

## A Comparative Study of the extent of President's Responsibility for his Legal Assignments in Iran, France and America

Ebadollah Abbasi<sup>1\*</sup> and Khalegh Masoudi<sup>2</sup>

<sup>1</sup> Department of Law and Political Sciences, Abadeh Branch, Islamic Azad University, Abadeh, Iran.

<sup>2</sup>MSc student, Department of private law, Abarkouh Branch, Islamic Azad University, Abarkouh, Iran

\*Corresponding author: [abassi272@yahoo.com](mailto:abassi272@yahoo.com)

**Abstract:** One of the aspects of government's accountability pro rata the president's accountability and responsibility is related to political accountability and that is the government or executive officials of the land must be accountable for parliament and people regarding their policies, and also priority and the state of executing them. Unlike legal accountability having relatively simple connections and just a connection between governmental authorities and courts, political accountability has more complicated structure. In such accountability, governmental non-elective organs (e.g. public services, armed forces, police, and security services) through ministers appointed by the president are held accountable for him. In turn, the presidents and ministers are also accountable for people and parliament or legislative considered as people's representatives. Another aspect of the president or government's accountability is legal or juridical accountability. In explaining such responsibility, it must be said that all governmental officials including the elective and appointive are accountable for courts in case of any violation in their functions. Basically, the concept of law government is also innate in here and, that is, those who implement rules and execute policies themselves must act based on the power determined and limited by law and also according to constitution. In this article, we intend to study and compare the president's responsibility in three countries: Iran, America, and France.

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### Comparative Study of Political Responsibility of Iran, France and America Presidents

#### Section 1: Political Responsibility of Iran President

For the authorities delegated to the president, he also has responsibilities which he must be accountable to another authority, if necessary. Surely, the president has responsibilities. Since it is so-called that power brings about corruption and perhaps people's elect president violates his legal assignments, the president is held accountable for nation, parliament and leader in Iran (Principle 122 of Islamic Republic of Iran Constitution). Before constitution revision in 1989, the president was just responsible for nation. Before revision, principle 122 of constitution indicated that the president is responsible for nation regarding his authorities and assignments. Existence of prime minister and his extensive responsibilities in executive, the president was not responsible for parliament and leader (Yazdi, Mohammad, 1996) which, after revision in 1989, all authorities of the prime minister were delegated to the president. So, based on revised principle 122 of constitution, the president is responsible for people, parliament and leader. Concerning the responsibility of the president for nation, we must say that it is a moral one (Hashemi, Mohammad, 1996). Beside the fact that there is no controlling factor in this regard, no executive guarantee is anticipated for it. Like the president takes nation as his witness in oath ceremony and undertakes heavy commitments for nation, about his political responsibility for parliament, it must be said that Islamic Consultative Assembly is authorized to censure the president and rule against his political qualification based

on two third of total members' votes (Principle 89 of Islamic Republic of Iran Constitution). But there is also another aspect to the responsibility of the president and that is his responsibility for parliament regarding actions of the board of ministers (Hasani, Hasan, 1990). Because ministers under his headship form a board called board of ministers which itself has a character separate from each of the ministers and decisions of the president or board of ministers also play an important role in managing the country, as a result, it is normal that headship of the board of ministers (i.e. the president) is responsible for parliament regarding acts and decisions of the board.

Concerning the responsibility of the president for leader, it can be argued that Iran president deposition suggestion is submitted to leader position by parliament or from his condemnation by Supreme Court of the land and then the position takes action to deposition him based on prudence of the country (Principle 134 of Islamic Republic of Iran Constitution).

Political responsibility of the president as the head of executive; since president is responsible for execution of the rules, in case of execution or mis-execution and or violation of rules by the position, political and legal values of society are ignored and he must be accountable for his deeds in this regard.

Also, since the president is financial treasurer of the land through his colleagues and holds government's budget and great part of public belongings and properties, to take extreme caution and avoid probable abuse, constitution assigns that the properties of the position and his family (as with other governmental supreme positions) must be inquested by headship of judicature before and after

tenure so as not to be increased by breaching any rights (Principle 142 of Islamic Republic of Iran Constitution).

### **Section 2: Political Responsibility of France President**

France president is only responsible for treason and it is only then that he is responsible or parliaments, namely, two parliaments can accuse him by formulating indictment through the same votes in overt voting and with absolute majority of the members. Since the deed is done by parliament, it is titled as political responsibility. Upon formulation of indictment by the parliament, Supreme Court of justice will try him (Article 68 of France constitution). As seen, in France, unaccountability of the president for his own deeds is accepted as a principle and his responsibility is an exception on the principle and only realized at the time of treason. However, treason has a variety of instances determined by parliament. So, inquest of the president's political misfeasance requires many formalities and a special court. The president is not responsible for people or any other positions. The extensive authorities of the president and his narrow responsibilities were due to the role General De Gaul played in formulation of present France constitution. One the other hand, since executive responsibility is in prime minister's charge, the unaccountable president can win his own policies better. It is noteworthy that before 5<sup>th</sup> revolution (1958), the president was unaccountable yet had not so much power. The only action he could take was to elect and assign prime minister. Other decisions could be implemented when authorized and signed by the minister in charge or the prime minister (Hasani, Hasan, 1990).

In France, for the absolute majority of members to always set the assignments of the board of ministries, it is declared that vote of majority of total members (not the audience) is required for the government's fall. Both parliament and government can request trust vote. Parliament's suggestion can be posed when at least one tenth of the members sign it. Negotiations get started 48h after proposal and if absolute majority of total members does not vote for distrust when voting, the government still stays and the censure can be repeated at the same assembly (Madani, Jalalodin, 1995). Indeed, since the parliament is formed based on parties in France, it is enough for the government's fall that the opponent party's leader can have a majority of negative-voice members in the censure. And, whenever the government has the majority in the parliament, he might initiate reception of trust vote and thus prove that he has the support of parliament's majority. Censure and request for trust vote are two actions of the parliament and government to show the power of each in France (Madani, Jalalodin, 1995).

### **Section 3: Political Responsibility of America President**

Due to the system of forces separation in America, each of the three forces are detached and has some extent of independence. Congress just does legislation affairs; executive does administrative affairs and courts do judgment and suit. In headship regime of America, since the president is a result of nation's votes and not assigned by parliament, he has great reputation and does not need

to gain trust vote of the parliament and he is also independent in appointing his ministers and does not need the congress agreement. Congress cannot take action to censure ministers and consequently has no political responsibility for congress or any other positions. And, he does not have to account for his function and fulfills his assignments independently.

### **Comparative Study of Juridical Responsibility of Iran, France and America Presidents**

#### **Section 1: Juridical Responsibility of Iran President**

If the president – as supreme position of the land – commits deeds damaging rights and freedoms of people in fulfilling his political and executive assignments, he will be prosecuted not only politically but also criminally. Although constitution of Islamic Republic of Iran has implied political crime, not certain definition for the term has been presented by legislator regarding the essence and extent of the political crime. Also, concerning the inquest of the president accusation of common crimes is done by informing Islamic Consultative Assembly and in common courts of judicature (Hashemi, Mohammad, 1996).

Whenever the president commits a common crime like bribery and jobbery, he is criminally responsible and has no juridical immunity, but he will be prosecuted just like other common people. The inquest will be done by informing Islamic Consultative Assembly and in common courts of judicature (Principle 142 of IRI constitution). Of the reasons for informing the parliament is that judicature does not protest executive and or the president illusory alibis and inhibits him from fulfilling his assignments. Hence, the legislator has asked for the parliament to be informed of it (Safar, Mohammadjavadi, 1991). In general, where any deeds of the president resulted from his fault causes any damages to the government and/or the third persons, he will be responsible for paying it off. This type of responsibility interpreted as civil responsibility is not anticipated in constitution but based on general principle of public equality for law and also based on principle 107 and paragraph 14 of constitution's principle 3, it is a vested and peremptory affair. In general, regarding Lazara Rule in Islam, losses imposed to individuals due to the other one's deed must be compensated for and there is no difference between the president and other people.

Since Supreme Court can plea the leader for the president's deposition in case of his violation and condemnation (Article 19 of setting the area of Iran president's assignments and power), perhaps at the first glance it seems that direct role of judicature in detecting the president's violation and making final decision in this regard goes against the independence and separation of forces, and also be in conflict with the soul of power and the philosophy of the presidency position superiority in the whole regime. But it must be said that if Supreme Court of the land has any responsibility in this regard, it is only due to the juridical nature of the president's violation issue and based on the authorities delegated by judicature. Because the Supreme Court just plays a role in detecting the violation and has no power in making final decision. And, no doubt, this extent of interference will not lead to violation of executive dependence by judicature (Amid Zanjani, Abasali, 1987).

## Section 2: Juridical Responsibility of France President

In some political regimes, special type of judgment is taken according to the specifications of the culprit known as political judgment. In political judgment, some accusations of officials including the government headship (king), president and prime minister and also ministers are tried with special formalities and exclusive and specific authorities (Qazi, Abolfazl, 1974). Concerning basic law of France, juridical responsibility or on the other hand satutory responsibility of the president has been approved. About satutory responsibility, we must say that it is resulted by committing crime, when there are reasons indicating that the president has committed a deed banned or can be penalized by law, it imposes satutory responsibility which might be in areas such as robbery, jobbery, treason, freedom misfeasance and ... resulting in satutory responsibility (Madani, Jalalodin, 1995).

Basically, since the aforementioned officials have a sort of political immunity, there is a special order regarding the inquest of criminal responsibilities. What is stated in France constitution shows unaccountability of the president concerning the implementation and execution of his assignments except in cases of treason which is stated as follow in Article 68 of France constitution: "the president is not responsible for actions he usually takes in fulfilling his assignments except in case of treason".

So, regarding satutory responsibility, constitution trend is propelled toward unaccountability of the president, especially based on Article 64 of France constitution, the president is recognized as the guard of judicature dependence and even headship of judicial Supreme Council.

As described above, it was due to the principle role General De Gol played in formulating constitution. Even. About satutory responsibility of embarking treason, the inquest rite of this accusation is also complex so that in such cases two parliaments formulate indictment by absolute majority in overt voting against the president and upon the formulation of the indictment regarding the president's treason, it will be the time for inquest in Supreme Court of justice.

In fact, Supreme Court of justice is the only authority for the inquest of the president's crimes. Its members are elected by two parliaments (Article 67 of France constitution) and number of the members from national assembly and senate is the same composed of 24 main members and 12 switching ones. Competence of the court is basically excluded to trialing the president and cabinet member and prime minister which regarding president per se it has the competence regarding the inquest of treason and of misdemeanor and crime for ministers and prime minister.

It has an exclusive competence concerning satutory responsibility of the president and only trials the case of treason, but there is national security office in other cases like crimes against security. Rule of Supreme Court neither can be investigated nor can be appealed; that is, it must be enacted as a peremptory rule.

Except in case of treason, the president's responsibility is not basically justified (Hasani, Hasan, 1990), but regarding the limits and affairs related to treason, it can be

said that heavy treason of the president includes significant negligence in fulfilling his legal assignments and also embraces compromise and conspiracy and hidden relationship with a foreign power or enemy related to war and or during war.

So, the president is only responsible for judicature in this regard. But if we refer to the articles of France constitution and also the president's assignments, we will witness the existence of almost juridical assignments and authorities; for instance, criminals' amnesty based on Article 17 of France constitution in the president's charge or as described before the headship of judicial Supreme Council is in his charge.

So, it can be concluded that in basic law system of France, although it has accepted the principle of the president's political unaccountability (Hasani, Hasan, 1990) and only taken him as criminally responsible for treason, it can be said that satutory responsibility of the president is created through judicial power of parliament so that without declaring indictment by two parliaments, it will not be possible to create satutory responsibility for the president and the inquest of Supreme Court. It is because the possibility for taking unsteady political actions against authorities of the country is not simply feasible; especially, in France, political struggle and party coalitions have highly thrived.

## Section 3: Juridical Responsibility of America President

In the USA, we can present a dual role regarding judicature; on one hand and above all, at the first glance it seems that Supreme Court of the state appointed by the president does not possess essential tools to enforce on the president.

But it must be noted that the other side of the coin is basically the law on defending constitution and in general judicial supervision on constitution refers to Supreme Court of the state (Bargahi, Mohammadreza, 1997). On the other hand, since the judgment of Supreme Court of the state is lifelong, it seems that in reciprocity and liability between the president and judicature, the power direction tends toward judicature and in particular Supreme Court of the state so that Supreme Court of the state can change circle of the president's responsibilities pro rata time based on maneuvers that it presents in interpretation of constitution.

Although headship method has been accepted in basic law system in the USA and basically the president is exempt of political responsibility, he has satutory responsibility. And, regarding, satutory responsibility of the president, constitution assigns in paragraph 4 of Article 2 that: "the president, vice president and all civil officials of the USA will be dismissed by accusation from House of Representatives and accusation of treason, bribery, or other important crimes and misdemeanors". Unlike exemption of political responsibility, what is addressed regarding the satutory responsibility of America is very extensive.

Indeed, like France basic law system, basic law system of the USA has also taken parliament judicial authorities method, namely, satutory responsibility of the president begins when House of Representatives of the US declares

treason so that in case of getting informed of the crime commitment by the president, House of Representatives will form an investigation commission about it and review it and the commission present a detailed report to the House in which the accusation items are mentioned and if the report is approved by the representatives, the president accused in this way will be trialed in senate (Article 3 of Constitution).

In fact, senate is turned into a covert court and in case of condemnation, the president is deposed so that the president is prosecuted by House of Representatives for treason and also his immoral deeds and senate held under the headship of Supreme Court of the US will trial him. To condemn the president, two third of the senate representatives' votes are required. Senate can only deposed the president from his position and after declaring the order, the president will be arrested by the competent court and condemned and or cleared (Qasemzadeh, 1961).

Basically, the method taken for statutory responsibility of the president of America is based on judicial power delegated to parliament. This inquest method in the US is emanated from basic law system of the UK because in the UK and in the inquest of the president's crimes, first the duty of investigation and collection of reasons and respective accusations is delegated to House of Common in a special rite and issuing the order is delegated to House of Lords.

So, in America, judicature basically plays no role in the inquest of the president's statutory responsibility and indeed it is the congress investigating the case.

### Conclusion

What is tangible regarding the responsibility of the president in three given countries is the implementation of three different methods of inquest: in Iran, it is done by judicature. Supreme Court of the country investigates the president's crimes like other common people and rules. But the only limitation existing in this regard is that Islamic Consultative Assembly must get informed of the inquest and it basically plays no role in discovering, prosecuting and declaring accusations against the president. This inquest method is taken against common crimes. And, basically, there is not special court for trialing the case. As stated in Principle 140 of IRI constitution, "the inquest of the president, vice president, and ministers' accusation of common crimes will be done by informing Islamic Consultative Assembly and in common courts of judicature". No special formalities are anticipated in the inquest, because based on constitution, all of the people are the same for law and all will equally be treated. But sometimes such as controlling financial affairs, the inquest is done by the head of judicature based on Principle 142 of IRR constitution. It seems that it makes a great distinction between Iran and the two other countries (France and America) regarding the president's responsibility; that is, firstly, the principle of the president's responsibility is very general in Iran so as to embrace common crimes, whereas in France and America some limits are implemented in this regard; for example,

president of France is responsible for treason yet free in other cases. In America, the president's responsibility just includes cases of misdemeanor and crime based on paragraph 4 of Article 2.

Secondly, in Iran, no special authority and exclusive inquest rite is considered for the inquest of the president's responsibility. Only, in Principle 140 of IRI constitution, it is mentioned that it must be done by informing the Assembly and it is the only difference between the inquest of the president and common people, while in each of the two countries (France and America) special rite and method are taken for the inquest of the presidency's crimes so that it is done by declaration and detection the accusations by the House of Representatives in America and via formulating the indictment by national assembly and senates in France.

Moreover, there are differences between France and America regarding the inquest of the president's statutory responsibility; namely, in America, parliament judicial power method is taken so that no special court is made for the inquest of the president's crimes but by declaring the accusation by the investigation commission and the approval of House of Representatives of America, the inquest and issuing condemnation order are done by senate, while in France parliament has is not to issue condemnation order but both assemblies take action to declare indictment against the president and the rule is issued by Supreme Court of justice. In Iran, if the assembly rules for the president's deposition due to his political competence, it is not enough and effective on its own. That is, the assembly just achieves the detection of the matter (incompetence) by its investigations and thereafter the deposition order is issued by the leader and based on his prudence.

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