

“Institutional Power Sharing in the Islamic Republic of Iran”

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The Constitution of the Islamic Republic establishes a semipresidential system, where executive power is divided between the supreme leader and the president. Prior to the 1989 constitutional amendments, the system also included a third executive—a prime minister; however, this position was abolished by the amendments, and the office of the presidency was strengthened in its wake. According to the language of the Constitution, the supreme leader’s position (referred to in the text of the Constitution as the “Leader”) is considered separate from the executive, legislative, and judicial branches (which the Constitution refers to as the “three Powers”). Although the supreme leader takes on a number of functions that are commonly associated with these branches of government elsewhere in the world, the position of the “Leader or Council of Leadership” is conceptually distinct from the “three Powers,” and, in fact, is tasked with resolving disputes and coordinating relations between the three branches.ⁱ Along with this dispute resolution power, article 110 outlines the ten additional express powers of the Leader: determining the general policies of the political system in consultation with the Expediency Council; supervising government performance; decreeing referendums; convening the Supreme Command of the Armed Forces; declaring war and peace; appointing, dismissing, or accepting resignations from specified government actors;ⁱⁱ resolving what the Constitution terms “intricate questions of the System that cannot be settled through ordinary means” (where “ordinary means” implies dispute resolution by the Expediency Council); ratifying the qualifications of presidential candidates and signing the order of appointment of the president after popular election; dismissing the president after either a vote of incompetence by the Majlis or a Supreme Court verdict on violation of conduct; and, finally, pardoning or mitigating the sentences of prisoners upon the recommendation of the Head of the Judiciary.ⁱⁱⁱ Article 110 is therefore the key constitutional provision outlining the express powers of the supreme leader, and it concludes

with the following critical proviso: “The Leader may delegate some of his functions and authorities to another person.”^{iv} This condition allowing for delegation suggests that the drafters of the Constitution, in their specific attention to the critical position of the supreme leader and its functions, created sufficient flexibility for the office to take on a more limited role in the political system. As the Islamic Republic continues to evolve and the revolution recedes into the more remote past, this delegation provision may prove critical to creating space for institutional adaptation and the reconfiguration of the sharing of power to empower other actors in the political system.

Further comment is warranted on the supreme leader’s power to dismiss the president. In the political science literature, one of the key dimensions of executive-legislative relations is the separation of origin and separation of survival. In short, in presidential systems, both the executive (the president) and the legislature enjoy separation of origin, meaning that they are elected through distinct processes with separate ballot items; and separation of survival, meaning that, under ordinary circumstances, one branch does not have the power to dismiss another (the obvious extraordinary circumstance being that of impeachment). On the other hand, in parliamentary systems the executive (the prime minister) and the legislature enjoy neither separation of origin nor separation of survival. In parliamentary systems, voters cast ballots for members of parliament, and the executive (the prime minister) then emerges from the majority party or coalition within the legislature. Furthermore, the legislature can dismiss the executive through a vote of no confidence, and the executive can dismiss the legislature through a call for snap elections. Presidential and parliamentary systems vary around the world in how they define the specificities of these processes; however, political scientists apply the general parameters of

separation of origin and separation of survival as just described to distinguish between system types and how they organize executive-legislative relations.

When applying this to the case of the Islamic Republic, it is useful to consider how separation of origin and separation of survival apply within the dual executive structure (supreme leader and president) of this system. Both the supreme leader and president enjoy separation of origin: the supreme leader is selected by the Assembly of Experts, and the president is selected by popular vote in a national election using a majority runoff electoral system. Where separation of survival is concerned, however, the supreme leader's power to dismiss the president (after either a vote of incompetence has passed the Majlis^v or a Supreme Court verdict has been issued on the president's violation of his legal functions) means that only the supreme leader enjoys separation of survival; the president does not. This creates an asymmetry in the executive power of the state in favor of the supreme leader. It is important to note, however, that this power of dismissal is not unrestrained, and that, in fact, it is contingent on a prior action taken either by the legislative or judicial branch. This power of dismissal is not a blanket authority of the supreme leader that exists apart from the involvement of any other process of government.

Who, then, has the power to dismiss the supreme leader? Article 111 of the Constitution addresses this concern, clearly empowering the Assembly of Experts in this regard: "In case the Leader is unable to carry out his legal functions, or loses one of his qualifications mentioned in Article 5 and Article 109, or if it transpires that he did not qualify some of the conditions from the very beginning, he shall be dismissed from his position. Such decision shall be made by the Khobregan [Assembly of Experts]."^{vi} Article 111 is significant not only for outlining the process through which the supreme leader may be dismissed, but also for explaining what happens in the interim between the death, resignation, or dismissal of one supreme leader and the selection of

his successor. This is a critical and often overlooked feature of the Constitution, and the way in which the interim powers of the supreme leader are managed during such an interval is extremely important for the envisioning of alternate possible futures for this office. Article 111 explains: “As long as the Leader is not declared, a council composed of the President, Head of the Judiciary and one of the Faqihs of the Guardian Council chosen by the Majma’-e Tashkis-e Maslehat-e Nezam [Expediency Council] shall collectively discharge the functions of the Leader on a temporary basis.” I will henceforth refer to this council as the Supreme Council.^{vii}

Article 111 does not imagine that such a Supreme Council should possess the exact same functions and authorities as the supreme leader. Rather, of the eleven powers of the supreme leader outlined above, the Supreme Council would wield only four in exactly the same form: determining the general policies of the system; decreeing referendums; declaring war and peace; and dismissing the president, contingent on either judicial or legislative prior action. It would wield one power—the power of appointment, dismissal, and acceptance of resignations—in a modified form that applies only to the military actors outlined in article 110, section 6 (the joint chief of staff, commander of the IRGC, and commanders of the armed forces and police forces), and not to the faqihs of the Guardian Council, Head of the Judiciary, or head of the Islamic Republic of Iran Broadcasting Corporation (IRIB). The Supreme Council, then, lacks the powers of the supreme leader to supervise policy performance, hold supreme command of the armed forces, resolve disputes and coordinate relations between the three branches of government, and resolve intricate questions of the political system that cannot be settled by the Expediency Council; nor can it ratify the qualifications of presidential candidates or sign the order appointment of the president following the election. These distinctions between the powers of the supreme leader and Supreme Council, summarized in table 1, invite reflection on this critical

question: Would the stability and representativeness of the Islamic Republic system be enhanced if the powers of the supreme leader more closely resembled the powers delineated for the Supreme Council? Or, indeed, if, after the death or resignation of the current supreme leader, Ayatollah Khamenei, the Assembly of Experts opted, instead of selecting a new supreme leader, to adopt the Supreme Council framework in perpetuity rather than as an interim measure?

On the subject of the separation of powers between the supreme leader and the president, it is useful to consider the broader academic literature on the effects of the separation of powers on regime stability and democratization. Linz argues that, in presidential or semipresidential systems where the executive and legislative branches have separation of origin, conflict between branches is more likely, as the separation of powers in this system of executive-legislative relations discourages moderation and gives both actors a separate sense of their own legitimacy.^{viii} The exact mechanisms that make conflict between branches more likely under presidentialism and semipresidentialism as opposed to parliamentarism remain a matter of debate in the literature. Perhaps the most important finding in this literature for postrevolutionary Iran is that, although regimes with separation of powers still experience *crisis*, “regime ‘collapse’ is far less frequent today than in decades past,” summarizes one observer, and there is much less tolerance at both domestic and international levels for coups d’état and military interventions in politics as paths to political change.^{ix}

Table 1 Comparison of the Powers of the Supreme Leader and Supreme Council

| Supreme Leader | Supreme Council* |
|---|--|
| Determining the general policies of the system in consultation with the Expediency Council | |
| Supervising the policy performance of government | X |
| Decreeing referendums | |
| Holding supreme command of the armed forces | X |
| Declaring war or peace; mobilizing the armed forces | |
| Appointing, dismissing, or accepting the resignations of the faqihs of the Guardian Council, the head of the judiciary, the head of the IRIB, the joint chief of staff, the commander of the IRGC, and the commanders of the armed forces and police forces | Appointing, dismissing, or accepting the resignations of the joint chief of staff, the commander of the IRGC, and the commanders of the armed forces and police forces |
| Resolving disputes and coordinating relations between the three branches of government | X |
| Resolving “intricate questions” of the political system not settled by the Expediency Council | X |
| Ratifying the qualifications of presidential candidates and signing the order of appointment of the president | X |
| Dismissing the president, after prior action by either the judicial or legislative branch | |
| Pardoning prisoners on the recommendation of the judicial branch | X |

In theory, the areas in which the Supreme Council is not empowered (relative to the Supreme Leader) could then be delegated to other branches of government, as permitted by the

delegation clause of article 110. The power to pardon prisoners could remain solely within the judiciary or could be delegated, for example, to the president. The power to resolve disputes between the branches could be assigned to the branches to manage for themselves. The Supreme Council's nonintervention could therefore compel intergovernmental cooperation, or at least make elected officials more visibly accountable if political gridlock were to occur, as opposed to resorting to the intervention of the supreme leader to stave off such gridlock. Supreme command of the armed forces could be delegated to the president, which would give the electorate more power to hold the military accountable. Removing the additional layer of oversight in the vetting of presidential candidates could create more political space for a broader range of candidate ideologies in presidential elections, though the vetting function would still exist at the level of the Guardian Council. All of the foregoing suggestions are an exercise in thinking differently about the constitutional possibilities of Iran's political system. While some might criticize such suggestions as pie-in-the-sky speculation, I defend them on the grounds that these alternative formulations are derived directly from the Constitution of the Islamic Republic itself. As postrevolutionary societies develop and new generations come to populate the institutions structured by their predecessors, such innovations are not only common but, one could argue, also essential for the longevity of the political system.

Ayatollah Khamenei was elected supreme leader by the Assembly of Experts in June 1989 and has held the office for over thirty-one years, more than three times the duration of Ayatollah Khomeini's term as supreme leader. As such, the functions of the office have been determined, in practice, one could argue, more by Khamenei's tenure than by Khomeini's. While Khomeini's imprimatur as the theoretical architect of the office is undeniable, Khamenei's behavior in office is likely to leave an indelible impression on his successor.

Some have argued that the very principle of *velayat-e faqih*, along with the political institution of the Islamic jurist or supreme leader that it envisions, establishes the immutable and pervasive guardianship of clerical rule at the expense of popular sovereignty; instead, I argue that this has been the trend, in practice, of how the power of the office has operated in what are still the early years of Iran's Islamic Republic system. Indeed, Boroumand, a strong critic of clerical rule, observes: "In its traditional form, the concept of *velayat-e faqih* was modest in its reach. It was meant to apply to specific social matters such as the management of certain types of property and the care of orphans and persons lacking their full faculties. This limited guardianship was not a general writ to rule."^x Boroumand goes on to note the objections—from several prominent ayatollahs and Shia Grand Ayatollahs—to the more robust and wide-ranging interpretation of clerical guardianship that Khomeini advocated.^{xi}

The Presidency in Theory

Article 60 of the Constitution establishes the basic criteria for the division of powers within the executive branch between the supreme leader and the president: "The executive power shall be exercised by the President and the Ministers, except in cases for which the Leader has been made directly responsible by this law." These areas of direct responsibility were summarized in table 1. The powers of the president and cabinet are outlined in the Constitution in chapter 9, treatise I, articles 113–142. Many express powers common to executives in presidential systems are clearly recognizable in these articles. Article 113 characterizes the president as the "Chief Executive," although this power is subject to the exception of those matters "that directly relate to the Leader". Articles 114–121 detail the eligibility requirements for office and election method. Interestingly, where presidential responsibility is concerned, article 122 specifies three lines of accountability: "The President shall be responsible vis-a-vis

the Nation, the Leader and the Majlis, within the limits of his authorities and responsibilities undertaken by him.” This means that the office of the president is constitutionally defined in relation to both the nation and two other political institutions.

In addition, the president sits at the top of an executive bureaucracy. Acting as chief bureaucrat, the president is empowered to appoint deputies (article 124), appoint ministers (article 133), and bear direct responsibility over the administrative and civil services (article 126). The president, not the supreme leader, acts as top-ranking diplomat, and is empowered to “sign treaties, conventions, agreements and contracts concluded by the Government of Iran with other governments” (article 125) and appoint ambassadors (article 128). The office of the president bears significant economic responsibilities, and is tasked with direct responsibility over the state plan and budget (article 126). In sum, while the express powers of the president in Iran’s Constitution do not create the “Imperial presidency” that Arthur Schlesinger Jr. warned of (his concern was in the American context), neither do they create an effete, constitutionally impotent office. The core ambiguity, I argue, derives from the language used in article 113, which describes the president as the highest official state authority “Next to the Leader.” In the practical evolution of executive power in Iran in the last forty years, it is undeniable that the phrase has been interpreted to imply presidential submission and inferiority to the supreme leader; whether such an interpretation is a necessary requirement of the Constitution, however, is subject to debate.

The Presidency in Practice

One of the recurrent critiques in the literature on electoral authoritarianism is that, even if elections in authoritarian political systems are relatively open to participation, choice is effectively limited by a lack of ideological diversity among office seekers. Thus, even if voter

turnout is relatively high (as it has been in Iran's presidential elections, especially from 1997 onward), these elections are considered suspect due to the lack of meaningful ideological differences among the candidates. When one applies the principlist-reformist framework as the basis for a unidimensional political spectrum and judges the candidates based on their platforms and public statements, one observes relatively low levels of ideological difference among candidates in Iran's presidential elections from 1981 to 1993; this trend noticeably shifts in the 1997 presidential election, however, when voters were first presented with starkly different political platforms. On the reformist end of the political spectrum were the eventual winners, Mohammad Khatami and the Ruhaniyun (Assembly of Militant Clerics, or AAC), while on the other end of the spectrum were Ali Akbar Nateq-Nouri and the hard-line Ruhaniyyat (JRM, or Society of the Militant Clergy). The other two candidates in the 1997 presidential election were both conservatives and received less than 3% of the vote put together, meaning that the effective choice at the polls was limited to Khatami and Nateq-Nouri. Nonetheless, voters did have a clear ideological choice to make.

Iran's presidential elections between the years of 1997 and 2017 have typically narrowed down to a choice between one conservative and one reformist candidate. The possible sole exception was the 2005 election, in which the top two candidates, Ahmadinejad and Rafsanjani, both ran with support from conservative factions, with their ideological differences expressed through Ahmadinejad's more conservative populism and Rafsanjani's more traditional conservatism. Rafsanjani, for example, tinged with his characteristic pragmatism, was endorsed by the Ruhaniyyat (JRM) in this election. By 2009, however, the trend had turned back toward typical post-1997 ideological differences, with a clear distinction between conservative Ahmadinejad and reformist Mousavi. The scope of ideological differences narrowed in 2013

with the absence of a true reformist presidential candidate in the spirit of Khatami or Mousavi, but it did present a variety of conservative candidates against the more moderate Rouhani, the eventual winner. And finally, following on the heels of 2013's lull in ideological diversity, 2017 presented voters with a starker choice: between the incumbent Rouhani, as the clear favorite of the moderates and many reformists, and the more conservative candidacies of Ghalibaf—who polled as the likely challenger until his withdrawal from the race just days prior to the election—and the eventual runner-up, Raisi.

Table 2 Presidential Elections: Voter Turnout and Candidate Vetting

| Election | Date | Voter turnout (%) | No. of registered candidates | No. (%) of registered candidates approved by the Guardian Council | Winner (% of vote) |
|----------|-----------|-------------------|------------------------------|---|---------------------|
| First | 1/25/1980 | 67.42 | 124 | 96 (77.41) | Banisadr* (75.6) |
| Second | 7/24/1981 | 64.24 | 71 | 4 (5.63) | Rajai** (90) |
| Third | 10/2/1981 | 74.26 | 46 | 5 (10.87) | Khamenei (95.05) |
| Fourth | 8/16/1985 | 54.78 | 50 | 3 (6) | Khamenei (85) |
| Fifth | 7/28/1989 | 54.59 | 79 | 2 (2.53) | Rafsanjani (94) |
| Sixth | 6/11/1993 | 50.66 | 128 | 4 (3.12) | Rafsanjani (63) |
| Seventh | 5/23/1997 | 79.92 | 238 | 4 (1.68) | Khatami (69.1) |
| Eighth | 6/8/2001 | 66.77 | 814 | 10 (1.23) | Khatami (77) |
| Ninth*** | 6/17/2005 | 62.84 | 1,014 | 8 (0.79) | — |
| Tenth | 6/12/2009 | 85.2 | 475 | 4 (0.84) | Ahmadinejad (63.13) |
| Eleventh | 6/14/2013 | 72.9 | 686 | 8 (1.1) | Rouhani (50.6) |
| Twelfth | 5/19/2017 | 73.3 | 1,636 | 6 (0.36) | Rouhani (57.14) |

A number of themes quickly emerge in a review of the history of Iran's presidential elections. First, candidates experience a strong incumbent advantage. Every presidential candidate who was eligible for a successive second term and sought reelection was successful. Second, starting in the second presidential election (July 1981), the Guardian Council began to vigorously assert its candidate vetting function. From 1989 to 2017 it approved only 46 of the 5,070 registered candidates, or a meager 0.9%. Third, despite this tendency for approximately only one in a hundred candidates to pass the vetting of the Guardian Council, voter turnouts according to official assessments remain quite high, especially from 1997 onward. For comparative context, it is useful to consider voter turnout figures globally. The Voter Turnout Database of the Institute for Democracy and Electoral Assistance (IDEA) surveys data for presidential election voter turnout in 114 countries around the world, and analysis of this data finds an average global turnout of 64.95% (based on the most recently available data in July 2020).^{xii} Iran's average voter turnout over the twelve presidential elections in the postrevolutionary period stands at 67.24%, which is 2.29% above the 2020 global average.^{xiii} Lastly, in parallel with the same tendency observed in the Assembly of Experts, we see in Iran's presidential elections a steady increase in the number of registered candidates over time, particularly from the third presidential election (October 1981) onward. Over the entire range of postrevolutionary presidential elections, the number of registered candidates declines only three times,^{xiv} and the total number of registered candidates in a single election reaches an all-time high in 2017 with 1,636 registered candidates. Lastly, the margin of victory for the winning candidate has generally declined over time, indicating that presidential elections have become more competitive among the limited number of candidates positively vetted by the Guardian Council.

As for the cabinet and vice president positions, a novel measure of their composition is presented by Boroujerdi and Rahimkhani: one that uses the unconventional variable of members' imprisonment prior to the revolution, under the Shah's regime. Boroujerdi and Rahimkhani find, under the Bazargan government (February–November 1979), that 44.8% of cabinet ministers and vice presidents had been imprisoned before 1979. That number declined to 30.4% among cabinet ministers and vice presidents under the short-lived Bani-Sadr presidency (February–June 1981), increased to 47.6% under the Rajai presidency (August 1980–August 1981), decreased slightly to 41% under Khamenei's first-term administration (1981–1985), and decreased further to 28.6% in Khamenei's second term (1985–1989). Going on from there, Boroujerdi and Rahimkhani find that only 12.5% and 18.8% of Rafsanjani's cabinet ministers and vice presidents—the figures drawn from Rafsanjani's first (1989–1993) and second (1993–1997) terms respectively—had been imprisoned before 1979. Pre-1979 imprisonment declined further to 17.7% under both Khatami presidential administrations (1997–2001 and 2001–2005). Only one cabinet minister or vice president under each of the Ahmadinejad administrations (2.4% and 2.9% of all such positions in Ahmadinejad's 2005–2009 and 2009–2013 terms respectively) had been imprisoned prior to 1979, and likewise only one under the first Rouhani administration (2013–2017, 2.9%). Finally, for the first time in postrevolutionary Iran's political history, in Rouhani's second term (2017–2021), not a single cabinet minister nor vice president had been imprisoned prior to the Islamic Revolution.^{xv}

Legislative Power

Political scientists associate legislatures ideally with four core functions: representing constituents, passing legislation, exercising oversight of the executive branch (horizontal accountability), and providing services to constituents.^{xvi} Legislatures in the MENA region are

notoriously weak in these parameters. According to one analyst, “for many [in the Middle East], parliament is a service organization, not a legislative body, and elections are a competition over access to a pool of state resources, not struggles over policymaking or the rules of the game.”^{xvii}

Nonetheless, to counterbalance the powers accorded to the supreme leader and what we might think of as the “Islamic ordinances” of Iran’s political system, popular sovereignty and republican principles are repeatedly highlighted in the Constitution. These repeated references to the republican features of the Islamic Republic political system highlight the important role accorded to the principle of popular sovereignty. Article 6 of the Constitution, for example, closes the loop connecting society and state by describing the principle of popular sovereignty as follows: “In the Islamic Republic of Iran the affairs of the State shall be managed by relying on public opinion, through the elections such as the election of the president, representatives of the Majlis-e Shura-e Islami [Parliament], members of the councils and the like, or through referendum in cases set forth in other articles of this law.” This understanding of the importance of elected offices in directing state affairs is supported by several statements made by Ayatollah Khomeini prior to the revolution. For example, in describing the functions of the supreme leader during the course of the revolution itself, Khomeini argued in favor of a more limited advisory role for the supreme leader after the revolution was consolidated, eschewing the monopolization of executive power within the office of the supreme leader. Such conceptualizations indicate that, in practice, executive power would be vested in the elected president.

Unlike executive power, which is distributed between the president and supreme leader, legislative power is more coherently unified under the democratically elected leadership of the Majlis. The core democratic elements of Iran’s Constitution are expressed in relationship to the legislative branch. In the constitutional provisions related to legislative power, we can see the

clearest articulations of the principles of popular sovereignty, individual rights, and separation of powers. These notions stand in contrast to the theocratic principles that underpin the description of other political institutions, such as the office of the supreme leader and the Guardian Council. As for the separation of powers and parliamentary oversight, article 90 of the Constitution empowers the Majlis to investigate claims against both the executive and judicial branches.

The Legislature in Theory

Where Khomeini's general ideological orientation is concerned, his endorsement of constitutionalism and representative government over rule based on religious leadership is clear. His articulation of Islamic governance harkens back to the tradition of Sheikh Fazlollah Nuri, who led a conservative movement against the First Majlis in 1907–1908, and recalls Nuri's ideas of "sharia-based constitutionalism" (*mashruta-ye mashru'a*) rather than democratic constitutionalism per se. In the immediate aftermath of Iran's Constitutional Revolution, many among the ulama, including Sheikh Nuri, came to hold the view that the religious leaders had been unfairly excluded from power within the constitutional government. They believed that although religious leaders' mobilization of the masses had been vital in the creation of the Constitution, the intellectuals and nonclerical elite unfairly dominated the parliament. Arjomand connects this negative view of constitutionalism to Khomeini, whom he interviewed in January 1979 just prior to Khomeini's return to Iran. According to Arjomand, the Ayatollah "was unqualified in his endorsement of Sheikh Fazlollah Nuri."^{xviii}

This view was shared by other high-ranking clerics during the revolutionary period as well. For example, Arjomand also cites an interview he conducted with Grand Ayatollah Musavi Shirazi in the late 1970s, in which Shirazi said, "In reality, the Constitutional Revolution was only a game, and the foreign powers launched it to bring about the separation of the spiritual

powers and government. The cause of all the calamities in this country is this very constitutionalism (*mashrutiyyat*).”^{xix} Furthermore, Arjomand observes that this view persists well into the postrevolutionary period: “Even as late as 1997, less than two months before the election of President Khatami, the conservative Ayatollah Mahdavi-Kani would react to the reformist claim that political legitimacy stems from the will and allegiance of the people by asserting that ‘I fear that the episode of the constitutional revolution might be repeated.’”^{xx}

Khomeini shared this view, and an appreciation for it helps us understand the apprehension toward popular sovereignty and robust elected institutions espoused by some conservative and hard-line factions: they link it back to the Constitutional Revolution period, in which they understand that constitutionalism made Iran vulnerable to foreign interference. This, in their view, demonstrates the necessity of centralizing power around a single, incorruptible religious leader who is insulated from direct accountability to the electorate.

Four decades after its inception, the enduring debate in Iranian politics—indeed, what we might term the “great debate” in postrevolutionary Iran—between republicanism and *velayat-e faqih* is more resolved in society, in favor of republicanism, than it is within the state. Within the state, the push-and-pull between the two main factions, principlists and reformists, endures, while society at large is more resolved in their opinion that political reforms are a necessary response to mounting domestic and international pressures. From the drafting of the Constitution in 1979, to the amendments in 1989, through the unsettling of the reform era, through what one scholar terms the rise of the “religious intelligentsia” (*degar andishan-e mazhabi*) and what we might understand as Iran’s iteration of Muslim Democrats^{xxi} (akin to the AKP in Turkey or the PML in Pakistan), and finally to the militarization of the state through the rise of the IRGC, the animating

tension between the principlists and the reformists has been the motive force of Iran's postrevolutionary political evolution.

The argument of the principlists has hinged on notions of divine rather than popular sovereignty. Hojatoleslam Ferdosi Fard, for example, argues: "The responsibility of the Assembly of Experts is to discover the *mojtahed* who is chosen by the twelfth Imam. The council does not elect the *faghih* [Leader] on behalf of the people. God appoints the Leader."^{xxii} Others, like Ayatollah Khaza'li, have echoed this reasoning: "Following the orders of the *faghih* is mandatory. The law that is issued by the *faghih* is not his own. It is from God."^{xxiii} Still others, like Mohammad Nategh Nouri, equate the legitimacy of the *faghih* with the legitimacy of the prophets. On the other hand, the reformist perspective in this great debate questions the inviolability of the Leader. Ayatollah Montazeri, for example, has argued that "we cannot proceed in the New World by having two or three people making decisions for the country. 'Republic' means the government of the people. . . . We have the '*velayat-e faghih*' mentioned in our constitution. But this does not mean that the *faghih* runs everything. In that case, the 'republic' will be meaningless. The authority and responsibilities of the *faghih* are specified in the constitution."^{xxiv} Others, like Abdollah Nouri, reinforce Montazeri's emphasis on the specification of the Leader's authorities within the Constitution. Nouri concisely observes, in a view definitive of the reformist line: "The leader is not an institution above the law in the Islamic Republic."^{xxv} While the initial impetus behind the Constitutional Revolution's creation of the Iranian constitutional order and legislative assembly in 1905 was the desire to constrain the actions of the Shah, it remains a matter of debate among the clergy in Iran as to what extent that system of checks and balances is needed to constrain the actions of the supreme leader. In the

next section, I elaborate further on this debate between divine and popular sovereignty and how it translates into the division of power in Iran's political institutions.

Vox Populi and Vox Dei: Competing Notions of Sovereignty

Returning now to the theme of the tension between divine and popular sovereignty that I presented in the introduction to this book, what are the further insights into this tension that can be gained by revisiting the text of the Constitution? Concern for public opinion is not merely a practical calculation to ensure regime survival for Iran's political leaders; rather, according to article 6 of the Constitution, it is a constitutional mandate. Article 6 reads: "In the Islamic Republic of Iran the affairs of the State shall be managed by relying on public opinion, through the elections such as the election of the president, representatives of the Majlis-e Shura-e Islami, members of councils and the like, or through referendum in cases set forth in other articles of this law."^{xxvi} State affairs, according to article 6, rely on public opinion as expressed through the mechanism of elections. This is a clear argument in favor of popular sovereignty as the basis for state legitimacy. While other articles of the Constitution trace the origins of national and individual sovereignty back to divine providence,^{xxvii} this does not negate or contradict claims like this one that the state must rely on manifestations of popular will in managing the affairs of state.

While the Constitution is unequivocal in its attribution of absolute sovereignty to God, article 58 entrusts the legislative exercise of this power to the Majlis. The Rafsanjani era witnessed the expansion of parliamentary power in practice: the Majlis blocked several economic reform measures during Rafsanjani's second term (1993–1997) that his administration sought to implement. Furthermore, the Majlis has exercised oversight of the president through the impeachment of members of the president's cabinet.^{xxviii}

For the reasons mentioned above, elections are critical expressions of public opinion and therefore act as manifestations of popular sovereignty. The onerous process required to suspend an election in Iran is outlined in article 68 of the Constitution: “In time of war or military occupation of the country, elections shall be suspended for a definite period of time at the places under occupation or in the entire country, upon proposal by the President, approval by three-fourths of the total number of representatives and ratification by the Guardian Council. In case a new Majlis is not formed, the former Majlis shall continue to function.”^{xxix} Moreover, indefinite suspension of an election is prohibited under any circumstance, and definite suspension must be proposed by the president, approved by a supermajority (75%) of the Majlis, and ratified by the Guardian Council, therefore involving three possible veto players from the political system.

Further evidence of constitutional provisions for the popular accountability of government can be found in the requirements for transparency in legislative deliberations outlined in article 69. Part of article 69 reads: “The deliberations of the Majlis must be open and a full report thereof shall be made public through the Radio and the official Gazette.” It further stipulates that while majlis sessions can be conducted privately under emergency conditions, such sessions must be recorded and the recordings made public after emergency conditions have ended.

Judicial Power

Where the ambiguity of Iran’s legal system and its political consequences are concerned, an interview of journalist Ramin Mostaghim (a *Los Angeles Times* special correspondent) featured in the 2018 PBS Frontline documentary *Our Man in Tehran* is insightful. Conducted by fellow journalist Thomas Erdbrink, then serving as Tehran bureau chief for the *New York Times*,^{xxx} the interview took place during the time of the imprisonment of Jason Rezaian, a

Washington Post journalist, in Iran. In the interview Mostaghim concisely and artfully elaborates on the opacity of Iran's legal system:

That is part of the power; ambiguity, unpredictability. This is also part of the tradition, part of the culture. It was in Sassanid times the same. Pre-Islamic times was the same. The Sassanid Kings ruled the same way. Now is the same, and in monarchy time was the same. Unpredictability, then you don't know what is the punishment for anything wrong I do. For the same wrong things that you commit and I do, we have different jails, different punishment. You may be forgiven, I may be in jail for ten years. So, what is the result? As a citizen, I'm always intimidated. There is less and less risk-takers. Less and less people are eager to speak out their minds. Less and less dialogue, debates, interactions. More isolation. Everybody makes a wall around himself to be safe because he can not trust [*sic*].^{xxxii}

A vast and intricate judicial bureaucracy has developed in Iran in the postrevolutionary period that, in the vein of Mostaghim's characterization above, one may rightly characterize as Kafkaesque in its uncertainties. The Head of the Judiciary, having replaced the High Council of the Judiciary (HCJ) in the 1989 constitutional amendment process, sits at the top of this bureaucratic structure. The First Deputy, Ministry of Justice, Leadership Council, National Judicial Organization, Intelligence Center (created in 2002), Special Judicial Supervision, and other affiliated organizations^{xxxiii} are placed under the direct supervision and authority of the Head of the Judiciary in the judiciary's formal organizational chart.^{xxxiii} Ghaemi observes, echoing Mostaghim's remarks on the system's ambiguity, that after the revolution "many of the new laws were legislated in vague terms, allowing for subjective interpretations as well as diverse and even contradictory rulings by judges. As a result, the judiciary is widely considered one of the Islamic Republic's most dysfunctional institutions."^{xxxiv} But is this alleged dysfunction irredeemable? That is, is it constitutionally inherent in the Islamic Republic system, or does the judiciary have the capacity to reform?

Guardian Council

Article 91 of the Constitution contains the first detailed reference to the Guardian Council.^{xxxv} It describes the *raison d'être* of the Guardian Council as follows: “With a view to safeguarding the rules of Islam and the Constitution, and to see that the approvals of the Majlis are not inconsistent with them, a Council known as the Guardian Council shall be established.”^{xxxvi} Article 91 then goes on to outline the selection process for the twelve members of the Guardian Council: six faqihs appointed by the supreme leader and six jurists proposed by the Head of the Judiciary and confirmed by a vote of the Majlis. Articles 92–99 further elaborate on the powers of the Guardian Council. The importance of the Guardian Council in the Constitution’s provisions for legislative power is made manifest in article 93, which reads: “Without the Guardian Council the Majlis shall have no legal validity except in case of approval of credentials of its representatives and election of six jurist members of the Guardian Council.”^{xxxvii} The Guardian Council, then, is the *sine qua non* of effective legislative power according to this provision. Without the Guardian Council, the Majlis loses its authority to legislate. Also, Guardian Council members are permitted to attend majlis sessions, and in urgent matters are invited to express their views in majlis sessions, according to article 97. Article 94 describes the legislative process in further detail, specifying that all legislation passed by the Majlis must be sent to the Guardian Council, and that the Guardian Council must render an opinion on the legislation within ten days. If the legislation is found to be inconsistent either with Islamic precepts or constitutional principles, as interpreted by the Council, then it is returned to the Majlis for revision and does not carry the force of law. Otherwise, the legislation goes into force. In sum, these provisions blur the separation of powers between the Majlis and the Guardian Council, and further indicates the lack of legislative independence for the Majlis.

Article 99 empowers the Guardian Council to supervise not only presidential and majlis elections, but also elections for the Assembly of Experts (the body that nominates the supreme leader). The Council also supervises referendums. Buchta comments on the Guardian Council's role in supervising elections and vetting candidates (outlined in article 99 of the Constitution), noting how this power evolved, interestingly, after Khomeini's death:

This vetting of electoral candidates was subject to clearly delineated restrictions during Khomeini's rule (1979–1989). It was applied only to communists, socialists, nationalists, members of the *nahzat-e azadi-ye Iran* (Iranian Freedom Movement, or IFM), Kurds, and similar groups—in other words, people whose loyalty to the regime and its doctrine of *velayat-e faqih* (rule by the jurisprudent) was in question, or who were considered part of the underground opposition. In the internal power struggles following Khomeini's death, the council frequently used its power to exclude the Islamic left, which was not represented in the council.^{xxxviii}

The twelve-member Guardian Council also has an internal division of labor, according to the Constitution. A decision about “whether or not the legislation passed by the Majlis is in conformity with the precepts of Islam” is made by majority of the six faqihs—the religious scholars appointed by the supreme leader—while “the majority of all members of the Guardian Council shall decide whether or not the same complies with the provisions of the Constitution.”^{xxxix} The six faqihs on the Council, then, are the sole arbiters of how the rules of Islam are safeguarded in government actions, while questions of constitutionality that do not specifically hinge on religious matters are determined by majority of all members on the Council. Article 98 of the Constitution sets the bar for consensus on the Council as a three-fourths majority, meaning that nine out of the twelve members must agree on a question of constitutional interpretation.

In addition to the specific articles on the Guardian Council, the preamble of the Constitution, particularly paragraph 5 of the section titled “Method of Government in Islam,” establishes the reason for the existence of a body like the Guardian Council in the first place:

In creating political foundations on the basis of ideological interpretations, which in itself is the basis of organizing a society, the pious men shall bear the responsibility of government and management of the country [*The earth shall my righteous servants inherit*]. Legislation, which is indicative of standards of social management, shall follow on the course of the Koran and traditions of the Prophet. Therefore, serious and minute supervision by just pious and committed Islamic scholars (just Faqihs) is necessary and indispensable.^{xi}

Further evidence of the notion of the indispensability of clerical oversight can be found in chapter 1 (“Generalities”), article 4, which asserts that all laws shall be based on Islamic principles and that it is the responsibility of the Guardian Council to ensure this.

Occupants of Office

Given the significance of the political socialization process that many of the revolutionary political elite experienced under the Shah’s regime, it is useful to consider the data on political imprisonment prior to the revolution. In this case, I consider members of both the Guardian Council and Assembly of Experts. For the Assembly of Experts, considering membership from the First Assembly (1983–1990) through January 2018 of the Fifth Assembly (2016–2022), one observes that, of the 445 total members who served in this body, 124 (27.9%) had been imprisoned before the revolution.^{xli} Interestingly, as previously witnessed in the analysis of both the executive and legislative branches, a closer look at the data reveals a similar steady decline in this percentage for the Assembly of Experts with nearly each subsequent assembly. The percentage of formerly imprisoned members was highest in the First Assembly (1983–1990) at 43%. It declined in the Second Assembly (1991–1998; 36.5%) and Third Assembly (1999–2006; 33.3%), then slightly increased in the Fourth Assembly (2007–2016; 34.4%), only to decline again, this time more precipitously, in the Fifth Assembly (2016–2022; 22.7%). This data reveals the same general pattern witnessed in the executive and legislative branches: the relative seat share of the revolutionary generation in key political institutions is

waning as the generation grows older and political power begins to transition to the next generation, who were not yet politically active and therefore not politically socialized under the Shah's regime.

Given the demographic change in Iran and the impending transition of leadership between the revolutionary and postrevolutionary generations, it is useful to consider the data on age profiles of members in key political institutions such as the Guardian Council and Expediency Council. I turn first to the Guardian Council. In the first council immediately after the revolution (1980–1986), the median age was 50, with the youngest member being 37 years of age, and the oldest 61 years old. The general trend from the first council to the current one (the seventh, 2016–2022) reflects the steady aging of the Council. By the early 1990s, in the third council (1992–1998), the median age of a Guardian Council member had increased to 58, just three years younger than the oldest member in the first council. Though there was a slight decline in median age in the fourth (1998–2004) and fifth (2004–2010) councils, in the current council (the seventh, 2016–2022), the median age has increased to 66 years old, with the age of the members at the start of the session in 2016 ranging from 50 to 89.^{xlii}

This trend of aging officeholders in Iran's core political institutions is not limited to the Guardian Council. One observes a similar pattern in the Expediency Council. In that body's first session (1988–1989), the median age of its members was 51, with a range from 42 to 62 years old. By the current session (the eighth, 2017–2022), the median age had increased by seventeen years, to 68 years old, and the range of ages had widened and generally aged, now ranging from a youngest age of 52 to an oldest of 92. Furthermore, in the Assembly of Experts, the body tasked with selecting the next supreme leader, the median age of members increased from 55 to 68 years old over the course of its development from its first session (1983–1990) to the current,

fifth session (2016–2022). Lastly, even the Majlis has not been exempt from the greying of its members, with the median age in the tenth session of the majlis (2016–2020), at 51 years old, being ten years older than the median age of members in the first postrevolutionary majlis (1980–1984).^{xliii}

The institutional body that retains the highest percentage of members who had been imprisoned before 1979 remains, unsurprisingly, the Guardian Council. This is in comparison to the percentages in the president's cabinet and vice presidents, members of parliament, and even members of the Assembly of Experts. In the Seventh Guardian Council (2016–2022), four out of twelve, or 33.3%, of the originally elected or appointed members had been imprisoned prior to the revolution.^{xliv} Although a general decline of this percentage is reflected over the range of the Guardian Council data, it is much less pronounced than the decline seen in Iran's other political institutions. Of the 113 total Guardian Council members who have served—from the First Council (1980–1986) to the election or appointment of the Seventh Council in 2016—thirty-seven had been imprisoned prior to the revolution. This equates to 32.7% of all members (rounding to the nearest tenth). The standard deviation for each Guardian Council session is considerably lower than the standard deviation of formerly imprisoned members for Iran's other consultative bodies, suggesting that revolutionary *bona fides* remain important in this institutional body compared to others. This data is useful for understanding the conservatism of the Guardian Council and its rigidity in interpreting the Constitution, as roughly a third of its members personally experienced the hardship of being jailed or exiled under the Shah's regime. Given the personal trauma they experienced to help actualize the Islamic Republic, it is reasonable to assume that they might be less flexible in their thinking where contestation of the meanings of this political system is concerned. On the other hand, as Iran moves further into its

fifth decade after the revolution, this generation will increasingly fall away, and the reins of power of the Guardian Council will transition to a new generation that will not have experienced the repression of their political views under the Shah's regime. This key difference in political socialization suggests an opening for reconsideration and reinterpretation of the relationship between Iran's political institutions, including the potential for reimagining the role of the Guardian Council in the political system.

Capacity for Institutional Change

How does the behavior of the Guardian Council, in practice, compare to its theoretical powers and functions as previously reviewed? Or, phrased differently, what does a comparative historical analysis of the Guardian Council from the First Council (1980–1986) to the Seventh (2016–2022) reveal about how broadly or narrowly the institution has interpreted its mandate to political intervention? Over the time period from July 22, 1980, to July 4, 2015—from when the Guardian Council issued its first opinion on legislation passed by the Majlis in the First Majlis, to the Ninth Majlis—a total of 3,034 pieces of legislation were passed by the Majlis, of which 2,559 (84.34%) were approved by the Guardian Council. Therefore, in the first nearly thirty-five years of its governing, the Guardian Council invalidated 475 pieces of legislation that had been ratified by the Majlis, equating to approximately 15.66% of all ratified legislation during this time period. Moreover, this figure likely drastically underestimates the legislative oversight of the Majlis by the Guardian Council, in that it fails to capture the number of bills that either were never proposed for fear of Guardian Council rejection, or were proposed but failed ratification in the Majlis for the same reason. What we might consider the deterrent effect of Guardian Council oversight is less amenable to quantification and therefore more challenging for researchers to study.

Table 3 Guardian Council Legislative Oversight Data, 1980–2015

| Majlis session | Pieces of legislation ratified by the Majlis | Pieces of legislation approved by the Guardian Council | % of legislation not approved by the Guardian Council |
|---------------------|--|--|---|
| First (1980–1984) | 410 | 357 | 13 |
| Second (1984–1988) | 336 | 284 | 15.5 |
| Third (1988–1992) | 265 | 226 | 14.8 |
| Fourth (1992–1996) | 357 | 321 | 10.1 |
| Fifth (1996–2000) | 371 | 326 | 12.1 |
| Sixth (2000–2004) | 444 | 337 | 24.1 |
| Seventh (2004–2008) | 364 | 300 | 17.6 |
| Eighth (2008–2012) | 355 | 301 | 15.2 |
| Ninth (2012–2015)* | 132 | 107 | 19 |

Against this 15.66% average rejection rate over the period of 1980–2015, some outliers and patterns stand out in the data in table 3. For one, the Sixth Majlis (2000–2004) stands out for its comparatively higher rejection rate (24.1%). The Sixth Majlis was dominated by reformist and moderate parliamentarians who experienced a coattails effect of sorts following the election of reformist president Khatami in 1997.^{xlv} Also, in general, one observes the Guardian Council’s tendency toward increasing use of its power of legislative oversight in rejecting legislation ratified by the Majlis. For instance, if one were to ignore the partial Ninth Majlis data and divide the first eight parliaments into two sequential groups—that is, consider the first through fourth sessions of the Majlis against the fifth through eighth sessions—we can observe an increase in the rejection rate from an average of 13.16% in the four earlier sessions to 17.6% in the four later sessions.^{xlvi} In sum, this trend in the data reflects a 33.74% increase in the use of legislative veto

by the Guardian Council in the period from July 1996 to June 2012 compared to the period from July 1980 to June 1996.

Table 4 Guardian Council Composition, Seventh Council, 2016–2022

| Name | Position type | Start | End |
|--------------------------------------|---------------|--------|------|
| Seyyed Mohammad Reza Modarresi-Yazdi | Cleric | 2016 | 2022 |
| Mohammad Yazdi | Cleric | 2016 | 2022 |
| Ahmad Jannati | Cleric | 2016 | 2022 |
| Alireza Araf | Cleric | 2019* | 2022 |
| Sadeq Amoli Larijani | Cleric | 2016** | 2022 |
| Mehdi Shabzendedar Jahromi | Cleric | 2019 | 2022 |
| Seyyed Fazlollah Musavi | Legal jurist | 2016 | 2022 |
| Siamak Rahpeyk | Legal jurist | 2019 | 2022 |
| Abbas Ali Kadkhodaei | Legal jurist | 2016 | 2022 |
| Hadi Tahan Nazif | Legal jurist | 2019 | 2025 |
| Mohammad Hassan Sadeghi Moghaddam | Legal jurist | 2019 | 2025 |
| Mohammad Dehghan | Legal jurist | 2019 | 2025 |

The Judiciary in Theory

Treatise II, article 91, section 2 of the Constitution outlines one of the most significant powers of the judiciary in relation to the general political structure—that is, the power of the Head of the Judiciary to propose the six jurist members of the Guardian Council for the Majlis’s consideration. The composition and function of the judiciary is outlined in further detail in chapter 11 of the Constitution, articles 156–174. Article 156 broadly defines the function of the judicial branch as one of protecting individual and social rights. To carry out this mandate, article 157 creates the position of the Head of the Judiciary, to be appointed for a five-year term

by the supreme leader, and who is defined in the article as a Mojtaheed (Doctor in Religious Law) “who is just, has knowledge of judicial matters, is prudent and has managerial skills.”^{xlvii}

Furthermore, articles 157 and 162 specify that the judicial system will be under the control of Islamic rather than lay jurists. The explicit functions of the Head of the Judiciary in Iran’s political system are defined in three sections in article 158, and include empowering the Head of the Judiciary to create the organizational structure of the justice system necessary to perform its duties as outlined in article 156, to draft bills related to judicial matters, and to appoint and dismiss judges in the justice administration system. The cabinet representative of the judicial branch, the Minister of Justice, is responsible for managing relations between the judicial branch and the executive and legislative branches, and, according to article 160 of the Constitution, is appointed by the Head of the Judiciary’s proposal to the president. Interestingly, the president is therefore constrained in their choice of minister of justice and limited to those candidates who are recommended by the Head of the Judiciary.

Further elaborating on the judicial structure, articles 161 and 162 provide for the creation of a Supreme Court, itself with a president and an attorney general, both of whom are directly appointed by the Head of the Judiciary in consultation with judges of the Supreme Court for five-year terms. The Supreme Court, composed of three judges with separate branches for civil and criminal cases, is empowered to hear cases against the President of the Republic, and the court’s judgment verdict on a violation of conduct by the president is one of the conditions under which the supreme leader may dismiss a president from office.^{xlviii} Further describing the function of the Supreme Court in Iran’s judicial system, Zare explains: “The Supreme Court as a court of appeals does not issue a substantive decision. It only reviews cases with regards to the application and interpretation of law. It then sends the case to the lower court to review the facts

and the law for a second time and issue a new decision. Lower courts do not have to comply with the Supreme Court's decision."^{xlix}

Also, the Constitution provides for the creation of special military courts and an Administrative High Court. The former addresses crimes related to members of the army, police, and IRGC in the former case, while the latter deals with crimes related to government employees, administrative regulations, or government institutions.¹ Lastly, article 174 outlines the creation of an organization called the State Chief Inspectorate to supervise the good conduct of government administrative departments, and places this organization under the direct supervision of the Head of the Judiciary. The shift in the 1989 constitutional amendments to abolish the High Council of the Judiciary (HCJ) and create the Head of the Judiciary is an example of the effort to concentrate government authority in the name of effectiveness at the expense of more dispersed, limited, and therefore responsive government. The Head of the Judiciary now sits alone at the top of an extensive judicial bureaucracy.

The political science literature highlights several important variables for differentiating the powers of courts when comparing judicial systems around the world. One such measure is judicial independence, meaning the autonomy of courts from other institutional actors. According to one source, the more that other government institutions exercise influence over the court's "personnel, case selection, decision rules, jurisdiction, and enforcement of laws, the less independent it is."^{li} In the Iranian case, the Head of the Judiciary is appointed by the supreme leader, meaning that this selection is insulated from the political fragmentation of the other branches. Scholars have argued that political fragmentation "gives courts space to take more independent action."^{lii} It follows in this line of reasoning, therefore, that where political fragmentation is high, judicial independence is likely to be high, because "courts have less need

to worry about reprisal or override.”^{liii} Conversely, where political fragmentation is low, judicial independence will be low, and highly cohesive political systems will tend to have weaker judiciaries. In Iran’s case, given the candidate-vetting function of the Guardian Council, political fragmentation in government is limited, with much higher divergence of views in society than government. As a result, the fragmentation hypothesis would suggest that Iran’s judiciary is structurally less independent than judiciaries in higher-fragmentation systems.

The ensuring of the independence of the judiciary is recognized in the literature on democratization as an essential institutional feature of democracy. Ellen Lust quotes an Egyptian activist’s succinct expression of this idea in 2006: “We cannot aspire to have reform without an independent judiciary. . . . It is the first and most important block in the reform process.”^{liv} Judicial independence, and therefore the strength of the rule of law, is low in Iran compared to consolidated democracies; however, in the MENA region, the dependent relationship between the judiciary and the ruling elite in Iran would not make it an outlier.^{lv}

The monitoring of the electoral process is a function performed jointly by entities within the Ministry of Interior’s National Election Commission, including the Electoral District Executive Committees; and the Guardian Council, through its Central, Provincial, and District Supervisory Committees, as well as its own Poll Monitors. The judiciary is not involved in supervising elections. The judiciary along with the Guardian Council and the supreme leader have been described as the three pillars of clerical power in Iran’s institutional structure.^{lvi} Article 156 of the Constitution provides for the independence of the judiciary; however, according to Boroujerdi, “its political role in practice reflects the ideological composition of judges who are quite uniformly conservative clerics either wholly opposed to or, rather, suspicious of allowing legal reform.”^{lvii} The practical obstructionism of the court system

notwithstanding, it is important to observe here that the courts exhibit *de jure* independence, and therefore, at least in their design, are open to change.

Conclusion

This article has outlined a political architecture in Iran that meets many of the minimal procedural requirements of democracy. There is an elected legislature and an elected executive, the political system allows for multiparty contestation in regular elections, and there has been alternation of power in both the legislature and presidency. Yet, the political system has also shown comparatively low levels of judicial independence, significant checks on political participation through the vetting of candidates and parties in ideological tests, and, most importantly, the preponderance of power in the office of the supreme leader. Babak Rahimi argues, in his concluding chapter to the 2014 edited volume *A Critical Introduction to Khomeini*, that the survival of the political system of the Islamic Republic is due largely not to its rigid adherence to revolutionary principles, but rather to its ability to evolve over time. Rahimi asserts: “The specter of Khomeini and his contentious memory will haunt Iran for generations to come.”^{1viii} The overview of Iran’s political institutions presented here lends credence to Rahimi’s claim.

ⁱ Constitution of the Islamic Republic of Iran, art. 110, § 7. This provision empowers the Leader “To resolve disputes and coordinate relations between the three Powers.”

ⁱⁱ These actors include the faqihs of the Guardian Council, the head of the judiciary, the head of the Islamic Republic of Iran Broadcasting Corporation, the joint chief of staff, the chief commander of the IRGC, and the chief commanders of the armed forces and police forces. Constitution of the Islamic Republic of Iran, art. 110, § 6a–f.

ⁱⁱⁱ Constitution of the Islamic Republic of Iran, art. 110 (“Functions and Authorities of the Leader”).

^{iv} Constitution of the Islamic Republic of Iran, art. 110.

^v On the impeachment power of the Majlis, see article 89 of the Constitution of the Islamic Republic of Iran.

^{vi} Article 5 of the Constitution of the Islamic Republic of Iran stipulates that the officeholder must be just, virtuous, knowledgeable, courageous, and efficient in administration. Article 109 outlines the qualifications and attributes of

the Leader in three subsections: (1) “Academic qualifications necessary for issuing decrees on various issues of Fegh”; (2) “Fairness and piety necessary for leading the Islamic Ommat”; and (3) “Proper political and social insight, prudence, courage, authority and power of management necessary for leadership.”

vii In coining this term, I have substituted “Council” for “Leader” to distinguish the Supreme Council from the indivisibility of the supreme leader, but I have retained the appellation of “Supreme” to reflect the continuity in the general authorities and functions of the office.

viii Summarized in David Samuels, “Separation of Powers,” in *The Oxford Handbook of Comparative Politics*, ed. Carles Boix and Susan C. Stokes (Oxford: Oxford University Press, 2007), 714.

ix Samuels, “Separation of Powers,” 717.

x Ladan Boroumand, “Iranians Turn Away from the Islamic Republic,” *Journal of Democracy* 31, no. 1 (January 2020): 170.

xi Boroumand quotes Arjomand: “Doctrinal objections to the *velayat-e faqih* have been voiced by the Grand Ayatollahs Kho’i, Qomi, and Shari’at-madri. . . . and by Ayatollahs Baha’ al-Din Mahallati, Sadeq Ruhani, Ahmad Zanjani, Ali Tehrani, and Morteza Ha’eri Yazi.” Said Amir Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran* (New York: Oxford University Press), 156, quoted in Boroumand, “Iranians Turn Away,” 180n5. Ellipses in the original.

xii I calculated the global average based on the 114-country sample data retrieved from the International Institute for Democracy and Assistance (International IDEA) Voter Turnout Database, <https://www.idea.int/data-tools/question-view/522>.

xiii The validity of the results of the tenth presidential election (2009) are highly contested, and this election also has the highest level of reported voter turnout of all the elections (85.2%). Omitting this election from the calculation of Iran’s voter turnout average results in an adjusted average voter turnout of 65.61%, which is lower than the average listed above that includes the 2009 election (67.24%). Even with the omission of the disputed 2009 election, however, Iran’s average voter turnout in presidential elections still remains slightly above the global average (+0.66%).

xiv The declines were from the first to the second election (–42.7% change), from the second to the third election (–35.2% change), and from the ninth to the tenth election (–53.2% change).

xv Mehrzad Boroujerdi and Kourosh Rahimkhani, *Postrevolutionary Iran: A Political Handbook* (Syracuse, NY: Syracuse University Press, 2018), 42.

xvi Joel D. Barkan, “Progress and Retreat in Africa: Legislatures on the Rise?,” *Journal of Democracy* 19, no. 2 (April 2008): 124–137.

xvii Ellen Lust, “States and Institutions,” in Lust, *The Middle East*, 156.

xviii Arjomand, *After Khomeini*, 17.

xix Arjomand, *After Khomeini*, 17.

xx Arjomand, *After Khomeini*, 18.

xxi On Muslim Democracy, see Vali Nasr, “Iran’s Peculiar Election: The Conservative Wave Rolls On,” *Journal of Democracy* 16, no. 4 (October 2005): 9–22.

xxii Behzad Yaghmaian, *Social Change in Iran: An Eyewitness Account of Dissent, Defiance, and New Movements for Rights* (Albany: State University of New York Press, 2002), 205.

xxiii Yaghmaian, *Social Change in Iran*, 205.

xxiv Yaghmaian, *Social Change in Iran*, 205–206.

xxv Yaghmaian, *Social Change in Iran*, 206.

xxvi Majlis-e Shura-e Islami refers to the Islamic Consultative Assembly or the Majlis.

xxvii This is perhaps most explicit in article 56 of the Constitution of the Islamic Republic of Iran.

xxviii An example is the June 1998 impeachment of Minister of the Interior Abdollah Nouri in the Khatami administration.

xxix Constitution of the Islamic Republic of Iran, art. 68.

xxx Erdbrink’s press credentials were revoked by the Iranian authorities in February 2019

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- ^{xxx}ⁱ Thomas Erdbrink, Roel van Broekhoven, and David Fanning, producers, *Our Man in Tehran: Parts I and II*, aired August 13–14, 2018, on PBS Frontline, <https://www.pbs.org/wgbh/frontline/film/our-man-in-tehran/>.
- ^{xxx}ⁱⁱ They include, for instance, the State Organization for Registration of Deeds and Properties, the State General Inspectorate Organization, and the Judicial Organization of the Armed Forces, among others.
- ^{xxx}ⁱⁱⁱ Boroujerdi and Rahimkhani, *Postrevolutionary Iran*, 66.
- ^{xxx}^{iv} Hadi Ghaemi, “The Islamic Judiciary,” *The Iran Primer*, United States Institute of Peace, updated August 2015, <https://iranprimer.usip.org/resource/islamic-judiciary>.
- ^{xxx}^v The first mention in the main text of the Constitution comes in article 4.
- ^{xxx}^{vi} Constitution of the Islamic Republic of Iran, art. 91.
- ^{xxx}^{vii} Constitution of the Islamic Republic of Iran, art. 93.
- ^{xxx}^{viii} Buchta, *Who Rules Iran?*, 59.
- ^{xxx}^{ix} Constitution of the Islamic Republic of Iran, art. 96.
- ^{xl} Brackets in the original. The bracketed material is cited in the Constitution to Qur’an 21:105.
- ^{xli} The figure is derived from my calculation, rounded to the nearest tenth, based on data presented in Boroujerdi and Rahimkhani, *Postrevolutionary Iran*, 41, table 4.
- ^{xlii} Boroujerdi and Rahimkhani, *Postrevolutionary Iran*, 43.
- ^{xliii} Boroujerdi and Rahimkhani, *Postrevolutionary Iran*, 43–44.
- ^{xliv} Boroujerdi and Rahimkhani, *Postrevolutionary Iran*, 41. The revolutionary pedigree of the Guardian Council is brought into starker relief when one contrasts this figure to the 22.7% of members in the Fifth Assembly of Experts (2016–2022) who had been imprisoned prior to 1979, and especially the 2.1% of members of the Tenth Majlis (2016–2020) and 0% of cabinet ministers and vice presidents in the second Rouhani administration (2017–2021) who had been imprisoned.
- ^{xliv} Farideh Farhi, “The Parliament,” *The Iran Primer*, updated August 2015, <https://iranprimer.usip.org/resource/parliament>.
- ^{xlvi} Out of 1,368 total pieces of legislation ratified by the four earlier sessions of the Majlis, 180 were rejected by the Guardian Council, while the four later sessions received 270 rejections out of 1,534 total pieces of legislation ratified.
- ^{xlvii} Constitution of the Islamic Republic of Iran, art. 157.
- ^{xlviii} This is outlined in the Constitution of the Islamic Republic of Iran, art. 110, § 10.
- ^{xlix} Maliheh Zare, “Update: An Overview of Iranian Legal System,” Hauser Global Law School Program, August 2015, https://www.nyulawglobal.org/globalex/Iran_Legal_System_Research1.html.
- ^l Constitution of the Islamic Republic of Iran, art. 172 and 173.
- ^{li} John Ferejohn, Frances Rosenbluth, and Charles Shipan, “Comparative Judicial Politics,” in Boix and Stokes, *Oxford Handbook of Comparative Politics*, 729.
- ^{lii} Ferejohn, Rosenbluth, and Shipan, “Comparative Judicial Politics,” 733.
- ^{liii} Ferejohn, Rosenbluth, and Shipan, “Comparative Judicial Politics,” 733.
- ^{liv} Lust, “States and Institutions,” 157.
- ^{lv} For example, Lust compares this dependence in Iran to similar patterns in Algeria, Lebanon, and the Palestinian Authority, and contrasts these cases of functional though dependent judiciaries to cases of state weakness in Syria, Libya, Yemen, and Iraq, which in those countries has resulted in the function of judiciaries being taken up by nonstate actors.
- ^{lvi} Boroujerdi, “Iran,” 401.
- ^{lvii} Boroujerdi, “Iran,” 401.
- ^{lviii} Babak Rahimi, “Contentious Legacies of the Ayatollah,” in *A Critical Introduction to Khomeini*, ed. Arshin Adib-Moghaddam (Cambridge: Cambridge University Press, 2014), 306.