

Supervision of the parliament chairman on the government board decisions: the type of effects and their adaptation to other regulatory mechanisms in the legal system of the Islamic Republic of Iran

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ABSTRACT

In this study, we examined Supervision of the parliament chairman on the government board decisions: the type of effects and their adaptation to other regulatory mechanisms in the legal system of the Islamic Republic of Iran. And with regard to the studies done by the herd based on the second part of the Article 85 and 138 laws of the state pass must be compatible with the laws by the president of the check and this must be sent them. The decision is to be subject to the control of the assembly and the resolutions of the assembly and to adapt the resolutions of the government should be followed and the resolutions of the government opposition to the chairman of the parliament will be canceled. The chairman of the supervision of the Islamic Assembly Council (the legislative and the judiciary) and administrative justice beside each other and are both has competence for the resolutions of the government is in conflict with the laws.

KEYWORDS: government, parliament chairman, regulatory mechanisms, legal system

INTRODUCTION

Since the inception of political and social systems, monitoring has always been considered important, but the complexity of modern political systems, limitation of resources and opportunities and the need for equitable allocation of these resources, the importance and necessity of monitoring beside principles like the rule of law and division of forces as a necessary condition to achieve a fair system is ever more evident than before.

Under the rule of law, the Executive Branch shall do all its duties including regulatory laws in the framework of laws [1]. A result of the acceptance of the rule of law, is the principle of hierarchy of legal norms accepted by almost all legal schools.

Hierarchical form of rules results effectively in a material hierarchy and the content of lower rules must necessarily respect the content of superior rules. The rule of the adaptation of decisions and its compatibility with higher rules and conformity of lower norms with higher ones is according to this principle which prioritizes the rule of law over executive regulations as a legal principle [2].

The constitution of the Islamic Republic of Iran has admitted the principle of hierarchy of legal norms in order to ensure the compatibility of lower norms with higher ones to establish references and mechanisms, because if there is a hierarchy among legal norms, these mechanisms will be necessary to ensure compliance with the hierarchy.

In the legal system of the Islamic Republic of Iran there are monitoring systems and institutions dedicated to supervision beside the Guardians council (article 94) and the judicial oversight of the judiciary (principles 165, 170, 173). One of the mechanisms envisaged for the supervision is the office of the parliament chairman under principles 85 and 138 of the constitution.

This paper means to answer the following three questions in this regard. At first we refer to the hierarchy of norms in the legal system of the Islamic Republic and the historical evolution of the oversight of the parliament chairman on government approvals.

1. Which category of the public law includes the supervision of the parliament chairman?
2. How does this monitoring include articles, mechanisms and effects?
3. How is this monitoring related to mechanisms envisaged in the legal system of the Islamic Republic of Iran?

A - The hierarchy of legal norms in the legal system of the Islamic Republic of Iran:

The most important feature of a legal system is its normative nature, and an important aspect of these norms is their collective effect which is why in a legal system, legal norms should be in their proper places to have their good effect and performance. Spatial coherence of the norms is due to their unity and makes it so that norms are perfectly connected with each other in a normative system and cover each other logically. Thus the plurality of norms in a legal system should be based on the unity of the container in which they are located.

In functional terms the relationship between productive norms with public and abstract norms and

individual and objective norms is set according to a pyramid-shaped hierarchy structure with a special characteristic: first, constitution is at the head of this hierarchy, second lower norms should comply with higher ones, and third the hierarchy of norms is based on a linear relationship, i.e. every norm is related only in relationship with its immediate higher and lower norms [3]

The hierarchy of the Islamic Republic of Iran has fully taken into consideration the hierarchy of legal norms and its up-keeping. In this hierarchy of legal norms the constitution is placed on the top and its implementation guarantee in addition to monitoring of the guardians council, is the article 113 of the constitution based on which the president is also responsible for implementing the constitution.

In the horizontal separation of powers, the legislature is the first authority that has the power of legislation or creation of legal norms, article 71 of the constitution considers the legislative authority of the parliament to be absolute and including all matters. But this authority is within the limits of the constitution. Article 73 puts interpretation of the common rules on the same layer as the common law and thus applies the criteria of generation of norms for division of these rules [3].

In a lower layer of the hierarchy of extant norms, there are executive laws about which the general principles about establishing administrative regulation, article 138, provides: "In addition to cases where the board of ministers or a minister becomes responsible for the formulation of procedures for the implementation of laws, the board of ministers is entitled to establish laws for their administrative tasks for ensuring administrative enforcement of laws and regulating departmental structures. Also every minister is entitled in the limit of their own authority and the laws passed by the board of ministers to impose regulations and issue declarations. But the content of these laws mustn't be against the text of the spirit of the law...".

Strict enforcement of administrative regulations conformity can be seen in articles 170 and 173 of the constitution. As in article 170 if the administrative regulations are outside the jurisdiction of the executive power, a judge can refrain their implementation. This is a clear reference to the jurisdiction of the executive regulation. Also under article 173 the administrative justice court can annul administrative regulations that contradict the law; in this principle the natural border of enforcement of rules is rather under consideration. Also in articles 85 and 138 of the constitution, there is the parliament chairman's oversight as a mechanism in the ratification of byelaws adopted by the government. Thus, we can conclude that the constitution of the Islamic Republic of Iran has well covered the compliance of administrative regulations with the laws in all aspects [3]. The legislator of the constituting has considered three authorities in order to ensure the compatibility of state legislation with higher rules:

1. Judges of courts: in accordance with the article 170 of the constitution court judges are obliged to refuse to implement state byelaws that are contrary to the Islamic rules and regulations or are outside the jurisdiction of the government.

2. Administrative justice court: According to explanations of the article 173 of the constitution any one can request the revocation of the provisions that disagree with Islamic rules or that are outside the jurisdiction of the government. According to this principle of the above article the administrative justice court can revoke government decisions which are inconsistent with the rules of Islamic law.

3. Parliament chairman: According to the latter part of article 85 of the constitution, the government approvals must not be contrary to the country's laws and regulations and in order to assess their compatibility with the rules, they shall be communicated to in addition to the parliament chairman. Also according to the last part of the article 138 of the constitution, government byelaws, decrees and those of related commissions must be referred to the parliament chairman before enforcement so that if they find them against the rules they can send them back to the board of ministers for reconsideration.

(B) The historical evolution of parliament chairman supervision on state legislation:

According to article 134 of the constitution ratified in 1979, the head of the board of ministers was the prime minister and state legislation must have been ratified by the board of ministers. Since monitoring of government approvals was a necessity and given the position of president in article 113 of the constitution, as the highest official after the supreme leader and responsible for regulating the relation between the three branches, the constitutional legislator entitles the president to the authority to monitor government regulations as article 126 states that: (government byelaws must be communicate to the president after the board of ministers' ratification. If they find them against the rules send them to the board of ministers with the reason of appeal.)

In order to implement the above task, article 5 of the delimitation of authority and duties of the office of president of the Islamic republic of Iran states government byelaws must be communicate to the president after the board of ministers' ratification. If they find them against the rules send them to the board of ministers with the reason of appeal. According to this provision the decisions of the government was not enforceable before applying corrections. In case they neglected the president order and the implementation of legislation he could issue a moratorium on the implementation of the byelaw. Also in accordance with the provisions of this article, if the president and the cabinet disagreed about the conformity of the byelaw with the law, the president's idea had to be in force on the subject.

After the revision of the constitution in 1989 and eliminating the post of prime minister, the president

became the ministerial board head and according to these changes, his supervision on government approvals was senseless, which is why constitution revision council decided to change the monitoring authority of the government approvals.

Different proposals were raised in this respect, including delegation this task to an independent agency under the parliament (detailed discussions of the constitution revision council of the Islamic Republic of Iran, 1990, vol. 2, p. 985) [4] or that a commission such as the article 90 commission be responsible for monitoring the decisions of the government (detailed discussions of the constitution revision council of the Islamic Republic of Iran, 1990, vol. 2, p. 992)[4], or that the head of the judiciary accept this responsibility (detailed discussions of the constitution revision council of the Islamic Republic of Iran, 1990, vol. 2, p. 998)[4]. After long discussions in this regard, the council concluded that the balance of responsibility requires that the monitoring authority be vested in an office dealing with the law which is the parliament chairman. (detailed discussions of the constitution revision council of the Islamic Republic of Iran, 1990, vol. 2, p. 1013)[5]. However, such an authority is never seen in the constitutions of other countries [6] and frequently the responsibility to monitor governmental regulations is entrusted to judicial institutions or those with judicial functions.

In 1987 after the changes in the constitution, to implement the above task, the legislature passed a law for implementing the principles 85 and 138 of the constitution of the Islamic Republic of Iran of with regard to the responsibilities of the parliament chairman. Under note 2 of the single article of this law if the parliament chairman and the cabinet or relevant committees disagree about the deduction of the laws the presidential idea will be valid.

On 27 Feb 2000, due to problems in relations of the government with the parliament chairman for the implementation of the above law the parliament passed a law to attach five notes to the principle law of implementation of articles (85) and (138) of the constitution of Islamic Republic of Iran on the parliament chairman responsibilities. Under note 4 of this act, if all or part of an act is dissented by the parliament chairman, and the board of ministers fails to correct the named issues within the deadline announced after its communication, after the end of the deadline all or part of the law canceled will be annulled. Based on this law a guarantee has been considered for adhering to the parliament chairman's idea in relation to government approvals' unconformity with the law that holds if the chairman objects to the law on this basis the legislation will be invalid.

Disagreements in practice between the parliament chairman and the administrative justice court in relation to similar issues made the parliament adopt the communication article (25) for the administrative justice court that established in case of conflict between the court of administrative justice and the parliament chairman (the authority under article 85 of the constitution of the Islamic Republic of Iran), the idea of the court of administrative justice is binding.

the latest legal reforms in relation to the powers of the parliament chairman for the adoption of a law, is the accession of a note to the law of enforcing principles (85) and (138) of the constitution of Islamic Republic of Iran about the responsibilities of the parliament chairman in 2009 whereby in cases where the parliament chairman considers bylaws and resolutions of the officials mentioned in articles 85 and 138 of the constitution, contrary to the text and spirit of the laws, their idea will be valid and binding for the government [7]. The administrative justice court does not have jurisdiction over such cases. Also this legislation revoked article 25 of the administrative justice court but doesn't apply to the administrative justice court's jurisdiction to investigate allegations of unlawful government regulation and their annulment after the religious scholars of the guardians council is have given their comments [8, 9].

C - in which public law category lies the parliament chairman supervision:

Monitoring in Persian is from the root of "looking" and this latter in Dehkhoda (vol14) means viewing, looking at something, reflecting on something, looking out, ruling people and solving disputes between people, helping them and also an eye, seeing, thought, idea, precision, reflection, imagination, fantasy and also protest.

The term monitoring is used in various scientific disciplines and different subjects and it is impossible to give a comprehensive definition of it. In every science, the function of monitoring has its own meaning, which is why some believe that supervision is a concept that joins something according to which it accepts the different meanings. But in introduction, the concept of monitoring has features that are used in most of its applications. As an example, the essential element of monitoring is to realize that for the concept of supervision first there must be an action by someone or an authority that we can monitor. This can conclude that monitoring is always an a posteriori action.

Monitoring can also be applied during the act. In that case, after the completion of a practical component that has numerous components, everything can thoroughly revised so that monitoring takes place and the logic of "monitoring after the implementation of an act " will be true for supervision during implementation. (Rasekh, Mohammed, control and balance in the system of fundamental rights, p 19) Monitor has eight types categories as listed below:

1. Public supervision 2. Political supervision 3- Legislative supervision 4. Financial supervision 5. Judicial supervision 6. Security supervision 7. Disciplinary (administrative) supervision 8- Ideological supervision. Each

of the four institutions of the government (legislative, executive, legislative and leadership) will use a kind of monitoring though methods like internal or external, active an comprehensive or passive and occasional monitoring and control. (Rasekh, Mohammed, control and balance in the system of fundamental rights, p 19)

Of course, from another perspective monitoring is divided into two types, supervisory and consultative, the first of which is a jurisprudential term used in the Iranian legal system (especially in private law). The purpose of this type of monitoring is doing some legal acts under the direct supervision or the approval of the supervisor. These acts are invalid without supervision. Also in article 142 of the Islamic civil code this term is used in the public law such as the article 82 of the constitution that provides the recruitment of foreign experts is forbidden for the government, except in necessary cases with the approval of the parliament.

In this type of supervision, the supervisor has the authority to approve or reject the enforcement of every work or the executor may have the initiative but in any case must satisfy the supervisor. Obviously, the observers are obliged to observe and protect the interests of the executive affair. Supervision take place to make sure whether the enforcement is based on the law, and this monitoring is based on the law itself.

In contrast there is the supervisory monitoring in which the supervisor only becomes aware of the actions of the executor and may only report cases of violation of the law to superiors like the GIO. There is a clear distinction between the two types of surveillance which is in the latter, enforcement violations is reported by the supervisor to the governing authority (usually the judiciary). While in the first there is no office for studying the case and the supervising body also makes the decision. It is noteworthy that public law specialists believe that in public law monitoring is only of the second type.

It is said that in the definition of judicial supervision that supervision is only judicial when its execution guarantee is the revocation of administrative act or obligation of administrative authority to act under the verdict of the court. Since the establishment of executive regulations in the framework of administrative competence takes place as an administrative action, the sanction the law has intended for the parliament chairman monitoring (the abolition of the legislations which are against the law), has made this oversight, particularly in its effect, very similar to judicial supervision. But the term "under the verdict of the court", as a major constraint in the definition monitor, diverges parliament oversight from a judicial act. On the other hand this monitoring can't be defined in parliament political controls because the mechanisms of parliament political control have been formulated otherwise in the constitution.

Before answering the question as to what kind of supervision is that of the parliament chairman, a few things are essential and must be declared:

- In the system of "separation of powers" entrusting the authority of establishing a general rule to the executive branch, is against the legislative competence. parliament us considered as an expression of the "general will on legislation" has exclusive jurisdiction, but according to some expedition and in order to facilitate the implementation of the affairs the government is allowed to determine some policy and manage affairs.

- The principle of "the rule of law" requires public law authorities to act within the framework of their "competence". In this field the legal practice is based on "incapacity", unless the law allocates specific authority in the relevant field. Accordingly, making a decision contrary to the law by the government would have no legitimacy.

- Establishing the rule of "hierarchy of norms" makes it so the government bases its decisions on the constitution and not violate the area beyond ordinary laws. Government laws are only legitimate when they are not contrary to these higher norms. Application of this hierarchy and its control take place through mechanisms set by the constitution one of which is the parliament chairman supervision.

- The requirements of the rule of law, is monitoring the actions and decisions of the government and administrative authorities, this process has a legal nature and brings about rights and duties, so it must comply with the law.

- As one of the most important "institutions of government control", parliament supervises three areas: (1) the application of law in administration. (2) respecting the interests of the country. (3) efficiency and effectiveness of management. Mechanisms of exercising this authority are through the court of audit, the article 90 commission, investigate, quest and research, and eventually impeachment and supervision of the parliament chairman on government decisions and ratifications.

- The latter part of the article 85 of the constitution holds "the government ratifications and legislation should not be against public laws and they shall be communicated to the parliament chairman to verify their conformity and compatibility with the rules." Also article 138 stipulates that "government acts and regulations must be informed to the parliament chairman before implementation so that if he finds them contrary to the law, he can send them back to the board of ministers for reconsideration mentioning the reason of their appeal.

- In relation to the responsibilities of the parliament chairman the single article of the law of the implementation of article 85 and 138 of the constitution states: "If such approvals are partly or totally against the law, the board of ministers or the commission shall, within a week after the parliament chairman expresses his idea, undertake to amend the bill and then issue a command of an immediate stop ... if there is a difference of

opinion between the parliament chairman and the commission or the cabinet in interpreting laws and regulations, view of the parliament chairman applies for sure".

- In principle, decisions of administrative agencies are whether in the form of "directives" which is an order within the office or a "regulation" that makes rights and duties for people outside the administration. Government's decisions are necessarily taken collectively and are called a "resolution" or "decree", which are essentially propositions which are adopted for the application of law.

With regard to the contents of the foregoing, we conclude that although parliamentary oversight on the government is a political supervision, with mechanisms fixed by the constitution, but it seems like the parliament chairman supervision on government approvals is not of the usual parliament type but it can be considered a kind of legislative oversight. Because in this type of monitoring, like the guardians council the parliament chairman supervises the government application of the law (in setting and approving regulations and laws) and the state obligation to "communicate its laws to the parliament chairman before application" doesn't make it a supervisory monitoring. If there was an order in the law to repeal regulations which are against the law with judicial decision, observing the genial obligations of the judicial office in monitoring the application of the law (article 65) and authorities of the administrative judicial court (article 173) would become possible.

(D) The scope and mechanisms of parliament supervision and its legal effects:

Based on principles 85 and 138 of the constitution the parliament chairman has competence to monitor state legislation for violation or non-violation of the constitution. Regulations of the parliament chairman competence are as follows:

1 - State approved declarations

According to article 85 of the constitution the parliament can allow government to permanently approve statutes of organizations, companies, government agencies or state dependent companies. This legislation must not contrary be to national laws and regulations and for implementation their compatibility with the rules shall also be communicated to the parliament chairman along with their very content. This type of declarations includes statutes of organizations, companies, government institutions or government-related institutions.

2. Government decrees and byelaws and those of commissions composed of several ministers.

According to article 71 of the constitution, parliament has absolute authority in the field of legislation, but according to some interests, the parliament in terms of law, makes it possible for the government to establish regulations. Here it is noteworthy that establishing regulations is not in the inherent jurisdiction of the government, but it can be delegated the power of approving regulations as a result of separation of powers. [1]. Since the credibility of government regulations is lower than the laws passed by parliament the latter can make laws, decrees or statutes to cancel or amend government decisions implicitly [10].

A regulation, means general orders of any type established by senior executive officials (government, ministers, etc.) in order to enforce or facilitate the enforcement of law in different types:

1. Administrative regulations, these regulations are imposed for law enforcement. For this, either the legislator defines the general idea or big points without thinking about the details and how to implement the strategy. In this situation, the government makes necessary regulations for the implementation of administrative laws. the beginning of article 138 refers to this assumption. Or after defining the general points, the legislator binds the government officials for the completion of a detailed statement of the law. In this case, the implementation of the law is not possible unless the government establishes regulations that provide conditions of implementation. In this regard the article 138 defines the legal obligation for the development of executive regulations.

2. Independent procedures. In the development of this type of specific regulations there is no specific law, but that approved regulations rely on administrative laws of implementation and are actually a strategy for a correct implementation of regulations. Basically, in regulations there can be no new assignments more than what law stipulates but independent regulations have new obligations or rights because they rely on no specific documented law. Public service organization regulations, disciplinary regulations byelaw and necessity regulations are in this category.

3. Delegated regulations. Legislative and executive have no more enforcement competence than what the constitution has established and on the other hand, cannot delegate their authority to other entities. But in some situations the lawmakers have some problems in enforcing laws, or are alien to it or that in thematic terms they lack political or executive elements. In this case, transferring it to the executive power is in the interest of the country. In this connection the article 85 has delegated the permanent adoption of the provisions while enforcing the article 72 of the constitution [11].

Article 138 of Iran's constitution provides that the decisions of the government should not be inconsistent with the text and spirit of laws. According to this principle, the authority to decide the compatibility of legislation with the laws is the parliament chairman. Based on the latter part of this principle, among all government regulations, the supervision of the parliament chairman merely includes byelaws of the board of ministers, and decrees of commissions made up of ministers and the parliament chairman has no authority in

relation to monitoring regulations of ministers. Also his supervision may not include executive decisions. Here the question arises as to whether the regulatory authority of the parliament chairman includes the decisions of the president special representative as in article 127 of the constitution?

In response it has been said that firstly, under the article 127 of the constitution, appointing special representative demands an act of board of ministers which is under the supervision of the parliament chairman. Secondly since the special representative's mandate as in this principle is only about administrative issues, so the decisions taken by them are not within the jurisdiction of the parliament chairman. Whether the special representative has meant to establish rules is a responsibility of the parliament chairman and within their supervisory jurisdiction and if they believe the special representative' initiative is an examples of legislation and within their supervisory jurisdiction they can enter the case just as such and send back the regulation to the government. Also if special representatives subject of article 127 are a number of ministers, the parliament chairman has the authority to decide on the issue, detect their decisions subject of the latter part of article 138 and declare their opinion about it [9].

According to the terms of the article 138 of the constitution and the proceedings of the parliament f or the final revision of the Islamic republic of Iran's constitution, 1985, Volume 2: 1277-1272) [12] and the detailed discussions of the revision of the constitution (detailed discussions of the revision of the constitution of the Islamic Republic of Iran, 1990, vol. 2 : 1013-990) [13], after the communication of the comments of the parliament chairman in relation to government approvals conflict with the law, the government is obliged to follow the comments of parliament chairman and if the government insists on the legislation, the legislation will abolished and deemed invalid because contrary to the law.

Also the guardians council based on the theory No. 732/30/91/CE dated 20/3/1391 has confirmed this interpretation of the constitution approved. in accordance with the comments of this council the board of ministers shall, after the comments of the parliament chairman undertake to reconsider and amend its legislation. Otherwise, after the legal deadline, the decision will be objectionable and abolished.

The constitution is silent about the views of the parliament chairman on the issue of supervision as in articles (85) and (138) in the official press but in accordance with articles 2 and 3 of the civil code there is a legal duty that laws and regulations should be published to inform the public in the official press. Given that government legislation are effective on the rights of citizens, the release of these ideas imply the invalidity of the legislation that has these effects as a step towards the restoration of public rights.

- The authority to detect state regulation from merely administrative decisions:

In this regard it should be noted that there is no disagreement in relation to some matters' executive nature such as the appointment and dismissal of administrative authorities and every one ages about their implementation. The disagreement happens when the government makes regulation under the title of administrative decisions and the parliament chairman finds them to be subject to the article 138 an believes their conformity with the law must be studied. Given the parliament chairman supervision subject is the rules adopted by the board of ministers, the authority to detect this supervision cannot be the government and the government cannot have the authority to refrain from sending their laws to the parliament chairman according to their perceptions of what is subject of the article 138, but the parliament chairman can decide about the inclusion or exclusion of their supervision given the nature of government approvals and also about their own competence and incompetence. The two articles (85) and (138) have been adopted so that no government regulation (subject in these two the articles) is not inconsistent with the laws and if the government is the very authority to decide about these administrative decisions, in fact these two principles lose their validity.

Although the government is required to send all your decisions under any name (such as regulations, agreements, resolutions, decisions etc.) to the parliament chairman and not sending their legislation to the parliament chairman is a violation of their duty stipulated in the constitution, this doesn't remove parliament chairman from their responsibility and they are anyway required to review and comment on government approvals and study their compatibility with the laws.

(F) The appropriateness of parliament chairman's authority and that of the court of administrative justice in monitoring government regulations:

Some believe that the fundamental legislator has merely established one authority for the cancellation of government regulation. According to this view, given that the articles 85 and 138 of the constitution are silent about the sanctions of the parliament chairman's supervision on government regulation, determining a sanctions or the parliament chairman's supervision through ordinary law is contrary to the articles 170 and 173 of the constitution[6].

But according to the constitution (the documentation mentioned earlier) the court of administrative justice and the parliament chairman are two competent same level authorities to monitor the decisions of the government. Based on the articles (85) and (138) of the constitution, government approvals as subject to these articles, must beside sending for application be communicated to the parliament chairman for them to see if they contradict the law and send them back to board of ministers with the reason for appeal. But the court of administrative justice is a judicial office and government approvals cannot be sent to request the idea of the

court, only if a complaint of an approval is filed this institution will study the approval and if they are contrary to the laws they will cancel it.

It is noteworthy that the parliament chairman authority scope is more limited than that of court of administrative justice. Because parliament chairman only has the authority for monitoring state statutes, regulations and resolutions of the board of ministers and those of commission made up of ministers while the court of administrative justice has jurisdiction over appeals against any government decisions and regulations. Based on articles 170 and 173 of the constitution the court of administrative justice has jurisdiction to invalidate all government acts and regulations that are contrary to Islamic laws or that they are outside the jurisdiction of the government. Also this court is the very authority to listen to people's complaints, grievances and protests against government agents or government units to accomplish their rights and has jurisdiction to study the legality of solely administrative decisions.

In what concerns the relation between the competences of these two authorities about government regulations it can be said that the functions of these two authorities, is deciding of governmental approvals contradict the laws. So if the parliament chairman declares a legislation is against the law it will be invalid and there will be no subject for the court to have jurisdiction over. Also, if the court of administrative justice revokes an act there will be no more a matter for the parliament chairman to comment on. The question that arises here is whether the parliament chairman may only study the compatibility of government passed legislations with the ordinary laws or if they can also study the conformity of government approvals with the constitution? It seems that parliament chairman's rank and position will not have competence to comment on the compatibility of government legislations with the constitution, although according to the government's task of refraining from making any regulation inconsistent with the text and spirit of the laws, a fortiori the state shall not pass legislation inconsistent with the constitution, and in case it happens, the court of administrative justice has the competence to cancel those legislations. The government is required not to approve acts contrary to the spirit of the law and if government regulations are contrary to the spirit of the rules, they are voidable at the court of administrative justice and also the parliament chairman can also communicate rules inconsistent with the spirit and the text of the law to the government for correction, in which case the government is obliged to follow with the parliament chairman.

Conclusions

His constitution of the Islamic Republic of Iran urges to respect the hierarchy of rules and legal norms and the constitution itself is at the head of these various principles and rules and the guardian's council oversight is a mechanism that provides this protection. At the lower levels of this hierarchy there are executive rules and regulations. Articles 183 and 85 of the constitution empower the government pass regulations and insist on the compatibility of these provisions with the laws and with the supervision of the parliament chairman (articles 138 and 85) and the judicial oversight of the judiciary (articles 170 and 173) have ensured compliance with this hierarchy. Based on the latter part of articles 85 and 138 government approved statutes need to be monitored for the compatibility with the rules by the parliament chairman and this has to be sent to them. Deciding which regulations will be subject to parliament chairman supervision is on parliament chairman themselves and their opinion on the compatibility of the legislation passed by the government must be followed, and government legislations dissented by the parliament chairman will be abolished. Parliament chairman supervision (which is legislative and not judiciary) and that of the administrative justice court are beside each other and the both have competence to monitor government legislations which are inconsistent with the laws.

REFERENCES

1. Tabatabai Motameni, Manoochehr, comparative administrative law, the rule of law and comparative due process in some large countries, Tehran, Samt, 2006, First Edition.
2. Ghazi Shariat Panahi, Abolfazl, fundamental rights and political institutions, Tehran, Tehran University Press, 1992.
3. Vijeh, Mohammadreza, contemplation on the hierarchy in the legal system of the Islamic Republic of Iran. p. 14
4. Parliament office of cultural affairs and public relations, revision council detailed constitutional proceedings of the Islamic Republic of Iran, Tehran: Parliament office of cultural affairs and public relations, 1990, vol. 2, p. 985
5. Parliament office of cultural affairs and public relations, revision council detailed constitutional proceedings of the Islamic Republic of Iran, Tehran: Parliament office of cultural affairs and public relations, 1985, Volume II.

6. Basic collection, legal vice presidential office, Research, development and explanation department of the laws and regulations, 2002, First Edition.
7. Opinions of the guardians council (advisory and interpretative of the constitution), guardians council research center, Tehran, Dadgostar, 2002.
8. Hashemi, Seyed Mohammad, fundamental rights of the Islamic Republic of Iran, sovereignty and political institutions, Tehran, 2004, ninth edition, Volume II.
9. Darvishvand, Abolfazl, monitoring government regulations, public law survey quarterly, 2012.
10. Abolhmd, Abdulhamid, "the hierarchy of laws in the legal system of the Islamic Republic of Iran", Political sciences and rights faculty magazine (Tehran University) 1981, No. 22.
11. Hashemi, Seyed Mohammad, fundamental rights of the Islamic Republic of Iran, sovereignty and political institutions, Tehran, 2004, ninth edition, Volume II.
12. Parliament office of cultural affairs and public relations, revision council detailed constitutional proceedings of the Islamic Republic of Iran, Tehran: Parliament office of cultural affairs and public relations, 1990, Volume II.
13. Parliament office of cultural affairs and public relations, revision council detailed constitutional proceedings of the Islamic Republic of Iran, Tehran: Parliament office of cultural affairs and public relations, 1985, Volume II.