supreme Leader. Hashemi Rafsanjani, the Head of the Expediency Council, in the Council session mentioned the collective responsibilities for the country and in the course of condemning the government's growing dependency on oil, said that the

implementation of Article 44 of the Constitution and the Vision Document that outlines the development direction of the country for the next 20 years required that the State Expediency Council intervene seriously in the matter. Hashemi Rafsanjani specifically named the government as being responsible for this, pointing out that the administration had been presenting bills to the Majlis that contradicted the Vision Document endorsed by the Leader. “Based on law, we have the authority to intervene and not simply because of the conditions of the country and the needs of the government. This was an opportunity for the new government to implement its new promises, but now the Council has to intervene to seriously supervise the situation,” he continued (Hashemi Rafsanjani, 2007, para: 3).

After the final approval of the budget bill in the Majlis, the Secretary of the Expediency Council also mentioned that there were numerous problems in the budget bill when it was compared with the General Policies of the State and if the Council wanted to dig out all contradictions in depth the budget would not have been finalized until the end of parliament’s work and thus the approval of the budget bill would be postponed to the next year (Reza’i, 2008). Many parliamentarians, who believed this intervention was illegal, protested against that and threatened to leave the plenary session. Nevertheless Haddad Adel, the Speaker of the Seventh Majlis, didn’t accept their objection and said that the Expediency Council was fulfilling its scrutiny function on behalf of the Supreme Leader and therefore could do it (Haddad Adel, 2008).

Referring to the changes which have been made by the Majlis and the Expediency Council, the government spokesman said these changes would increase the inflation rate and the government has no responsibility for that. In response, the Speaker of the Majlis Haddad Adel claimed that the Majlis changed the government’s budget bill only by a margin of 3 percent (Tabnak, 2008).

Also the Secretary of the Expediency Council said that the Council would strengthen its supervision of the government's conduct the following year which might mean the direct intervention of this unelected institution would be increased in the law making process (Reza'i, 2008).

6. Conclusion

In this chapter the Sixth and Seventh Majlis law making power was examined during the budget process. First of all the legal framework of the budget process in the Iranian Constitution and other relevant laws and regulations were analysed in normative terms. Obviously the ability of parliament to amend the budget bill partly depends on the power and authority which is conferred by the Constitution and other laws and regulations. These powers are positively correlated with the ability to affect and change the bills of the executive power.

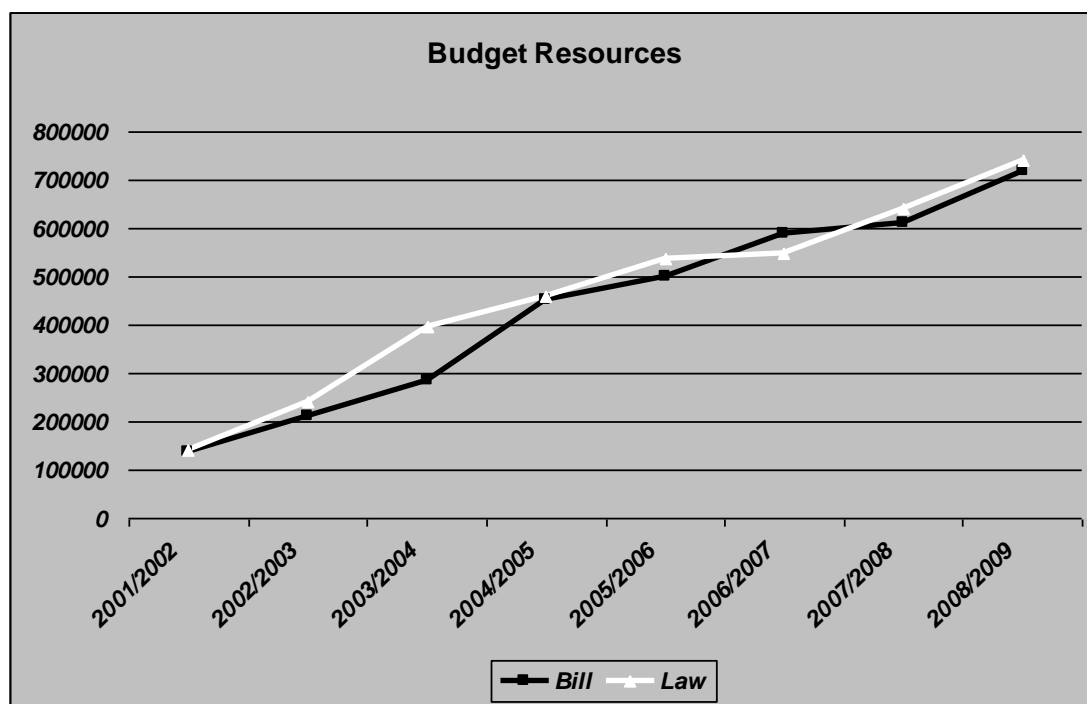
It was stated that although on the basis of the Constitution, there is no limitation for amending or adapting the annual budget bill, it prescribed that the parliamentarians are allowed to change the budget bill only within the framework defined by other laws and regulations. Reviewing all relevant laws and regulation, and apart from the compatibility with the Constitution, we found just one main limitation: based on the Internal Regulation of the Islamic Consultative Assembly, within the budget bill all motions and proposals of individual representatives shall not have any discrepancy with the Five-Year Development Plans which act as a framework for the annual budget bill. Then the contribution of the executive power and the Majlis in the budget process was explained according to which the preparation and initiation of the budget bill is the duty of the executive and the President is in charge of that. In the second stage the bill should be submitted to the Majlis within which the different Specialized Commissions and Consolidated Commission debate the policies of the government in detail. The

relationship of government and parliament and their interaction at this point is very helpful for understanding the law making power of the parliament. This relationship was closely examined during the Sixth and Seventh Majlis. In the first step, the political context within which the Majlis acted was explained and it was stated that the Sixth Majlis in the final year of the first term, and three years of the second term of Khatami's presidency belonged to the Reformist camp. On the other hand, in the final year of his presidency Khatami coped with the New Conservatives who dominated the Seventh Majlis. Unsurprisingly we found that except in the final year of Khatami's government, in which two opposite political attitudes dominated the executive and the Majlis, the law making power of the parliament seriously declined and executive bills, particularly budget bills, could be passed in the Majlis easily and without tremendous amendments and alterations. Only in the final year of Khatami's presidency did the Majlis veto many important bills of government. Yet, if one compares the Sixth and Seventh Majlis, one can find that the Sixth Majlis bill viscosity was higher than the Seventh Majlis. It seems the principal reason for that was the homogeneity and high discipline of the Conservative camp and New Conservative factions within parliament which dominated the Seventh Majlis and the Ninth Government.

In this chapter after analysing the political context of the Sixth and Seventh Majlis the relationship of the executive power and the Majlis in the budget policy area was examined. First of all it should be noted that none of government's budget bills were rejected by the Sixth or the Seventh Majlis. They could only have some influence over the bills. As Figure 5-9 shows, most policies of the government got through easily in both the Sixth and Seventh Majlis; the only considerable exception happened during the Sixth Majlis (the Annual Budget 2003/2004). In this year the Majlis tried to support Khatami's government to implement its privatization policies rather than impeding them. This trend changed in the Seventh Majlis and parliamentarians tried to limit the

government by controlling the budget as it was explained previously. It reached to its highest level in the Annual Budget Bill of 2006/2007 but as Figure 5-9 indicates in the following years the Majlis could not make considerable alterations.

Figure (5-9): The average alterations and amendments of government budget bills (2001/2002-2008/2009) by the Sixth and Seventh Majlis



Source: Consolidation Commission reports of 2001/2002- 2008/2009 budget bills

* This figure is according to the data of Tables 5-2 and 5-5

After considering the relationship between the government and the Majlis (both of which are deemed elected institutions) during the budget bill process the relationship of these bodies and unelected institutions i.e. Guardian Council and Expediency Council was examined. Table 5-7 shows that unelected institutions are important actors which can seriously affect the law making function of the parliament through changing the outcomes of government's policies. In this table different approaches of the unelected institutions toward elected institutions in the Sixth and the Seventh Majlis can be recognised. In the Sixth Majlis with majority Reformist, the Guardian Council and the

Expediency Council became more active while in the Seventh Majlis they were agreeable to Seventh Majlis enactments.

Table (5-7): The situation of bills and members' proposals in the Sixth and Seventh Majlis

The situation of bills/ members' proposals	Sixth session*		Seventh session**	
	Bill	Proposal	Bill	Proposal
Approved by Majlis	362	86	217	95
Rejected by Guardian Council	62	33	9	17
Referred to Expediency Council	17	7	5	5
Rejected by Majlis	13	43	29***	23

*Source: Karname e Majles e Sheshom, (2001-2004)

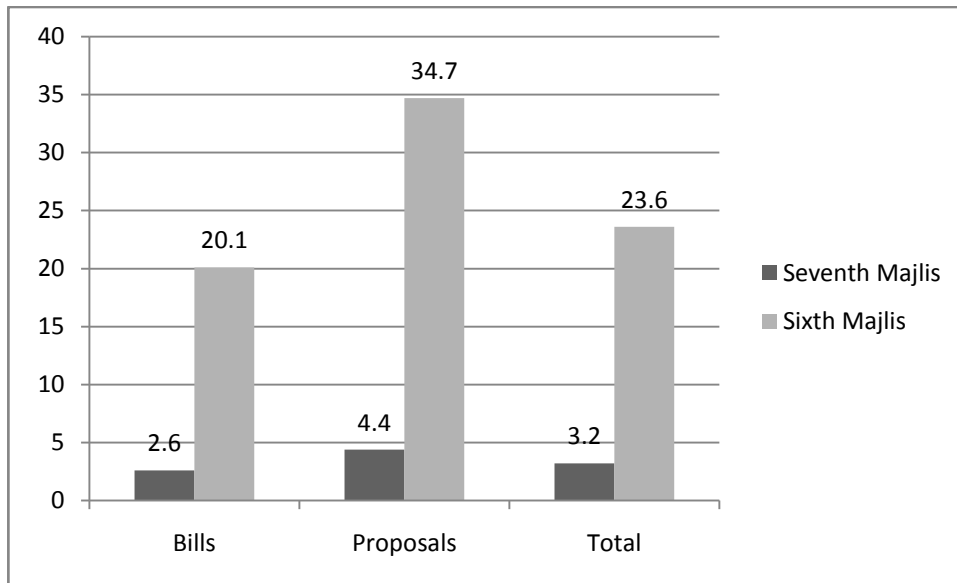
**Source: Karname e Majles e Haftom, (2005-2008)

*** The number of rejected bills in the Seventh Majlis is higher than the Sixth Majlis because most of them belong to the last year of Khatami's presidency which was coincident with the first year of the Seventh Majlis

****Data collected by Hassan Vakilian

The Guardian Council in particular, dominated by the Traditional Conservatives and absolutely controlled by the Supreme Leader could block the bills and members' proposals of both the Reformist government and the Reformist Majlis. As Figure 5-10 shows this trend was sharply decreased in the Seventh Majlis in comparison with the Sixth Majlis.

Figure (5-10): The percent of Sixth and Seventh Majlis enactments rejected by the Guardian Council



Source: Ibid

*Data collected by Hassan Vakilian

The same approach of the Guardian Council was applied to the annual budget bill. As the table below shows the number of Items which the Guardian Council rejected during the Sixth Majlis is considerably higher than in the Seventh Majlis. In the final year of the Seventh Majlis only one item of the budget bill was rejected by the Guardian Council which shows that the New Conservative Ahmadinejad government could follow its policies very easily, both in the Majlis and in the Guardian Council.

Table (5-8): The number of rejections of budget bills by the Guardian Council in the Sixth and Seventh Majlis

Term of the Majlis	Years	The number of rejections of budget bills by the Guardian Council	The number of items in the rejections
Sixth Majlis	2001/2002	-	-
	2002/2003	2	19
	2003/2004	1	53
	2004/2005	1	9
Seventh Majlis	2005/2006	1	5
	2006/2007	1	13
	2007/2008	1	11
	2008/2009	1	1

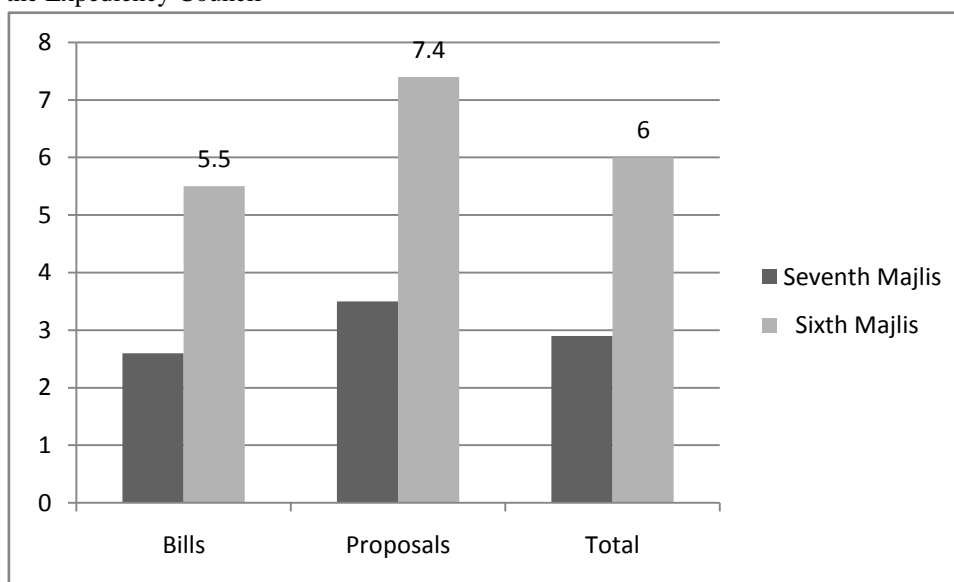
*Source: Consolidation Commission Reports of 2001/2002- 2008/2009 budget bills

**Data collected by Hassan Vakilian

Another unelected institution which increased its role during the law making process was the Expediency Council. We have already examined the Council's place in the Constitution and in practice and it was shown that although constitutionally it has only an arbitration and consultation function, in practice it has intervened in the law making process in many ways. Figure 5-11 this claim and indicate that the Sixth Majlis with a Reformist majority preferred to refer their enactments to the Expediency Council rather than adapting it according to the wishes of the Conservative-dominated Guardian Council. This is reasonable since the composition of the Expediency Council, where a moderate Hashemi Rafsanjani presides, is slightly more open than the Guardian Council

where the Conservative clergy seriously resisted the Reformists. Furthermore it was stated that the Expediency Council may even set aside the Shari'a law and take decisions on the basis of the *interest of the system* and this leave more room for manoeuvre. This trend in the Seventh Majlis declined since the New Conservatives of both the Seventh Majlis and Ninth Government felt more sympathy with the Guardian Council than the Expediency Council where the moderate Conservatives dominated. The figure below shows this trend in the Sixth and Seventh Majlis.

Figure (5-11): The percentage of the Sixth and Seventh Majlis enactments referred to the Expediency Council



*Source: Karname e Majles e Haftom, (2005-2008),Karname e Majles e Sheshom, (2001-2004)

**Data collected by Hassan Vakilian

Despite the Seventh Majlis and Ahmadinejad who tried to have less interactions with the Expediency Council, this Council – as was explained - increased its supervision and intervention especially in budget affairs to an unprecedented extent.

To sum up it might be said the law making power of the Majlis in comparison with its power and jurisdictions stipulated in the Constitution and other relevant laws is small. However, as was shown, it depends on the political composition of the political institutions involved in the law making process as to the capacity of the Majlis to

increase or decrease its power. Apart from this factor, which generally can define the overall power of the Majlis, regarding the budget bill the factors which can explain its weakness in budget process are as follow:

6.1 Structure of the political power in Iran

According to the Iranian Constitution, the leadership institution is located in the centre of the political power. In fact the highest authority within the Iranian political system is the Supreme Leader and all branches of the government are accountable to him while he has no responsibility to anybody. Although the President is in charge of preparing the budget bill and presenting it to the Majlis, the Supreme Leader has more considerable economic power. So long as the Constitution places ultimate political power in the hands of the Supreme Leader, it is very difficult to say that the President has meaningful power or is fully responsible for the executive because in such circumstances he does not have a decisive position within the power structure, and it might be said he is just a performer. This is the case especially in some important policy areas such as foreign policy, macroeconomic planning, and defence policy. Several important financial and economic institutions such as Bonyads and other Foundations are under the Leader's direct control. These Foundations which were established after the Islamic Republic Revolution are estimated to control approximately 40 percent of Iran's non oil economy and often operate parallel to the executive power while very rarely coordinating their activities with the executive apparatuses. For instance the Oppressed and Disabled Foundation (*Bonyad e Mostazafan va Janbazan*) which is the institution for providing various kinds of services to the people who were injured and disabled during the war with Iraq or very poor people of the country, is one of the biggest companies in Iran. It has been stated (Kamrava and Hassan -Yari, 2004) that Bonyads with an annual turnover which has reached 3.5 billion dollars, control more

than 400 companies and factories in different areas such as the food industry, beverages, chemicals, metals, petrochemicals and farming. The most important point is that at the same time that they are able to carry over the budget received as a transfer from the government budget, they are only responsible to the Supreme Leader and the government and parliament have no power to intervene in their affairs either in terms of making laws or overseeing them (The Islamic Republic of Iran, 2005). It is stated that “these enterprises provide services and funds to the politicians supervising them; although their activities in many cases are unrelated to the tasks of the government entities to which they are attached. The main function of these enterprises is to enable the politicians to offer rewards to their personnel and constituency and carry out tasks that are not feasible through the normal budgetary processes” (Salehi Esfahani and Taheripour, 2002: 697). In fact the duality of the political power within the Iranian political system clearly shows itself during the budget process and reveals how many competitors there are to the parliament and how much they can influence its power.

Moreover, the Constitution gives very important power to the Supreme Leader to delineate the General Policies of the system and supervise their implementation. We explained before that in this process the Expediency Council acts on behalf of the Supreme Leader and there are many cases (some of them are mentioned in this research) that show unelected institutions seriously involved in the law making process especially during budget ratification.

Also the influential intervention of the Guardian Council during the budget process may considerably limit the power of both branches of government. It was shown that the political composition of the executive and legislative power is very relevant.

Although the executive power is weaker in relation to unelected institutions, if one compares the executive and the Majlis, one can see that the former has more influence over the budget bill than the latter. The executive has some privileges which make it

more powerful than the Majlis during the budget process. The President has the right to draft the budget bill for which he can employ many advisory and professional bodies. For instance the Plan and Management Organization, which is a very professional institution with substantial resources, helps the President while the parliament lacks similar bodies with abilities to help it during the budget process in parliament as we will see in the following pages.

6.2 Lack of political parties

The relationship of the parliament and political parties is crucial in terms of its law making power. The impact of parties upon the internal workings of parliament and behaviour of parliamentarians constitutes the main part of the current studies about parliament. Parties may help parliament to gather different views and approaches toward policy.

In most of the countries where there is plenty of research about their legislatures, such as Britain where the party discipline is very strong, the parliament's independence has been sacrificed in favour of party power; complete dominance of parliamentary activities by parties affects the parliamentarians' independence. In contrast, the lack of strong party discipline has enhanced the law making power of the Congress of the United States. That is why party politics are in the centre of studies considering power of the legislatures. Such an approach toward the Iranian Parliament appears quite irrelevant. Not only is there no party discipline in the Iranian political parties, there are no political parties such as those that can be seen for example in European countries where parties are ubiquitous.

As we mentioned, although the activities of political parties are permitted according to the Constitution, they have no important role in Iranian politics including parliamentary activities; most of them were banned after the Islamic revolution. As

Fairbanks argues “the establishment of political parties by civil groups is perceived as a direct threat to the clerics’ power and is incongruent with the theory of Vellayate-Faghih” (Fairbanks, 1998: 17). Instead of political parties, there are many quasi-political parties and factions in the Iranian political system which informally engages in political activities. Even those political factions endorsed by the official authorities cannot play an influential role as an opposition party mainly because of the electoral system which prevents them from participating meaningfully in parliamentary elections and with most of their candidates disqualified by the Guardian Council. For instance, as Hajjarian (2007) mentioned, the minorities (Reformists) in the Seventh Majlis acted very weakly within the parliament and in fact there was no resistance to the Conservative majority of the Seventh Majlis.

Lack of political parties affected the power of the parliament because consequently parliamentarians are not backed by parties. Instead of modern political parties, there are political factions which are not well organised because they have not enough financial resources to make them independent of government. In these factions there is no clear leader; just powerful individuals that can set the agendas of the factions. They consist of no homogenous group and no coherent organizational structure. There is no official political programme as with the modern political parties. Individual members express their opinion in the public media (Moslem, 2002). Most of the Iranian parliamentarians have not had any experience of working within institutionalized political parties and because of that they cannot cope with the professional and well trained executive officials, especially in relation to budget affairs which are highly complicated. Even some candidates of the Majlis elections emphasise they are independent candidates and have no affiliation with political factions (Khatamati, 2007 interview 27 March).

6.3 Complicated budget bill and not enough information for deputies

The annual budget bill is a complicated document; its content is not easy to understand by the parliamentarians, most of whom have not enough experience and information about budgetary issues. In contrast, the executive's officials who prepare and submit the budget bill have enough information about the policies and preferences of the government. In other words, the executive usually has greater information sources than the Majlis which enters the budget process at a late stage after secretive departmental negotiations have finished. Therefore, it is vital for the parliament to have access to sufficient, accurate and useful information on the budget. This requirement includes information on the budget proposal and reports from every executive department. Also an effective research service along with dedicated, specialized personnel is necessary to help deputies in analyzing the budget bill.

As has been stated (Shobeirinejad, 2007) in Iran one cannot compare the knowledge and information of executive officials with that of the parliamentarians about budgetary affairs. Obviously the deputies need relevant information and reports from the government for being able to examine and probably to adjust the budget bill and this kind of information usually is not presented to the Majlis by the executive's officials. Also it was stated that "there is relatively little information on off budget or implicit revenues and spending, loan guarantees and other contingent liabilities, and quasi-fiscal obligations. Likewise, there is little information on the process of budgetary execution, including a lack of periodic reporting on the status of budgetary execution during the year itself, although the budget document contains actual out-turns for previous years (a welcome contrast to many countries). In addition, many budget execution decisions are both non-transparent and non-public, including contract awards for public procurement" (Islamic Republic of Iran, 2005: vii). Also it seems there is unwillingness on the part of

the executive power to give enough information to the Majlis, making it unable to force changes.

According to an interview with one of the deputies of the Seventh Majlis, he believes that the information and knowledge of the parliamentarians were not enough to examine the annual budget bill. However he thought the situation varied in different periods of the Majlis. Shahbazkhani (2008, interview 2 March) evaluated the knowledge of his colleagues as follows: “we did not have skilled, qualified and able forces familiar with the country’s issues in the Majlis especially in the budget area which needs well trained people”. He believes that due to the disqualification of many prominent figures and experts with experience of working in the government and Majlis during the Seventh Parliamentary Elections, the Specialized Commissions were empty of such workforces.

The table below shows the opinion of members of the Sixth and Seventh as to the level of deputies’ information about the annual budget bill:

Question: Is the level of information about the budget bill adequate?

Table (5-9): Opinion of the Sixth and Seventh MPs about the level of budget information of the deputies

Term of Parliament	Answer	Percent
Sixth Majlis	Yes	6.9
	No	89.2
	No answer	10.3
	Total	100
	Members of	58
Seventh Majlis	Yes	0
	No	95.8
	No answer	4.2
	Total	100
	Members of	24

Source: Ghasemi et al, (2008), Bodgeh Rizi Dar Iran, Tehran, Entesharat e Majlis e shoraye Eslami

Also the educational situation of parliamentarians seems to be one of the factors involved in the quality of the work of the parliament in budgetary matters. It was mentioned (Shahbazkhani, 2008, interview 2 March) that using the unfamiliar and

technical terms in the budget bill makes it more difficult to deal with the annual budget bill. That is why Shahbazkhani believes that in the current situation the parliamentarians should not change the budget bill in its details but rather discuss only the overall plans and policies of the government.

Therefore, it seems that a lack of Information on the draft of the budgets, particularly information below the department level which enable parliamentarian to discuss its proposed expenditure and revenue, resulted in the weak law making power of the Majlis.

Parliamentarians' lack of knowledge about the budget bill may be compensated by the effective research services which require dedicated and specialised personnel. In the Iranian Parliament the Majlis Research Centre which provides the research services was established in 1993 (14 years after the establishment of the Islamic Majlis) and it is not well institutionalized. The head of the Majlis Research Centre should be appointed by the vote of a majority of the Majlis Speakership Board which usually takes place at the beginning of each Majlis session. This procedure which takes place every four years has affected the stability of the institution. Therefore the structure and the staff of parliament are not in a strong position to provide proper services to the parliamentarians and, as mentioned on its website, the resources allocated are not enough to fulfil its functions (Majlis Research Centre a, 2008). Also as the former Deputy Speaker of the Sixth Majlis mentioned (Khatami, 2007 interview 27 March) it seems that parliamentarians are not certain to rely on the papers and reports produced by the experts of the Majlis Research Centre. Nevertheless in the budget season the budget office of the Majlis Research Centre is becoming more active. The office usually prepares many reports on the different phases of the annual budget bill and helps the parliamentarians to understand the complicated draft of the bill. For instance according to official reports published by the Institute in the Seventh Majlis, 239 reports on budget

bills had been provided by the Majlis Research Centre (Majlis Research Centre b, 2008).

6.4 Weak parliamentary commissions

The factors which may affect the power of the parliamentary commissions can be grouped in two categories: structural and behavioural features. As Strøm (1998) put it, the type and tenure, the number of their members and size, their jurisdictions and correspondence with executive departments and so on can define the structural features of the commissions which define the room for manoeuvre within the parliamentary arena. By behavioural features is meant the parameters such as the level of experience, education, information, and occupation which guides the activity of the members of the commission (Parliamentary control over public expenditure in Bangladesh: the role of the committees, 2000).

In terms of its structural features it might be said that the Iranian parliamentary commissions in some respects have the characteristics of strong and influential commissions. For instance the Specialized Commissions of the parliament which according to provision 3 of Article 4 of the Internal Regulation of the Majlis have jurisdiction to examine the budget bill are established and maintained for the entire session of the Majlis. In terms of their size, the number of every Commission might vary between 19 and 21 (Article 29 of Internal Regulation) and within them the establishment of subcommittees is allowed (Article 48 of Internal Regulation). Nevertheless in other respects it seems the parliamentary Commissions' organization has not enough power to control the executive power. For example while the number of the Specialized Commissions which consider the governmental bills is just 12, the executive departments (apart from executive bodies within government) are 21 which

obviously affect the power of the Commissions. They are not parallel to executive departments and that is why one of the parliamentarians stated that the workload of the Commissions is too much and prevents them from monitoring the activities of the executive departments properly and rigorously (Maidari, 2007 interview 27 March).

Also the time allocated to the Commissions is a very important variable which may impact upon their activities. Longer time enables detailed analysis to identify and support suggested amendments. Where Commissions do not have sufficient time for analysis, their role in suggesting amendments may be weakened. Sometimes the executive delays submitting the budget bill and this affects the Commissions' power. Abdollahi, who presides over the Consolidation Commission of the Seventh Majlis, criticized Ahmadinejad's government for delaying the submission of the budget bill of 2008/2009. He said "the annual budget bill was given to us very late this year. The Specialized and even Consolidation Commissions had not enough time to consider the documents in detail and take the evaluation of the experts. They did not even have time to flip the pages of the budget. Some of the deputies did not have the time to review it once. In such circumstances not too much can be expected from the Majlis to change this bill" (Abdollahi, 2008 interview 4 February). Abdollahi also mentioned that a large number of deputies had found it very difficult to cope with the enormous information which was included in the complicated tables which they received a few days before the parliamentary session.

Table (5-10): The opinion of the Sixth Majlis MPs about annual budget bill time schedule

MPs answer	Submission of bill to Majlis	Time limit of MPs to give proposal	Time limits of specialized commission to give proposals	Time limit of consolidate committee to give proposal
Enough	55.2	48.3	48.3	50
Not enough but impossible to change	1.7	3.4	-	5.2
Not enough but possible to change	31	41.4	46.6	34.5
No answer	12.1	6.9	5.2	10.3
Total	100	100	100	100
Members of Parliament	58	58	58	58

Source: Ghasemi et al, (2008), Bodegh Rizi Dar Iran, Tehran, Entesharat e Majlis e shoraye Eslami

Table (5-11): The opinion of the Seventh Majlis MPs about annual budget bill time schedule

MPs answer	Submission of bill to Majlis	Time limit of MPs to give proposal	Time limits of specialized commission to give proposals	Time limit of consolidate committee to give proposal
Enough	16.7	58.3	29.2	25
Not enough but impossible to change	8.3	4.2	8.3	4.2
Not enough but possible to change	8.3	29.2	58.3	62.5
No answer	16.7	8.3	4.2	8.3
Total	100	100	100	100
Members of Parliament	24	24	24	24

Source: Ghasemi et al, (2008), Bodegh Rizi Dar Iran, Tehran, Entesharat e Majlis e shoraye Eslami

Also they have not enough financial resources for recruiting the appropriate experts when they deal with the complicated bills such as the budget bill (Bahrami, 2007 interview 14 October).

In terms of their behavioural characteristics it was stated that the membership of parliamentarians in Specialized Commissions of the parliament is based on their political affiliation rather than their experiences and expertise in the policy area of the Commissions. Most of the parliamentarians who rush into those Commissions, such as

Foreign Policy and Internal Security, have no skills or experiences in these areas of policy making (Mazrouei, 2007 interview 21 April).

Furthermore, in the Majlis the minorities of the parliament have no meaningful participation and the majority lack the willingness to challenge the policies of the government in Commission, as we saw with the 2008/2009 annual budget bill (Ibid).

Parliamentary Commissions in Iran do not have well-trained staff and permanent expertise and their current staff are inadequate. Apart from routine work of the Commissions, such as arranging the meetings, travelling and time scheduling, most of them are not able to be involved in other parliamentary activity such as influencing agenda setting decisions, working to create coalition in Commission, and investigation. Nevertheless, they do have some limited resources to hire temporary experts who can be consulted on the subject raised in the Specialized Commission. Ghanbari, (2006 interview 5 July) one of the members of the Budget and Plan Commission of the Sixth Majlis, complained about the level of the contribution of his Commission staff and said “apart from some simple secretarial jobs, most affairs of the Commission are to be done by ourselves and this worsens our time shortage problem”.

As we saw, parliament is substantially involved in budgetary discussions. The draft budget, in full detail, is distributed and discussed over a period of several weeks through a series of Commissions in parliament. Technical support is provided by the Parliament Research Centre. Parliament may eliminate or add activities, or change allocations, provided that overall fiscal discipline is respected. In practice, however, parliamentary changes are typically small, driven by local constituencies, and inevitably tend to increase spending over the executive’s proposals. Parliamentary budget deliberations are televised, and the parliamentary Research Centre analyses are published.

Finally it can be concluded that the law making power of the parliament is weak mainly because of the strong performances of the unelected institutions.

They can easily block enactments of the parliament in final part of the legislative process. All factors which mentioned before can exacerbate this situation.

Chapter Six:

Conclusion

In this research the law making power of the Iranian Parliament has been explored at two levels: parliament in the Constitution and then parliament in reality. As an external variable, constitutions are one of the important factors which can help researchers for better understanding legislatures. Yet it does not mean parliaments established in the constitutions are the same in real politics. In fact parliament as is designed in the Iranian Constitution and parliament in reality, and the gap between them, constitute the main themes of this research.

Firstly since the constitutions have strong links with their historical background and their social context, the evolution of the Iranian Constitution since its establishment was overviewed. It was stated that absolutism and arbitrary power were the main characteristics of Iranian society before the Constitutionalism Movement. For the first time a loose alliance of heterogeneous political forces led to a public demand for the limitation of political power and the establishment of the first Iranian Constitution. Having in mind the impact of the political forces that created the first Iranian Constitution, we explained the place of the parliament within that by explaining the separation of power system according to the Constitution and in the distribution of political power in reality. Although constitutionally the Iranian Parliament was intended to be the supreme power in relation to the other power centres, two traditional forces which have deep root in Iranian society resisted this new phenomenon i.e. the parliament's supremacy: the power of the monarchy which had absolute political power since the time of ancient Persia and the power of religion which was interpreted exclusively by the clergy.

Overviewing the functions and activities of the parliament before the Islamic revolution and post revolutionary Iran, it might be said that the Iranian Parliament was always threatened by these traditional forces. The Pre-revolutionary Iranian Parliament, except for short periods of time during which the central political power weakened for what ever reason (either internally or because of the international situation), has been subordinated to the power of the monarchy. In fact in the First and Second Pahalavis Eras, not only parliament but also the executive power was under the absolute control of the Reza Shah and Mohammad Reza Shah. Therefore one may find a big gap between the power of the parliament on the basis of the Iranian Constitution and its capabilities in real politics. Obviously in these circumstances no political party could play any meaningful role in shaping the policies or participating in political power.

After the Islamic Revolution of 1979, although the monarchy was ended, the power of religion and the clergy limited the role of the parliament. It was explained that severe clashes started between the two major political powers that contributed to the Islamic Revolution of 1979 i.e. secularist and religious. They tried to establish a new political arrangement in the Iranian Constitution which as a result of their attempts a contradictory Constitution emerged: within that the secular institutions such as an elected executive power and parliament were juxtaposed with religious institutions such as the religious leadership, the Guardian Council, the latter of which had roots in the Constitution of 1906-7.

The post revolutionary Constitution in 1989 deepened the paradoxes of the Iranian Constitution by vesting absolute power in the Supreme Leader and establishing a new unelected political institution which had strong potential to become a parallel parliament. According to the new arrangements, which were enshrined in the amended Constitution, the puzzle of the separation of powers was explained. It was shown that the Iranian political regime is neither a presidential nor parliamentary nor even a hybrid

political regime. It has some elements of these political systems and some elements which belong to the theocratic political system. On this basis, two major categorisations of the Iranian political institutions were recognised as elected institutions, primarily the Majlis and the executive power, and unelected institutions including the Guardian Council and the Expediency Council which were directly involved in the law making process. It was stated that elected institutions, although under the full control of the unelected institutions, are directly elected by the people. On the other hand the members of unelected institutions either directly or indirectly are handpicked by the Supreme Leader.

This categorisation of political power is important in terms of assessing the law making power of the parliament. It was mentioned that despite the current literature with its emphasis on the relationship of the legislature and executive power for assessing the law making power of the parliament, such an approach toward the Iranian Parliament may confuse the picture of its law making power. In fact, understanding the logic of separation of powers between elected and unelected institutions can explain the behaviour of the Iranian Parliament. It was stated that elected institutions, due to the charismatic legitimacy of the Ayatollah Khomeini, were blunted and gradually weakened. On the other hand, the unelected institutions expanded their power especially through the absolute support of the Supreme Leader as the main power holder within the Iranian political system. It was explained that the Guardian Council fully controlled the main elections including parliamentary elections through approbatory supervision. By disqualifying the candidates of the opposition, even those who were known as moderate politicians, the Guardian Council could impact upon the political composition of the Majlis and has done so, particularly in recent years. Also by rejecting the many enactments of the Assembly either in the name of having a discrepancy with the Shari's or conflicting with the Constitution it could block the Assembly's outputs significantly.

Also the Expediency Council's functions and authority were examined and it was stated that this unelected institution is potentially a legislature, but with a different philosophy and approach toward the law making function. It was stated that a majority of members of this council were appointed by the Supreme Leader and has three main functions: settlement of disputes between the Majlis and Guardian Council, solving difficulties of the State by the order of the Leader, and delineating the General Policies of the State after the approval of the Supreme Leader. In fact the Council acts on behalf of the Supreme Leader and has the right to enact policies even against the Shari'a with recourse to the concept of interest of the State (*Maslahate Nezam*) while the Majlis and Guardian Council have no such rights and capabilities. It means that the law making capacity of the Expediency Council can be far more than that of the Majlis. Therefore, it might be said there is no balance between the power of the elected institutions and unelected institutions since the latter are vested with more political power constitutionally.

On the basis of above-mentioned analysis of the political institutions and the logic of the separation of powers, in the sixth chapter theories and hypotheses of the thesis were examined. Since the political composition of the executive power and the Majlis is important for assessing the law making power of the parliament, therefore two different terms of Majlis were chosen for study: the Sixth Majlis which was dominated by the Reformist camp and the Seventh Majlis in which the majority were New Conservatives. The interaction of the Majlis and executive during the budget process was studied in these two terms of the parliament. Also it was stated that the Majlis according to the legal framework of law making in the budget process has no limitation except observing the Five-Year Development Plans as mid term developing plans which in fact act as a framework for the annual budget bill.

Through analysing its political context, it was explained that the Sixth Majlis was coincided with the Reformist government of the Khatami who could pass his policies through the Majlis with no serious troubles, especially the budget bill. It was shown that the Sixth Majlis could alter the government's budget bill only 14.3 percent on average. Despite the Majlis being an elected institution, the Guardian Council could reject several key government bills and MPs' proposals, including the budget bill. In fact when the executive and the Majlis are being dominated by the Reformists the main clash over policies is not between them but between elected institutions and unelected institutions. This is the consequence of the duality (theocracy versus democracy) of the political institutions within the Iranian political system. This research shows that there is no political power balance between elected and unelected institutions and in practice the elected institutions are subordinate to the unelected institutions during law making process which in turn ultimately leads to weakness of the Majlis.

Therefore, the situation of the Sixth Majlis in terms of its law making power can be formulated as follow:

Reformist executive power (elected institution) + parliament with Reformist majority (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with little or no law making power.

According to this formulation the Guardian Council can use its veto power against the policies enacted by the Majlis and reject the whole or parts of the Majlis enactments and should the Majlis insist on its own enactments and refuse to accept the Gardian Council's vetos, then the interference of the Expediency Council is inevitable. The decision making function of the Expediency Council in this situation will increase considerably as was the case in the Sixth Majlis. Although the Expediency Council constitutionally must only mediate between the Majlis and the Guardian Council, in

practice the Expediency Council has proposed and enacted its own policies several times. That is why it can be said that the Expediency Council can be deemed a potential law making institution parallel to the Majlis.

Following the Seventh Parliamentary Elections, the New Conservatives dominated the Majlis in 2004 in the final year of Khatami's presidency. It was shown that during this year (2004-5) the law making power of the Majlis tremendously increased and the Majlis could block the main policies of the executive power. In addition the Guardian Council backed the New Conservative Majlis and paralysed Khatami's government; Khatami described his government as an Office Coordinator (*Tadarokatchi*) which shows he had not enough authority and power to follow its policies. Khatami had to withdraw some of his major bills due to considerable amendments and alterations which were made by the majority New Conservative Seventh Majlis.

Therefore, it might be said that the first year of the Seventh Majlis (New Conservative majority) the law making power of the Iranian Parliament matched the third hypothesis of this research according to which:

Reformist executive power (elected institution) + parliament with Conservative or New Conservative majority (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with strong law making power or policy influencer.

In this case the law making power of the Majlis reaches its maximum level because the essential power centers, which are mainly vested in the hands of unelected institutions (Guardian Council and Expediency Council), support the Majlis and so they can significantly challenge the policies of the executive. The decisive factor in this hypothesis is the political composition of the Majlis. The Conservatives always have a majority in the unelected institutions, when they also win the majority seats of the Majlis, the policy battlefield changes. In such circumstances, instead of relying on

unelected institutions, Majlis can easily reject or substantially change the content of the bills submitted by the government. This was the case in Seyed Mohammad Khatami's last year of presidency when the power of the executive reaches its minimum level and it had to withdraw some of its principal bills.

This hypothesis can be tested once again in the Presidential Elections of June 2009. If the candidates of the Reformist (currently Seyed Mohammad Khatami, former Iranian President from 1997 till 2004 has more chance amongst the Reformist candidates) win the elections, his government would be challenged by the Eighth Majlis which is under the control of a majority of the New Conservatives.

The relationship of the Majlis and executive power changed when Ahmadinejad from the New Conservative faction won the Presidential Elections of 2005. So for the first time in the history of the Islamic Republic of Iran, homogenous political factions occupied the elected and unelected institutions. In fact this situation was hypothesized as follow:

Conservative or New Conservative executive power (elected institution) + Conservative or New Conservative parliament (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with strong law making power.

As it was analysed this hypothesis cannot be right. Apart from exceptional bills the Ahmadinejad Government could pass its policies easily through the New Conservative Seventh Majlis. This can be explained by the sympathy of the Supreme Leader and the Guardian Council with the Ninth Government. It can be said that the variable which is decisive in this situation in the relationship of the Majlis and the executive is their closeness to the main political power centers. Either of them can be more supported and play a more powerful role during the law making process. As was explained, in the Ninth Government (the New Conservative) which coincided with the three years of the

Seventh Majlis (Majority New Conservative) the subordination of the Majlis to the executive power increased considerably, with Ahmadinejad's Government being strongly supported by the Supreme Leader and the institutions under his control.

Therefore the initial hypothesis can be reformulated as follows:

Conservative or New Conservative executive power (elected institution) + Conservative or New Conservative parliament (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with little or no law making power

It should be noted that, instead of the Guardian Council during the budget process in the Seventh Majlis, the Expediency Council played a more active role and strongly intervened in budget law making process. This can be explained by saying that the executive power and Majlis were dominated by the New Conservatives who had a close relationship with the Guardian Council, while the Expediency Council dominated by Moderate Conservatives who did not agree with the radical policies of the Ahmadinejad Government.

The final hypothesis of this research, which has remained unexamined, is:

Conservative or New Conservative executive power (elected institution) + parliament with Reformist majority (elected institution) + Conservative Guardian Council (unelected institution) + Conservative Expediency Council (unelected institution) = parliament with little or no law making power.

The Iranian political system has not experienced an instance of this political composition yet. However on the basis of the analyses which have been done in this research, it might be said that in this situation the Majlis law making power may reach its minimum level of law making power.

These hypotheses which show the different levels of the law making power of the Majlis in different scenarios (political composition of the elected and unelected institutions) according to Norton's typology can be summarized as Table 6-1 shows:

Table (6-1): Law making power of the Majlis according to the political composition of the elected and unelected institutions

Elected institutions		Unelected institutions		Law making power of the Majlis
Political composition of the Executive	Political composition of the Majlis	Political composition of the Guardian Council	Political composition of the Expediency Council	
Majority Reformist	Majority Reformist	Majority Conservative	Majority Conservative	Little/no law making power
Majority Reformist	Majority Conservative/New Conservative	Majority Conservative	Majority Conservative	Strong law making power/ policy influencer
Majority Conservative/New Conservative	Majority Conservative/New Conservative	Majority Conservative	Majority Conservative	Little/no law making power
Majority Conservative/New Conservative	Majority Reformist	Majority Conservative	Majority Conservative	Little/no law making power

Although the Iranian Parliament generally tends to be weak for implementing its law making power, whenever the Traditional Conservative or New Conservative dominates the Majlis and the Reformists take control of the executive the law making power of the Majlis increases, and, depending on the level of unelected institutions' support, the

Majlis would be either able to influence policies (policy influencer) or would have strong law making power on the basis of Norton's typology.

Future research:

In this thesis, the main limitations of the Iranian Parliament within its constitutional framework have been examined. It was shown how much institutions other than the executive can directly and significantly impact upon the law making power of the Majlis. Obviously, the influences of these institutions are not limited to the law making function of the Majlis. Also the formal institutions enshrined in the Constitution are not the only factors which can confine the power of the Majlis. Therefore this research can be developed by focusing on the other functions of the Majlis and the other external variables which have strong links with the functions of the Majlis:

Regarding the uniqueness of the Iranian political system in terms of combining the theocracy with some elements of representative democracy, the importance and effectiveness of the representative and legitimation functions of the Majlis can be explored from the legislative studies perspective.

A lack of modern and disciplined political parties and interest groups which shape the relationships between political institutions such as executive and parliament is one of the characteristics of the Iranian political system. Absence of the organised political parties, both inside and outside of the Majlis, and its impact upon the strength of the parliament is one of the unknown areas of the research which can crucially lead to better understanding of the Majlis and the parliamentarians' behaviour. Instead of political parties, political factions have a leading role within the internal organisation of the Majlis. They are very active inside the Specialized Commissions which are located in the heart of the internal organisation of the Majlis. Despite their importance there are

not comprehensive studies about them. The mechanisms of the allocation of seats to the political factions inside the commissions and the decision making process can be the subject of an independent research.

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