

PalArch's Journal of Archaeology
of Egypt / Egyptology

GUARDIAN COUNCIL'S JURISTS' SCOPE OF SHARIA SUPERVISION OVER THE
NATIONAL LAWS AND REGULATIONS IN TERMS OF SUBJECTS AND THEIR
TIME OF VERIFICATION

Mahdi Ebrahimi¹, Mohammad Javad Rezaei-Zadeh Baravati^{2}
Mohammad Bahadori-Jahromi³*

¹Department of Public Law, Tehran Central Branch, Islamic Azad University, Tehran, Iran.

²Department of Public Law, University of Tehran, Tehran, Iran (Corresponding Author).

³Department of Public Law, Tarbiat Modares University, Tehran, Iran.

*Email: rezaeizd @ ut.ac.ir

Mahdi Ebrahimi, Mohammad Javad Rezaei-Zadeh Baravati, Mohammad Bahadori-Jahromi: Guardian Council's jurists' scope of Sharia supervision over the national laws and regulations in terms of subjects and their time of verification -- PalArch's Journal Of Archaeology Of Egypt/Egyptology 18(4), ISSN 1567-214x

Keywords: Guardian Council, Scope of Sharia supervision, Iranian Constitution, Principle 4 of the Constitution

ABSTRACT

In the Islamic Republic of Iran's legislative system, the measures by the Islamic Consultative Assembly must be approved of by the Guardian Council in order not to contravene the Constitution and the Sharia. The Guardian Council supervises the submitted measures, both by the Islamic Consultative Assembly regarding laws and by the Administrative Court of Justice regarding government regulations and bylaws. One of the main subjects regarding the quality of exercising Sharia supervision by the Guardian Council's jurists is to investigate and interpret the necessary requirements for the enforcement of this authority. To clarify this issue, it is necessary to examine the scope of Sharia supervision both in terms of subjects and of laws and regulations verification timing. The main challenge of this research was to find and elaborate on these cases; in other words, the question raised is: "Which subjects fall under the Guardian Council's jurists' Sharia supervision in the Republic of Iran's legislative system?" Another question is: "Which legislative terms does the Guardian Council's jurists' Sharia supervision include?" In line with the questions raised, the results of this research used descriptive-analytical research method to state: "All measures by the Islamic Consultative Assembly, whether in the form of enactments by the said Assembly or in the form of government regulations or council measures, fall under the Guardian Council's jurists' Sharia supervision. This issue shall not be restricted to the legislative term after the Islamic Revolution, and all previous rules and regulations and even the measures by the interim government shall be subject to the Guardian Council's jurists' Sharia supervision". It is worth noting that this research was conducted on the principles and foundations underlying the Constitution and the author has accepted the constitutional principles of the Islamic Republic of Iran, while analyzing relevant materials.

In other words, the main question of this research should be considered in the constitutional paradigm in which sharia is considered as the premium norm.

INTRODUCTION

The Guardian Council is one of the pillars of the Islamic Republic of Iran's legislature power. As per Article 94 of the Islamic Republic of Iran's Constitution, the Guardian Council is vested with the basic competency to investigate the measures set by the Islamic Consultative Assembly so that they are not contrary to the Sharia and the Constitution. On the other hand, as per Article 170 of the Constitution, the regulations complained against are handed over to this Council by the Court of Administrative Justice in order to be examined in terms of any contradictions with the Sharia as set forth in Article 4. One of the most critical issues in the implementation of the Sharia supervision over laws and regulations by the jurists of the Guardian Council is the very scope of this type of supervision. In this regard, the issue should be reviewed from two aspects, i.e., the time when the supervised measure is adopted and the issues to be supervised in the resolutions, after examining the nature and types of Sharia supervision by the jurists of the Guardian Council. Accordingly, in the first chapter, the nature and types of Sharia supervision will be evaluated, and later, this type of supervision will be examined and evaluated in terms of the verification timing:

The nature and types of Guardian Council's jurists' Sharia supervision in the Islamic Republic of Iran:

The absence of a basic judicial body in the Islamic Republic of Iran's legal system and the embodiment of the political responsibilities of the Constitutional judge within the Guardian Council have led this council to take charge of the responsibilities of the Constitutional judge in the Islamic Republic of Iran. The question of the Sharia nature of this Council must also be taken into account, as it is very crucial in understanding the duties and competencies of this council. However, concerning the implementation of the Constitution, the Guardian Council, on one hand, is competent to review and comment on the contradiction or non-contradiction of parliamentary measures with the Sharia and the Constitution, while on the other hand, it has the authority to comment on the inquiries made by the Administrative Justice Court. These two cases shall be reviewed in the form of two independent titles after the substantive review of the Guardian Council's religious performance is evaluated:

- **Nature of the Guardian Council's Sharia supervision:**

To understand the supervision functionality of the Guardian Council in superintending the laws and regulations, one must refer to the religious principles set in the Constitution, which include the Islamic teachings and Shia School jurisprudence. From the Qur'anic point of view, which is the Muslims' holy book, the sublime decrees of this religion take their origin from the divine nature of man and are always able to meet his needs from birth to the last day of life (Tabatabai, 2001: 266). In verse 30 of Surah Rome, God Almighty says: "So turn your face towards this religion with full inclination to the Truth, with the same nature on which God has created

people. God's creation is not for change. This is a firm religion, but most people do not understand this" (Qur'an, Surah Rome: 30). Also, various narrations in religious and Islamic sources reaffirm the immortality of this religion. In this regard, one can refer to the Zararah narration quoted by the companions of Imam Sadegh (AS), as saying: "I asked Imam Sadegh (AS) about the lawful and the unlawful. He said: "What Mohammad made lawful shall be lawful up until the Day of Judgment, and so shall his unlawful. There is no command other than his, and no prophet can come except him, with Ali (AS) quoted as saying: No one should innovate a heresy except to abandon that tradition because of it" (Koleini, Vol. 1:58).

Studying these verses and narrations, it becomes clear that Islamic rules and the Sharia revealed by God Almighty are eternal and will be established as long as human life on this planet holds firm. The conclusion is that a Sharia supervision and preservation of the Islamic nature of the laws must basically be on the same footing and be a matter of eternity. Hence, the "permanence of Sharia supervision" is one of the most crucial features of Sharia supervision. This issue was also realized before the Islamic Revolution in the Constitutional period and the National Consultative Assembly. In fact, the first case of Sharia supervision of the law can be seen in the Iranian legal system in this period. The second principle of the amendment to the Constitution stipulated: "In no period of time, shall be contradictions with the sacred Islamic teachings and rulings as well as those stated by the Prophet (PBUH); it is thus evident that the recognition of case laws contravening the Islamic rules rests with scholars and jurists. Hence, it is long-established that a commission, not to be less than five people, of religious figures and Mujtahids cognizant of contemporary requirements, to be introduced to the National Consultative Assembly to deal with the issues" (Shams, 2008: 15).

- **Types of Sharia supervision by the Guardian Council's jurists:**
 - ✓ **Supervision over laws and resolutions issued by the parliament:**

In the second principle of the Constitution, the Islamic Republic of Iran's system is basically introduced as a system founded on monotheism and the assignment of sovereignty and legislation to God. According to Article 4 of the Islamic Republic of Iran's Constitution, the Guardian Council is vested with implementing this platform and monitoring laws and regulations; thus, as principle 72 of the Constitution reads, the Islamic Consultative Assembly cannot produce laws contrary to the principles and rules of the official national religion or the Constitution, with the Guardian Council being responsible for recognizing this issue.

In the meantime, Article 91 of the Constitution was set forth to implement this which stipulates: "In order to safeguard the Islamic rules and the Constitution as to prevent their contradiction with the Islamic Consultative Assembly, a council called the Guardian Council was formed with the following composition: 1- Six jurists cognizant of the requirements of the time and current issues. These people are selected by the leader. 2- Six lawmakers, working in various fields of law, from among the Muslim jurists introduced to the Islamic Consultative Assembly by the head of the judiciary power as elected by the assembly."

In fact, the will to legitimize the laws is rooted in the pre-Islamic Revolution slogans and the formation of the Constitution by the Assembly. Even when the parliament has debated the issues, the elected representatives of the nation have repeatedly reaffirmed the legality of laws and the prohibition of passing legislations that would contravene the sharia. The issue of supervising the measures set by the Islamic Consultative Assembly and ensuring that they do not contradict with the rules is the main task of the Guardian Council. Thus, the constitutional legislator does not assume any legitimacy for the Islamic Consultative Assembly without the Guardian Council¹. This was also taken up by the Constitutional experts in the final Constitutional review, as Shahid Beheshti states in this regard: "As per principle 4 of the legislature, its scope of powers shall not interfere with Islamic norms" (Detailed minutes of the Constitutional negotiations, vol. 315: 1).

In general, the duties and responsibilities of the Guardian Council in the Islamic Republic of Iran's constitutional system have been stated in Articles 91 to 99 of the Constitution. Common laws also specify the mechanisms of this issue. For example, Article 197 of the Code of Procedure of the Islamic Consultative Assembly reads: "All measures by the Assembly shall be officially handed over to the Guardian Council. If the Council does not express its opposition to them within ten days after the receipt or expiration of the ten days stated in Article 95 of the Constitution, the measures by the Assembly shall be sent to the presidency for notification and signature as in accordance with Article 94 of the Constitution.

Note: The day when the measure is received and the day when the views of the Guardian Council are announced to the parliament are not considered to be parts of the prescribed deadlines."

In addition to focusing on the legitimacy of the measures by the Islamic Consultative Assembly, the Guardian Council's jurists are hence responsible for reviewing the Sharia-based compliance of the Cabinet's resolutions and the Articles of Association of state-owned companies in accordance with Article 85², which is performed by the Islamic Consultative Assembly. Also, according to the general principles of supervision over the Assembly's measures, the Guardian Council is rested with this, which is not specified in the Islamic Republic of Iran's Constitution.

¹ Article 93: "The Islamic Consultative Assembly has no legal validity without the existence of the Guardian Council, except for the approval of the credentials of the representatives and the election of six lawyers as members of the Guardian Council."

² Principle 85: "The position of representation is reserved for a person and cannot be transferred to another. The Assembly may not delegate legislative authority to any person or body, but may, if necessary, delegate the power to make certain laws to its internal commissions in accordance with Article 72. In this case, the laws shall be tentatively enforced during the time the Assembly specifies and their final approval will be rested with the Assembly. The Islamic Consultative Assembly may also delegate the permanent approval of the statutes of organizations, companies, governmental or government-affiliated institutions to the relevant commissions in accordance with Article 72, or authorize their approval by the government. In this case, the measures by the government should not contradict the principles and rulings of the official national religion or the Constitution, the determination of which is with the Guardian Council in accordance with the procedure mentioned in Article 6. "In addition, government measures should not contradict the general laws and regulations of the country, and in order to review and declare their non-contradiction with the said laws, the Speaker of the Islamic Consultative Assembly must be notified of the implementation."

✓ **Supervision over government regulations and bylaws:**

As per Article 173 of the Constitution, a court called the "Court of Administrative Justice" was established under the supervision of the Judiciary power to deal with peoples' complaints, grievances and protests against government officials or state units or regulations and to realize their rights. Also, as per Article 170, court judges are required to refrain from enforcing government bylaws and regulations that are contrary to the Islamic laws and regulations or those outside the jurisdiction of the executive branch, and anyone requesting the annulment of such regulations from the Administrative Court of Justice. (Khazraei, 2007: 43)

The mechanism pertaining to this issue is detailed in the Law on the Organization and Procedure of the Administrative Court of Justice adopted in 2013. Pursuant to Article 87 of this law, "If a measure or ratification contrary to the Sharia rules is up for proceeding, it shall be referred to the Guardian Council for comment." The views of the jurists at the Guardian Council are of high importance for the general assembly. It is also worth noting that if the head of the judiciary power or the chief of the court gets informed of the inconsistency of a measure with the Sharia law or that it is found to be outside the authority of the adopting authority, they shall be required to raise the issue in the general assembly and request its annulment.

Scope of the Guardian Council's jurists' Sharia supervision

After understanding the nature of the Guardian Council's jurists' Sharia supervision and its types, the time-based and thematic scope of this supervision should be reviewed. For this, the "time-based inclusion" and "thematic inclusion" as well as its limits should be evaluated in the system of the country's laws and regulations:

• **Time-based scope of Guardian Council's jurists' Sharia supervision:**

To examine the time-based jurisprudential-Sharia supervision by the Guardian Council, it is necessary to define three legislative terms: 1- The legislative term before the Islamic Revolution (National Assembly) 2- The legislative term of the interim government and 3- The legislative term after the establishment of the Islamic Consultative Assembly, as each term is examined based on the system of laws and regulations in the country:

✓ **Legislative terms before the Islamic Revolution:**

Following the victory of the Islamic Revolution and the ratification of the Islamic Republic of Iran's Constitution, all laws and regulations were supposed to be approved as per fourth principle, and in accordance with Sharia, with the criterion involving the decision and views of the majority of jurists in the Guardian Council (Mehrpour, 1989: 17-31). However, it was not clear what the laws approved by the National Assembly were up to from 1906 until the year of the victory of the Islamic Revolution when the first term of the Guardian Council was convened in 1980. Although the MPs suggested to finally review the Constitution in the negotiations and to coordinate the application of the fourth principle, it was necessary to consider this issue in particular and to foresee its implementation.

Concerning the laws contrary to the Sharia before the Islamic Revolution, the Guardian Council called for the annulment of ratifications and requested the approval of the relevant draft or bill from the institution in charge. However, besides the annulment of the ratifications, deadlines for submitting an alternative law were suspended and anticipated in some cases (Fallahzadeh, Darvish Motavi, 2013: 110). For example, reviews by the Guardian Council's Jurisprudential Advisory Committee when examining the inconsistencies of some laws before the Revolution with the Sharia provided an opportunity to correct and send alternative measures, avoiding the referral of the issue to the Guardian Council for the annulment of the ratification, such as giving a deadline to the Cultural Heritage Organization to submit an alternative bill to the "Law on the Preservation of National Monuments" (adopted on 1930), which after some provisions of this law in joint meetings were found to be contradictory, the organization was given a one-year opportunity to provide an alternative law, ultimately not leading to the adoption of a new law. This was done to prevent the postponement of the affairs as a result of the prevailing law from being postponed and absence of an alternative law. Therefore, what is important is to provide a practical and guaranteed solution in the form of an inviolable procedure.

With respect to the refinement of laws adopted before the revolution, it seems that in addition to the above, the most appropriate solution is to create a comprehensive mechanism to refine and correct laws contrary to the Islamic teachings so that laws against the Sharia are annulled and removed from the national rules and regulations, after the process of an appropriate law is amended and corrected.

Investigating the legality of laws enacted before the Islamic Revolution through the above mechanism, the issue of reviewing government regulations and bylaws adopted before the Islamic Revolution is of high importance. In the meantime, reviewing and amending regulations can take priority. This is because many counter-Sharia laws were quickly corrected or replaced by laws adopted by the Islamic Consultative Assembly; however, there have been many executive bylaws and regulations not yet been corrected or replaced, despite their consistency with the Sharia, and are still regarded as the source of rights and duties. In this connection, it is worth mentioning that after a careful examination, it becomes clear that the main provisions of these regulations are also regarded as contrary to the Sharia, but that they have not received the necessary attention, such as the prohibition of exercising some property rights in respect of property considered antique, in the form of the statute dated November 5, 1924 formalized regarding the preservation of antiquities. For example, as per Article 8 of this statute, any repairs without obtaining government permits are prohibited and sanctioned. This is in clear conflict with the legal extent of respectable property.

An appropriate mechanism for this type of statute is to declare and refer the counter-Sharia issue to the Court of Administrative Justice in order to get the regulation approved before the revolution annulled. Also, if it is discovered during the investigation that the main law also contains provisions contrary to the Sharia, a mechanism for correcting it should be considered.

✓ **Legislative term of the Islamic Revolution Council:**

After the victory of the Islamic Revolution, the first institution embarking on legislation before the parliament or government was formed was the Islamic Revolutionary Council. The life of the Islamic Revolution Council and its legislative term began on January 13, 1979, i.e., it began before the adoption of the Constitution and lasted until July 20, 1980. During this term, over 1,500 measures were adopted by this Council. Although jurists such as Ayatollah Taleghani, Motahhari, and Shahid Beheshti were the main members of this Council, no basic or Sharia supervision was exercised over its ratifications. At last, the Guardian Council was established at the time this Council was removed. Regarding supervision over provisions contrary to the Sharia and the Constitution (the subject of Article 173 of the Constitution), the Code of Procedure of the Administrative Court of Justice was adopted in 1981.

To cite an example regarding some counter-Sharia measures by this Council, one can refer to the presumed warrant of the parties stipulated in Note 1 of Article 7 stipulating the law-bill on amending some articles pertaining to the Direct Taxes Law, by which “the transferor and the transferee shall jointly be held responsible for paying the transfer tax. And before making the transaction, the tax must be deposited to an account designated by the Ministry of Economic Affairs and Finance to the National Bank of Iran or one of the affiliated banks, and its receipt must be submitted to one of the notaries public.”

Accordingly, it is critical that the prevailing laws and regulations approved by this council fall also under the scrutiny of Sharia supervision, so that if any cases contrary to Islamic law are refined.

✓ **Legislative term after the establishment of the Islamic Consultative Assembly:**

The third legislative term is the legislative term after the Islamic Consultative Assembly was formed. Of course, the laws adopted after the Islamic Revolution, are not as challenging as they are clearly stipulated in the Constitution. This suggests that the measures by the Islamic Consultative Assembly will be returned in case they oppose the Sharia and no challenges will arise in terms of practical procedure in this regard. The previous category regarding the general competency of the Guardian Council on counter-Sharia contradictions of the resolutions concerns the measures that have become law without official comment and only after ten days from the legal deadline. As stated above, it becomes clear that the Guardian Council reserves the right to intervene, declare legal inconsistencies and request corrections to these laws.

Of course, it is seldom assumed where a measure in a term of the Guardian Council is not considered contrary to the Sharia, but that the jurists of the Guardian Council suggest, in a later term, it had contradicted the Sharia, or the views of the majority of jurists changed during the same term. It is also possible that the adopted measure had wrongly been announced to have been in line with the Sharia. In this case, it will be possible to announce a contradiction and to require the Islamic Consultative Assembly to correct it.

On this basis, taking into account the above issues, the Guardian Council shall reserve the right to request the correction or even annulment of the law contrary to the Sharia, and the possibility of annulling such laws can be anticipated in terms of practical procedure.

Regarding the laws passed after the victory of the Islamic Revolution, the major solution has been to annul the measures through the Court of Administrative Justice. According to the existing procedure in the Court of Administrative Justice, all regulations assumed to be against the Sharia or the Constitution - either at the request of any member of the community (the subject of Article 173 of the Constitution) or at the referral of the Head of the Judiciary or the President of the Court of Administrative Justice (Article 85 of the Law on Organization and Code of Procedure of the Administrative Justice Court)- shall be annulled by the General Assembly of the Court during an inquiry process by the Guardian Council. Of course, announcing the initial inconsistency of a provision of the current laws by the Guardian Council to the Court of Administrative Justice, as according to the general competency of Article 4 of the Constitution, shall not be excluded³, and in all these cases, the Guardian Council must take the inquiry⁴.

- **Thematic scope of the Guardian Council's jurists' Sharia supervision:**

Concerning the issues subsumed under Articles 91 to 99 of the Constitution, in addition to what is embodied as the main duty of the legislator in Article 4, it is necessary to pay attention to the fact that what has been stated in the Constitution is a set of national laws and regulations. In the fourth principle of the constitution, the phrase “all laws and regulations” indicates all the measures and ratification by the Assembly and the rules set by other organs of the Islamic Republic of Iran. Therefore, each case should be considered and reviewed separately:

- ✓ **Laws approved by the Islamic Consultative Assembly:**

What definitively falls under the Guardian Council's jurists' Sharia supervision is the laws submitted to the Islamic Consultative Assembly either in the form of a draft or in the form of government or judicial bills which shall be subjected to the laws via obtaining a quorum as Article 65 of the Constitution states (Daneshpour, 2011: 89). This also holds true for the ratification of the Supreme Council of Provinces as per principle 102 to reserve the right to prepare the drafts within their duties and propose them directly or through the government to the Islamic Consultative Assembly. These drafts, as in the previous cases, will be sent to the Guardian Council after being reviewed in the Assembly for religious and fundamental supervision.

³ It seems the Guardian Council may, upon examining the regulation, find the mother law to be against the Sharia and seeks to correct it, like what we saw concerning the correction of the articles of the bylaws on the factory closure here jurists of the Guardian Council found that some articles of the main law were inconsistent with Islamic law, while examining the articles of the bylaws. (Interview with Dr. Mohammad Bahadori-Jahromi, Head of Applied Research at the Guardian Council Research Institute)

⁴ Article 87- If a measure is raised for consideration in terms of contradiction with the Sharia norms, the matter shall be sent to the Guardian Council for declaration. The views of the jurists of the Guardian Council shall be binding on the General Assembly.

✓ **Other measures by the Islamic Consultative Assembly:**

Pursuant to Article 94, all measures by the Islamic Consultative Assembly must be submitted to the Guardian Council. This council is obliged to examine them. Apart from the internal laws approved of by the Islamic Consultative Assembly and examined in the previous paragraph, other measures of the Islamic Consultative Assembly, especially those that affect the country, such as reforming border lines, establishing martial law or accession to international agreements, etc. shall also be reviewed and evaluated by the Guardian Council. Of course, there is an exception to this, which is mentioned in Article 93 of the Constitution, according to this principle: "The Islamic Consultative Assembly forfeits any legal credit without the Guardian Council unless when it decides to approve the credentials of the representatives and selects six lawmakers to serve as members of the Guardian Council" (Khazraei, 2007: 40).

✓ **Government regulations and by-laws:**

Another issue to be approved by the jurists of the Guardian Council is government regulations and bylaws, whether the ratification and regulations are issued by any of the ministers or by a commission combining ministers or the cabinet. In each of these cases, according to the mechanism set, the very conduct of Sharia-based supervision will be made possible, either through the Guardian Council's direct supervision or indirect supervision by this body through the Court of Administrative Justice, as it is detailed in principles 85, 130 and 170 of the Constitution (Tabari, 2009: 119).

✓ **State-owned Companies' articles of association:**

Another issue to fall under the Guardian Council's jurists' Sharia supervision is the articles of association of state-owned companies. As per Article 85 of the Constitution, the Islamic Consultative Assembly may delegate the permanent approval of the articles of association of organizations, companies, governmental or government-affiliated institutions to the relevant commissions in line with Article 72, or allow the government to adopt them. In such a case, these state-owned articles of associations must not be in conflict with the principles and rules of the official religion in the country or the Constitution (Khazraei, 2007: 42).

✓ **Measures by Islamic councils:**

Since principle 4 of the Constitution is generally applicable, it encompasses all legislative and regulatory matters of the country. On the other hand, the Islamic councils in each village, county, city, town or province reserve the right to make measures related to their locals as the relevant mechanism in this regard is based on principle 105 of the Constitution.

However, the constitution has envisaged no mechanism for exercising this Sharia supervision. However, considering the authority of the Guardian Council as the guardian of Sharia in the national system of laws and regulations, this can be met by granting Sharia supervision to the provincial centers (Khazraei, 2007: 44).

✓ **Resolutions of the High Councils:**

In the laws and regulations of the country, in addition to the government and the Islamic Consultative Assembly, there are also higher councils whose measures, from general policies to sub-regulations, have always affected the legal system of the country. There is no specific provision in the Constitution or common laws regarding the mechanism behind these measures; however, at the same time, the application and generality of principle 4 of the Constitution and the content of principles 91 to 99 of the Constitution can be taken to mean that all the measures set by these high councils must also be sent to the Guardian Council for Sharia monitoring. It even seems that the Guardian Council's opinion on the general policies of the system, approved by the leader, is not useless (Tabari, 2009: 125).

CONCLUSIONS:

Regarding the Guardian Council's jurists' Sharia supervision over the system of laws and regulations in the country, principle 4 of the Constitution clarifies the necessary issue. This type of supervision is divided into two areas: Sharia supervision over laws and Sharia supervision over regulations.

In the time-based approach, all existing laws and measures in the country considered to be valid and official, whether before or after the Islamic Revolution and the measures of the Revolutionary Council, fall under the jurisdiction of the jurists in the Guardian Council as they shall have no effect on the general competency of this Council over time.

In the subject-based approach to supervising parliamentary measures after the formation of the Guardian Council, the issue is quite clear and principles 91-99 of the Constitution are sufficiently clear. All measures of the Islamic Consultative Assembly, including legislative ones (drafts and bills) or others involving an important decision on the agenda of the Assembly must be approved by the Guardian Council to be reviewed for the probable inconsistencies with the Constitution or Sharia. Also, the measures set by the Cabinet of Ministers as well as the statutes of state-owned companies, not specified in the constitution, must be sent to the Guardian Council for approval. The same can be said of the approvals of the High Councils. However, for these cases, a suitable mechanism needs to be taken into account.

Suggestions:

Concerning a review of laws and regulations before the Islamic Revolution or the cases approved during the interim government, a special commission should be established under the supervision of the Guardian Council so that all cases are reviewed during an effective process to get the inconsistent cases are annulled or corrected. Regarding the measures by Islamic councils of cities and villages, it is necessary to have an effective mechanism. For this, it is suggested to provide a kind of Sharia-based representation so that the measures by these councils are evaluated under the auspices of the Guardian Council in order to establish their non-contradiction accurately. The high councils should also be subject to a comprehensive system with their measures being approved and announced after the necessary process and approval by the final Guardian Council.

REFERENCES

- Al-Koleini, M. (1994). *Al-Kafi*, Islamic Books House, Tehran, Vol. I
- Daneshpour, E. (2011). *Jurisprudential-Legal Study of the Role and Position of the Guardian Council in the Islamic Republic of Iran and Its Supervision over Laws and Regulations*, PhD Thesis, Imam Khomeini Research Institute and the Islamic Revolution
- Fallahzadeh, AM. & Darvish Motavalli, M. (2013). *Guardian Council Supervision over Pre-Revolutionary and Revolutionary Laws*, Public Knowledge Studies, 2013
- Khazraei, A. (1999). *Guardian Council Supervision of Laws and Measures*, Master Thesis, University of Tehran
- Mehrpour, H. (2010). *Principle 4 of the Constitution and its Extent*, Journal of the Lawyers Association, 2010
- Shahadatian Tabari, R. (2009). *Principles and Realm of Supervision of the Guardian Council on the Laws and Regulations of the Country*, Master Thesis, University of Tabriz
- Shams, A. (2008). *Constitution from the Constitutional Decree until today*, Tehran, Derak, 2008
- Tabatabaei, M.H. (1994). *Al-Mizan Interpretation*, Volume 16
- Detailed Report of the Discussions of the Constitutional Review Council, Vol. 1, Tehran, (1990). General Department of Cultural Affairs and Public Relations of the Islamic Consultative Assembly.