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# Managing Tensions in the Iranian Constitution: Informal Constitutional Practices and the Suppression of Democratic Institutions

Presented to the Annual Meeting of the British Columbia Political Science Association,

University of British Columbia, Vancouver, BC, May 3, 2013

The Iranian regime is popularly considered an authoritarian theocracy, but the Iranian Constitution in fact provides for a unique mixture of democratic and non-democratic institutions. It simultaneously establishes republican-type institutions with an elected executive and legislature; and non-democratic, religiously grounded, parallel institutions that compete with them. Though the non-democratic institutions have won this competition, tensions between the two remain. It is my goal to understand how these tensions have been 'managed' by the non-democratic institutions to maintain dominance. In doing so, I will address a greater question: 'Is democracy in Iran possible under its current constitution?' My argument is, in essence, that the greater degree of democracy permitted by the formal constitution is inhibited by informal-constitutional practices.[1]

The non-democratic office of Supreme Leader is the most powerful in the country. Through formal-constitutional and informal-constitutional means he extends control over all branches of government. The less democratic the institution, the more directly he controls that institution. Non-democratic institutions, in turn, exercise degrees of control over democratic institutions. By implication, all state institutions are subject to varying degrees of control by the Leader.

Elections provide constitutionally-sanctioned opportunities for popular forces to challenge non-democratic regime forces, and thus the Leader's control. Amongst other means, management of democratic institutions occurs via security, judicial, and other institutions under the Leader's control to marginalize the democratic opposition, most effectively, by determining the list of candidates eligible to contest elections. Elections are thus predetermined to be contests between regime-approved candidates. Consequently, the regime can be assured to a degree of the kinds of contestations likely

[1] Guillermo O'Donnell, "Illusions about Consolidation," *Journal of Democracy* 7.2 (1996): 34-42.

to emerge from democratic institutions. When democratic actors 'get out of hand,' they can be marginalized by regime forces, and disqualified from subsequent elections. Yet, these are informal-constitutional means of management.

My argument is that the greatest obstacle to democracy in Iran is the concentration of power in the office of Leader. This occurs through informal-constitutional means, through which the Leader has become effectively unaccountable to any body, and spread his influence over all branches of government. The formal constitution permits a greater degree of democratization in Iran than currently witnessed. If the Leader's influence is confined to its formally defined arena, then democratic institutions can become, to a greater degree than they are now, forums representing popular forces, and competitors with non-democratic institutions.

First, I am going to identify the competing formal-constitutional institutions in the executive and legislature. Second, I am going to identify some informal-constitutional means that the Leader uses to compete with or influence other branches of government. Third, I am going to explain how the Guardian Council, and security and judicial institutions are used to 'manage' elections and democratic institutions. The above considerations taken together demonstrate how the Leader's influence permeates all branches of government. Fourth, I will consider why the regime has any concern for democratic legitimacy at all. Fifth, I am going to explain how the non-democratic executive has asserted the superiority of his office over the democratic executive's in the on-going power struggle between Supreme Leader Khamenei and President Ahmadinejad, the respective occupants of those offices. This will lead to my sixth consideration, reasoned speculation on which figures are likely Presidential candidates in

the upcoming June 2013 elections. Lastly, I will argue that changes to informal-constitutional practices present the real possibility of increased democratization – in the sense of empowering democratic institutions to function autonomously - in Iran under its current formal-constitutional framework.

**Conceptual Clarification**

I want first to clarify as best I can my use of three key concepts – 'constitution,' 'regime,' and 'opposition.' Constitutions establish the 'basic rules of the game.' Generally speaking, they determine the kinds of relationships that exist between and among political actors and institutions. Here, I call 'formal' those constitutional features that are relatively clearly defined in the written Iranian Constitution;[2] for example, that the President and Supreme Leader occupy two distinct offices. I call 'informal' those constitutional features that are not relatively clearly identified in the written constitution, but that have developed as basic 'rules of the game' determining political relations; for example, the vetting powers of the Guardian Council. Reference to both sets of constitutional features is necessary to understand political behaviour and the relations between actors and institutions.[3] Naturally, there will be some ambiguity as to whether some informal features are 'sufficiently basic' to be constitutional. The unqualified use of 'constitution' will refer to formal features.

I understand the 'regime' to have a degree of continuity that the 'government' does not have. For example, 'governments' change with electoral cycles, whereas regimes do not. The regime is composed of the most powerful and temporally stable constitutional

[2] International Constitution Law Project Information, "Iran – Constitution," *ICL,* http://www.servat.unibe.ch/icl/ir00000_.html#A089_.
[3] Gregory S. Mahler, *Comparative Politics: An Institutional and Cross-National Approach* (Toronto: Pearson Education, 2008), 22-5.

elements – the Presidency, the Leadership, the Guardian Council, the Revolutionary Guard, etc. I will use 'regime' to refer only to the hegemonic, non-democratic institutions – the Leadership and the state apparatuses most directly under his influence, like the Guardian Council, Expediency Council, and Revolutionary Guard.

I use 'opposition' to refer to actors contesting for power against the regime. This can include sitting members of democratic institutions, electoral competitors, and disenchanted members of non-democratic institutions.

## Competing Constitutional Institutions

### The Executive

Constitutionally, the office of Supreme Leader is the most powerful executive. The three branches of government function under his "supervision."[4] He has 17 powers, among which are: executive "supervision"; formal recognition of the president's election; and appointments to some of the most powerful offices in the country.[5] His authority and legitimacy are formally religious, as the person to whom leadership of the Muslim community has been "devolve[d]" during occultation of the Twelfth Imam.[6] It is ultimately this function that defines and legitimates, and determines the most important qualifications necessary for, that office. Formally, the Assembly of Experts supervises, appoints, and dismisses the Leader according to, most importantly, religious, and then, political, criteria.[7] For reasons that I will explore below, the Leader is, in practice, effectively unaccountable to any body. Ali Khamenei has been Supreme Leader since 1989.

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[4] Iranian Constitution, Article 57.
[5] Iranian Constitution, Article 110.
[6] Iranian Constitution, Article 5.
[7] Iranian Constitution, Articles 107, 111.

Constitutionally, the office of President is the second-most powerful executive. He "is responsible for implementing the Constitution and acting as the head of the executive, except in matters directly concerned with the office of the Leadership." He is directly elected by the people.[8] His authority and legitimacy are formally democratic. Mahmoud Ahmadinejad has been President since 2005. Thus, there are two executives, one with religious authority and legitimacy, the other with democratic. The former is constitutionally more powerful. Naturally, tensions arise as the two executives have competing interests: an increase in power for one means a decrease in power for the other.

**The Legislature and its Constitutional Limitations**

Constitutionally, legislation is the function of the "Islamic Consultative Assembly," (also called the 'Majles').[9] The Majles is the only constitutionally-sanctioned legislature. It "can establish law on all matters" as long as laws are not contrary to Islamic principles.[10] It therefore has wide powers constrained by other constitutional elements. Members are directly elected by the people.[11]

The Guardian Council is responsible for (a) determining the compatibility of "all legislation passed" by the Majles with Islamic principles, and (b) the Constitution.[12] Consequently, it has legislative authority over the Majles because it can veto bills. Furthermore, it has powers of (c) authoritative constitutional interpretation[13]; and (d) "supervising" elections for President, the Majles, and the Assembly of Experts.[14] Note

[8] Iranian Constitution, Articles 113, 114.
[9] Iranian Constitution, Article 58
[10] Iranian Constitution, Article 72.
[11] Iranian Constitution, Article 62.
[12] Iranian Constitution, Articles 72, 91, 94.
[13] Iranian Constitution, Article 98.
[14] Iranian Constitution, Article 99.

that the first three powers are basically judicial. The Guardian Council is a non-democratic institution ultimately accountable to the Leader. It is composed of "six religious men" appointed by the Leader; and "six Muslim jurists" elected by the Majles from among candidates nominated by the head of the judiciary. The head of the judiciary is appointed by the Leader.[15] The Leader therefore has significant influence over this Council.

The Expediency Council is responsible for adjudicating legislative disagreements between the Majles and the Guardian Council. Its creation was the result of pragmatic considerations of governance that required compromising the primacy of religious principles. Its decisions are authoritative. In this sense, it is the highest judicial institution for legislation. All of its members are appointed by the Leader.[16]

These are non-democratic bodies that act as checks on the democratic legislature. The less democratic the body, the more powerful it is. Note also that the more powerful the body, the more directly the Leader exercises formal control. He directly appoints all members of the Expediency Council; directly one half of the Guardian Council, and indirectly the other half; and, though his power is less direct here, he influences the composition of the Majles, for reasons that I will explore below.

**Informal-constitutional parallel institutions**

In addition, there are informal-constitutional institutions that extend the Supreme Leader's influence over all branches of government, competing with them. I consider them constitutional because they are permanent and powerful institutions that affect basic power relations. They are necessary to understanding political relations and behaviour.

[15] Iranian Constitution, Articles 91, 94.
[16] Iranian Constitution, Article 112.

The Leader has representatives, appointed by him, "on every level of the political establishment … in every state, civilian, and military institution." They extend his influence over a large range of institutions. For example, his representatives in the universities can affect the content and subject of courses taught, and the composition of the student body.[17] They are "one of the most important institutions of supervision and propaganda."[18]

Friday Prayer leaders are appointed by the Leader. Friday Prayers serve as an important tool for publicizing the views of the regime's ruling elite, and for "setting the tone on important political issues, especially foreign policy." This happens without necessary consideration of the Presidential Ministries' views. In this sense, they compete with that democratic institution.[19] Because of the Leader's influence over Friday Prayers, this is an extension of competition between the democratic and non-democratic executives.

The Special Court for the Clergy's main function is the prosecution of dissident clergy. Criticism by high-ranking clergy threatens the regime's religious legitimacy because they are people popularly and religiously recognized as properly qualified to pass judgment on such matters. The head of the Special Court, and all its judges and prosecutors are appointed or confirmed by the Leader.[20] As the constitutional judiciary does not have jurisdiction over this court, it "functions outside of, and parallel to, the judiciary."[21] Unlike the constitutional judiciary, the Special Court's budget is dependent

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[17] Rakel, *Power, Islam, and the Political Elite in Iran*, 35.
[18] Schirazi, *Constitution of Iran,* 154.
[19] Rakel, *Power, Islam, and the Political Elite in Iran*, 35.
[20] Mirjam Kunkler, "The Special Court of the Clergy (*Dadgah-e Vizheh-ye Ruhaniyat*) and the Represseion of Dissident Clergy in Iran," in *The Rule of Law, Islam, and Constitutional Politics in Egypt and Iran*, ed. Said Arjomand and Nathan Brown (New York: State University of New York, 2013), 65.
[21] Rakel, *Power, Islam, and the Political Elite in Iran*, 35.

on the Expediency Council, rather than the Majles. All Expediency Council members are appointed by the Leader. Thus, the Special Court is particularly close to the Leader.

In addition, there are the various 'Foundations.' They have no "concretely defined legal status," but they are powerful organizations, the heads of which are appointed by the Leader. They are "an integral part of the political-economic system" of Iran, estimated to account for 35% of Gross National Product, and to control 40% of the non-oil sector of the economy. At least some of the Foundations "act in parallel to the official [democratic] government institutions." For example, the Housing Foundation operates to some degree alongside the Housing Ministry to provide housing for the needy; the Literacy Movement alongside the Ministry of Education; and the Supreme Council of the Cultural Revolution alongside the Ministry of Culture and Islamic Guidance.[22] These Foundations compete with the democratic executive by functioning in its jurisdiction. Because of the Leader's influence over Foundations, this is an extension of competition between the democratic and non-democratic executives.

Through appointments of representatives, Friday Prayer leaders, Special Court for the Clergy officials, and the heads of Foundations, the Supreme Leader increases his influence beyond that allocated him by the formal constitution to all branches of government. These are informal-constitutional features.

**Management Strategies**

Though non-democratic institutions are formal-constitutionally more powerful, this does not entail their continual dominance. One could reasonably expect consistent, continual, and aggressive competition by democratic institutions to assert their authority, for example, for the Majles to pass any legislation it wants, even though it is subject to

[22] Rakel, *Power, Islam, and the Political Elite in Iran*, 38-9.

subsequent checks by the Guardian Council; to be an open forum for debate; to represent broad views in society; and to contradict the Leader when it finds necessary. Nor does the Guardian Council's "supervisory" electoral function preclude meaningful electoral contestation between diverse groups. The degree to which the political space is closed in Iran – the degree to which democratic institutions are dominated -- is not explained merely by the formal constitution. The informal-constitutional linkages explored above explain this to a degree, but this proceeds most significantly and effectively by other informal features: the regime's use of security and judicial institutions to intimidate and marginalize opposition figures; and the pre-election vetting of candidates by the Guardian Council.

**Judicial Institutions**

The use of security and judicial institutions to intimidate and marginalize opposition figures is a common and effective management tactic. This function is not prescribed by the written constitution, but it is a pervasive feature affecting power relations necessary to understanding Iranian politics. For this reason, I consider this behaviour informal-constitutional.

For example, the Leader can use judicial processes to settle disputes with the President. Consider the February 2013 arrest of Saeed Mortazavi, a member of President Ahmadinejad's government. He was detained as a personal attack against Ahmadinejad following Ahmadinejad's public battle with Majles speaker, Ali Larijani. This is an extended example of conflict between the President and Leader because Larijani, unlike

Ahmadinejad, is reportedly backed by the Leader.[23] Mortazavi was subsequently released because his arrest was a threat, a taste of the kinds of repercussions that befall dissidents. But that is not what ended the dispute. Rather, it was the Leader's direct involvement: one day after the Leader criticized the affair, stating that the whole thing made him "feel sad," all those involved, including all of the Majles, "sent letters expressing sorrow and promising renewed allegiance" to the Leader."[24] Here is demonstrated the Leader's dominance over the democratic executive and legislature. In the former instance, dominance was indirect through the use of judicial institutions; in the latter, it was direct through personal involvement.

Massive street protests alleging electoral fraud followed Ahmadinejad's 2009 Presidential win against the Reformists. Protesters rallied under the banner of the 'Green Movement,' a broad coalition of Reformist politicians and their supporters. Reformist discourse does not dispute the Leader's authority, but centres on notions of freedom, the rule of law, reducing social and political restrictions, and increasing democratization. By implication, however, this threatens the Leader's hegemony. The protests, in particular, seriously threatened the Leader's authority, a) because they continued after the Leader iterated that elections were fair and called for a stop to protests; and b) because the protests were the largest and most organized the Islamic Republic has witnessed to date, presenting the serious possibility of undermining the regime's monopoly of power. Mehdi Karoubi, and Mir-Hossein Moussavi were the two Reformist politicians who ran

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[23] IranPolitik, "Larijani-gate: The Islamic Republic's bitter political infighting explodes in tragicomedy manner," *IranPolitik,* February 6, 2013, http://www.iranpolitik.com/2013/02/06/news/larijani-gate-islamic-republics-bitter-political-infighting-explodes-tragicomedy-manner/.

[24] Thomas Erdbrink, "Iran: Rivals Forced to Apologize to Supreme Leader," *New York Times*, February 18, 2013, http://www.nytimes.com/2013/02/19/world/middleeast/iran-rivals-forced-to-apologize-to-supreme-leader.html?_r=0#h[RpaTah,4].

in that election, and who unwittingly became the leaders of the Green Movement. The two men and their wives have since been detained for over two years without trial.[25] Here is an instance of the judiciary being used to marginalize and intimidate the opposition to safeguard the regime. Since the threat posed by those protests, Reformists have been marginalized from the political scene to the point of near-non-existence.

The Special Court for the Clergy, as mentioned above, functions to limit clerical discourse to those confines acceptable to the regime. Here is another instance of state institutions that marginalize and intimidate the opposition.

**The Revolutionary Guard**

The Revolutionary Guard, in particular, are an important security force for the regime. The Guard is a powerful paramilitary organization that has the constitutional role of "guarding the Revolution."[26] Functionally, this has meant serving the interests of the regime, that is, the Leader. In a candid statement, Ali Saeedi, the Supreme Leader's representative to the Revolutionary Guard, revealed his, and by implication, the Leader's, understanding of the Revolutionary Guard's role in elections: the Guard does not "interfere" in the elections; rather, its "essential duty is the logical and rational engineering of the elections."[27] He later elaborated that "political participation is one of the responsibilities" of the Revolutionary Guard, an "essential" aspect that makes it an ideological force differentiated from the regular military. Political participation is to be understood thus: "If one group stands against the revolution, and takes positions in

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[25] Saeed Kamal Dehghani, "Call for Iran to end house arrest of opposition leaders," *The Guardian*, February 15, 2013, http://www.guardian.co.uk/world/2013/feb/15/call-iran-end-house-arrest-opposition-leaders.

[26] Iranian Constitution, Article 150.

[27] IranPolitik, "Iran Election Watch 2013: Saeedi reveals the IRGC's political preferences, role in upcoming election?" *IranPolitik*, January 9, 2013, http://www.iranpolitik.com/2013/01/09/analysis/iran-election-watch-2013-saeedi-reveals-irgcs-political-preferences-role-upcoming-election/.

opposition to the slogans of the Imam [Khomeini]," the RG must "take a stand." It "can not remain indifferent" to opponents of the regime.[28] The Guard are effectively the Leader's security apparatus. They contribute to subordinating democratic institutions and managing elections by intimidating, harassing, and otherwise coercing the opposition. The Revolutionary Guard thus serves an active political role, but this role is not formally sanctioned by the constitution. It is an informal-constitutional practice.

**The Guardian Council**

In addition to its aforementioned judicial functions, the Guardian Council has the important constitutional responsibility of "supervising" elections.[29] The Council has interpreted this to mean, according to its constitutional right to interpretation, "as giving approval" to the list of candidates running for election.[30] The practical consequence is that, for any given election, the people select only from among candidates that have been approved by the Council. By delimiting the range of candidates eligible for election, the Guardian Council retains significant direct control over the composition, and consequently the behaviour, to a degree, of democratic institutions. The Guardian Council's control extends over the formally democratic Assembly of Experts. The Assembly is charged with appointing, dismissing, and, in general, acting as a check on, the Leader.[31] Candidacy requirements for the Assembly are, unsurprisingly, even more restricted than those for the Majles. The Guardian Council had the constitutional responsibility of establishing the initial law determining candidate qualifications.

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[28] Ali Saeedi quoted in IranPolitik, "IRGC increasingly open regarding its political nature," February 15, 2013, http://www.iranpolitik.com/2013/02/15/news/irgc-increasingly-open-political-nature/.
[29] Iranian Constitution, Article 99.
[30] Schirazi, *Constitution of Iran*, 89.
[31] Iranian Constitution, Article 111.

Subsequent changes to that law are vested in the Assembly itself.[32] In effect, this has meant that "[w]hatever power bloc is dominant at a given moment determines these requirements in accordance with its own interests."[33] Though the details have changed, in general, requirements "privilege a very small clerical estate."[34] Changes to qualification requirements have not empowered broader segments of society, but only changed the dynamics of intra-elite competition.

The Leader's control over the Guardian Council extends his influence over all democratic institutions, including the nominally democratic Assembly of Experts. Consequently, the body that is supposed to act as a check on the Leader is checked by the Leader. Thus, the office of Leader is effectively not even indirectly popularly accountable; and, in practice, the Assembly has not been known to publicly challenge him. This is unsurprising given his influence over its composition. The Leader therefore remains unaccountable in general.

Although the Guardian Council has the constitutional right to interpret the constitution and its powers under it, it does not follow that 'vetting candidates' is a necessary interpretation of 'supervising' elections.' In this sense, its vetting powers are informal-constitutional.

**Patterns of Candidate Disqualification**

Requirements for running for President and Majles are stipulated by the constitution and legislation, respectively. The Guardian Council is the final authority determining whether candidates meet requirements. Support for the constitution and the principles of

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[32] Iranian Constitution, Article 108.
[33] Schirazi, *Constitution of Iran*, 108.
[34] Said Arjomand, "Shi'ite Jurists and the Iranian Law and Constitutional Order in the Twentieth Century," in *The Rule of Law, Islam, and Constitutional Politics in Egypt and Iran*, ed. Said Arjomand and Nathan Brown (New York: State University of New York, 2013), 34.

the Islamic Republic, and religious qualifications are among the necessary requirements for both offices. It is difficult to find public explanations by the Guardian Council for the rejection of candidates, although comments by Council members have indicated that disagreement with the ruling elite is sufficient reason.[35] This is corroborated by disqualification patterns: it is common for sitting and former members of Majles and government to be disqualified from running in subsequent elections without any relevant changes to their characteristics or formal electoral qualifications, but on the basis of opposition to the regime.[36] The opacity of the vetting process simplifies the routine, arbitrary disqualification of candidates. Disqualification patterns generally accord with the regime's interests at the time.

The following table shows all Majles elections that have taken place since Khamenei assumed Leadership in 1989. One can see, for example, that the 'Leftist' faction of the ruling Islamic Republic Party was largely marginalized when the Leader supported economic liberalization; reformists were largely or nearly-completely disqualified from running in subsequent elections after they became too popular and powerful; and Ahmadinejad's supporters were largely marginalized following his post-2009 conflicts with the Leader. Note also that the famous, one-and-only 'Reformist Majles' of 2000 was the result of elections with disqualification rates about half as high as all other Majles elections under Khamenei's Leadership. This further supports the claim that disqualification functions to marginalize the opposition. Really, it would be surprising were it otherwise.

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[36] See, for example, Schirazi, *Constitution of Iran*, 88.

| Table 1: CANDIDATE DISQUALIFICATION in MAJLES ELECTIONS (1992-2012) | | | | |
|---|---|---|---|---|
| Election Year | ~ % of Candidates Disqualified | ~ # of Candidates Qualified to | Patterns of Disqualification | Notes |
| 1992[37] | 35 | 2040 | Islamist Left – supported state intervention in economy | During a time when the Leader supported economic liberalization; dominated by Conservatives |
| 1996[38] | 39 | 3276 | "Members of the official and unofficial opposition"; includes most notably the Islamist Left | Dominated by Conservatives and a splinter faction, the 'Pragmatists' |
| 2000[39] | 17 | 5742 | Reformists allowed to run | "Dominated by Reformists"[40]: the famous, one-and-only 'Reformist Majles' |
| 2004[41] | 33 | 5450 | "Wholesale disqualification of reformist candidates"[42] including 80 sitting MPs[43] | Return to power of Conservatives[44] |
| 2008[45] | 27 | 5400 | ~70% of Reformist candidates | Dominated by Conservatives (pro-Ahmadinejad and pro-Leader, at this point) |
| 2012[4647] | 36 | 3450 | Ahmadinejad supporters | Reformists largely boycotted elections;[48] Conservative controlled (anti-Ahmadinejad, pro-Leader, at this point) |

[37] Schirazi, *Constitution of Iran*, 88.
[38] Schirazi, *Constitution of Iran,* 88.
[39] Princeton University, "Iran Data Portal - 2000 Parliamentary Election," *Princeton University,* http://www.princeton.edu/irandataportal/elections/parl/2000/.
[40] Farideh Farhi, "The Parliament," *The IranPrimer*, http://iranprimer.usip.org/resource/parliament/.
[41] Princeton University, "Iran Data Portal – 2004 Parliamentary Election," http://www.princeton.edu/irandataportal/elections/parl/2004/.
[42] Farideh Farhi, "The Parliament," *The IranPrimer*, http://iranprimer.usip.org/resource/parliament/
[43] Princeton University, "Iran Data Portal – Assembly of Military Clerics (MRM)," *Ptinceton University,* http://www.princeton.edu/irandataportal/parties/mrm/.
[44] Farideh Farhi, "The Parliament," *The IranPrimer*, http://iranprimer.usip.org/resource/parliament/
[45] Hossein Aryan, "Iran: Vetting Exacts Heavy Toll on Reformist Candidates," *RFERL,* February 18, 2008, http://www.rferl.org/content/article/1079495.html.
[46] Saeed Barzin, "Guide: Iran parliamentary elections," *BBC*, February 27, 2012, http://www.bbc.co.uk/news/world-middle-east-17141030.
[47] Alex Vatanka, "Khamanei and Iran's 2013 elections," *Middle East Institute*, September 21, 2012, http://www.mei.edu/content/khamenei-and-irans-2013-elections.
[48] Ali Akbar Dareini, "Iran Election 2012: Ahmadinejad Routed By Rivals," *Huffington Post,* May 5, 2012, http://www.huffingtonpost.com/2012/05/05/iran-elections-2012-ahmadinejad_n_1483744.html.

The following table shows all Presidential elections that have taken place since Khamenei's Leadership. In the charts above and below, one can see that the political sphere has at points been opened to opposition forces. For example, Reformists were allowed to run in the 2000 Majles elections; they won the 1997 and 2001 Presidential elections; and they had candidates running in the 2005 and 2009 Presidential elections. But the political space has consistently become once-again closed. When it closes, Conservative forces – Khamenei's most loyal – become once-again formally dominant.

**Table 2: CANDIDATE DISQUALIFICATION in PRESIDENTIAL ELECTIONS (1989-2009)**

| Year | ~ % of Candidates Disqualified | ~ # of Candidates Qualified to Run | Victor | Relations with Leader | Notes |
|---|---|---|---|---|---|
| 1989[49] | 97.5 | 2 | Rafsanjani | Close | Rafsanjani instrumental in Khamenei's rise to power as Leader; cooperated to marginalized the Islamist Left |
| 1993[50] | 97 | 4 | Rafsanjani | Close | |
| 1997[51] | 98 | 4 | Khatami | Tense | Unexpected Reformist victory |
| 2001[52] | 99 | 10 | Khatami | Tense | |
| 2005[53] | 99.5 | 6 | Ahmadinejad | Close | Disqualification of two Reformist candidates reversed on request by Khamenei[54] |
| 2009[55] | 99 | 4 | Ahmadinejad | Close (but has become increasingly tense) | Reformist candidates allowed to run; contested results; mass public protests |

[49] Princeton University, "Iran Data Portal - http://www.princeton.edu/irandataportal/elections/pres/1989/
[50] Princeton, http://www.princeton.edu/irandataportal/elections/pres/1993/
[51] Henry Newman, "Iran's closed cycle of power," *The Guardian*, May 21, 2009, http://www.guardian.co.uk/commentisfree/2009/may/21/iran-guardian-council.
[52] Henry Newman, "Iran's closed cycle of power," *The Guardian*, May 21, 2009, http://www.guardian.co.uk/commentisfree/2009/may/21/iran-guardian-council.
[53] Henry Newman, "Iran's closed cycle of power," *The Guardian*, May 21, 2009, http://www.guardian.co.uk/commentisfree/2009/may/21/iran-guardian-council.
[54] The Guardian, "Iran reverses ban on reformist candidates," *The Guardian*, May 24, 2005, http://www.guardian.co.uk/world/2005/may/24/iran.
[55] Golnaz Esfandiari, "Four Candidates Approved To Run In Iran's Presidential Vote, 471 Rejected," *RFERL*, May 21, 2009, printed in *Payvand*, http://www.payvand.com/news/09/may/1218.html.

## Concern for Democratic Legitimacy

### Opening the Political Sphere

But why does the political sphere open up at all in the first place? That it opens up at all suggests that the regime has some concern for democratic legitimacy. One reason for concern is that part of the regime's constitutional legitimacy is grounded in its claim to popular support. For example, the constitution refers to the popular struggle that led to the establishment of the Islamic Republic: it argues that, that Islamic principles should underwrite political organization is implied by the participation of "all segments of society" in the Islamic Revolution; and it claims that "98.2%" of people supported the establishment of an Islamic Republic. In addition, there are, after all, democratic institutions; and high participation rates in elections enforce the regime's legitimacy, since participation can be seen as tacit concession of the election's fairness: reportedly out of fears that a Reformist boycott would drive participation rates too low, two Reformists candidates disqualified from the 2005 Presidential elections were reinstated on request by Khamenei.[56]

Another reason is that I do not think the regime ever forgets the potential power of discontented popular forces. This is a regime that came to power as a result of an unforeseen popular Revolution that undermined what appeared to be the Shah's stable, authoritarian rule; and whose own rule appeared seriously threatened following the 2009 election protests. Popular forces must be kept content to a degree for stability. There are both constitutional and pragmatic concerns for democratic legitimacy.

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[56] The Guardian, "Iran reverses ban on reformist candidates," *The Guardian*, May 24, 2005, http://www.guardian.co.uk/world/2005/may/24/iran.

**Closing the Political Sphere**

But why, then, does the political sphere become once again closed? Because the regime has a two-fold task: maintaining democratic legitimacy while safeguarding its power. The opening and closing of the political sphere coincides with the regime's concerns over how this task is being balanced: when there is concern for democratic legitimacy, the sphere is relatively opened; and when there is concern for safeguarding power, it is closed. The regime allowed Reformists to run during the 2000 Majles elections, but when they became serious contenders for power and tried implimenting reforms, the regime felt threatened and marginalized them from subsequent elections. The 2009 Green Movement protests, in particular, presented the most serious threats to the regime's power to date. Consequently, Reformists have been virtually eliminated from the political scene since.

Non-democratic institutions, then, control democratic ones according to the regime's interests at the time. This is possible in significant part because of the informal-constitutional practice of the Guardian Council vetting candidates. Consequently, popular elections in Iran function similarly to intra-party competition. Vetting candidates is the function of political parties. The performance of this task by the state in Iran thwarts the development of oppositional organizations. In popular elections, Iranian voters do not choose between members of different parties, but only from among members of the same 'party.' This has had the historical consequence of preventing the development of autonomous political parties: the contemporary opposition are often dissident members of the same broad collective entity defined and sanctioned by the state – the Islamic Republicans. For example, Reformist discourse still formally accepts the Leader's

authority, though not his hegemonic authority, and the fundamental principles of the Islamic Republic, though in nuanced and qualified ways. It focuses not on replacing the regime, but on implementing the rule of law and reinterpreting the constitution to allow for greater political and social freedoms. Consider the following comments by Reformist Presidential candidate, Mousavi, before the 2009 elections: "If we move out of the constitution's framework then we would face uncontrollable anarchy."[57] This is an interesting statement. It appears to pledge allegiance to the fundamental principles of the Islamic Republic; while leaving open the possibility that staying within the constitution's framework could imply a different state of affairs - different distributions of power, and greater political freedoms, perhaps - than now exists. These are disagreements important enough to warrant the creation of splinter factions within the same broad party, factions that could one day become organizations sufficiently powerful to seriously contend with the Leader for power. Vetting candidates safeguards the Leader's power by performing the important task of preventing the development of a powerful opposition even within the same broad party, let alone the development of more radical opposition.

**Executive Competition: Ahmadinejad and Khamenei**

The above considerations should explain how it is that, in the power struggle currently taking place between President Ahmadinejad and Supreme Leader Khamenei, that is, between the democratic and non-democratic executives, the latter has dominated. Khamenei has won this power struggle by using his influence over state apparatuses to marginalize Ahmadinejad and his supporters.

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[57] Mir-Hossein Mousavi quoted in Ibrahim Moussawi, *Shiism and the Democratisation Process in Iran: With a focus on wilayat-al-Faqih*, 337.

However, tensions between the two executives did not start with Ahmadinejad. They are endemic to the model, though notable conflict did not start until Khatami's 1997 Presidency. There are two reasons. First, Khomeini was Supreme Leader from the Islamic Republic's 1979 birth until his own 1989 death. With the exception of Bani-Sadr's short presidency, which ended with Majles' impeachment apparently instigated by Khomeini,[58] there was no notable conflict. This is because Khomeini had virtually uncontested charismatic and religious legitimacy, something that current-Leader Khamenei cannot lay claim to; and because Khamenei was President under Khomeini from 1981-1989, and his selection by Khomeni as successor implies that relations were favourable between their offices. Second, Khamenei assumed Leadership in 1989, and from 1989-1997, Rafsanjani was President. Khamenei's rise to Leadership was tumultuous, however, because he did not have the degree of support that Khomeini did because he lacked his religious and charismatic legitimacy. Rafsanjani's support was instrumental to Khamenei's rise to power, and the two co-opted to marginalize their mutual enemies to consolidate power. This largely meant the 'Leftist' Islamic Republicans.[59] Both men were regime insiders and there was a large degree of coordination out of mutual interest. Khatami, however, unexpectedly won the 1997 Presidential elections, defeating the regime candidate, Nateq-Nuri. Incidentally, Khatami was aligned with the 'Reformists' who grew out of the marginalized Leftist faction of the Islamic Republicans. Their political discourse centred on notions of freedom, the rule of law, empowerment of women, less social and cultural restrictions, and opening the

[58] Schirazi, *Constitution of Iran,* 71.
[59] Eva Rakel, *Power, Islam, and the Political Elite in Iran,* 53-4.

political sphere to greater democratization.[60] Naturally, this would come at expense of the Leader's control over political activity. Khatami's reformist plans were largely foiled, but his tenure as President did feature an earnest attempt by the democratic executive to (cautiously) compete with non-democratic institutions (and thus, the Leader).

**Challenges by Ahmadinejad**

Ahmadinejad's executive competition is surprising for two reasons. First, because of its aggressiveness. Second, because Ahmadinejad initially rose to power in 2005 with the support of Khamenei, regime loyalists, and the Revolutionary Guard. These figures were "central to his first term as president in terms of both policy and providing key cabinet members."[61] He was a regime candidate because he was not expected to behave erratically.

Shortly after his 2009 election, however, Ahmadinejad began publicly challenging the Leader. First, his emergent faction's "discourse on the return of the [Twelfth Imam] and the end times … raised suspicions among hardliners who see it as undermining" the Leader's authority.[62] Article 5 says that the leadership of the Islamic community "devolve[s]" upon the Supreme Leader just so long as the Twelfth Imam is in occultation.[63] Thus, if the Twelfth Imam returns, the Leader's political authority is usurped. Second and more concretely, Ahmadinejad has contradicted the Leader publicly. For example, after Khamenei contradicted his Foreign Minister's comments that Iran is willing to engage in bilateral negotiations over the nuclear issue, Ahmadinejad himself

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[60] Steven Fairbanks, "Theocracy Versus Democracy," in *Iran Encountering Globalization: Problems and Prospects,* ed. Ali Mohammadi (Hoboken: Taylor and Francis, 2012), 213-4.
[61] IranPolitik, "Iran Election Watch 2013: A look at the main political currents," January 5, 2013, http://www.iranpolitik.com/2013/01/05/analysis/iran-election-watch-2013-main-political-currents/.
[62] IranPolitik, "Iran Election Watch 2013: A look at the main political currents," January 5, 2013, http://www.iranpolitik.com/2013/01/05/analysis/iran-election-watch-2013-main-political-currents/.
[63] Iranian Constitution, Article 5.

asserted his government's willingness to go forth with those negotiations.[64] The Leader's position has won out, given that Iran has not engaged in bilateral negotiations.

Ahmadinejad has expressed public concern about the possibility of unfairness in the upcoming Presidential elections, admonishing the Revolutionary Guard's interference in elections, and reiterating the people's right to choose their own leaders: "No one should think they can decide rather than the people."[65] This is a clear response to Khamenei's unequivocal position that the fairness of the upcoming 2013 Presidential elections should not be doubted, that this serves "the purpose of the enemy"[66]; and the claims of officials tied to the Revolutionary Guard that doubting the fairness of the upcoming elections is seditious and represents a foreign conspiracy to usurp political power in Iran.[6768]

**Responses by the Regime**

In response to such challenges to his power, Khamenei has used state apparatuses to marginalize Ahmadinejad and his supporters. The Guardian Council has marginalized his supporters in the Majles: unlike in the 2008 Majles elections, when Ahmadinejad was still obedient to Khamenei, "many" of those disqualified from the 2012 Majles elections were reportedly Ahmadinejad's supporters.[69] The winners were largely, reportedly, "explicitly against Ahmadinejad and for the Supreme Leader," many with "strong ties to

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[64] Hugh Tomlinson, "Mahmoud Ahmadinejad accuses rivals of planning to rig election," *The Times*, February 13, 2013, http://www.thetimes.co.uk/tto/news/world/middleeast/article3686124.ece?CMP=OTH-gnws-standard-2013_02_12.

[65] Hugh Tomlinson, "Mahmoud Ahmadinejad accuses rivals of planning to rig election," *The Times*, February 13, 2013, http://www.thetimes.co.uk/tto/news/world/middleeast/article3686124.ece?CMP=OTH-gnws-standard-2013_02_12.

[66] Saeed Kamal Dehghan, "Iranian elections … just don't mention the 'f' word," *The Guardian,* January 10, 2013, http://www.guardian.co.uk/world/iran-blog/2013/jan/10/iran-election-free-ali-khamenei.

[67] IranPolitik, "Iran Election Watch 2013: The Islamic Republic to carry out most closed elections in its history?" *IranPolitik*, January 30, 2013, http://www.iranpolitik.com/2013/01/30/analysis/2532/.

[68] Eskandar Sadeghi-Boroujerdi, "Revolutionary Guard Commander: 'Free Elections' and the New Sedition?" *Al-Monitor,* January 19, 2013, http://iranpulse.al-monitor.com/index.php/tag/presidential-elections-2013/.

[69] Saeed Barzin, "Guide: Iranian parliamentary elections," *BBC*, February 27, 2012, http://www.bbc.co.uk/news/world-middle-east-17141030.

the intelligence community and Revolutionary Guards."[70] These people won in large part because of the pre-election marginalization of their opposition.

The Revolutionary Guard has expressed its opposition to Ahmadinejad. Though the Guard supported Ahmadinejad's rise to power, General Sha'bani now calls Ahmadinejad's supporters the "deviant current," i.e., deviating from the regime; Ahmadinejad and his right-hand man, Mashaei, not "political men," implying that they do not satisfy the constitutional requirement for Presidency requiring candidates to be from among "political personalities"[71]; and finally, that, "Ahmadinejad, with all the positive aspects he could have had, today is turning from an opportunity to a threat for the regime."[72]

A recent change to the electoral law has reduced the President's oversight over elections. Until recently, the Interior Ministry played a direct role in "organizing and overseeing" Presidential elections, even though the Guardian Council is the ultimate authority on candidate qualification. But new changes to the Presidential election law have reduced the Ministry's direct oversight.[73] In particular, the new law is seen as a pre-emptive move to reduce Ahmadinejad's influence over the upcoming Presidential elections.[74][75]

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[70] Mehdi Khalaji, "Assessing Iran's Parliamentary Elections," *IranPrimer,* March 15, 2012, http://iranprimer.usip.org/blog/2012/mar/15/assessing-iran%E2%80%99s-parliamentary-election-0.
[71] Iranian Constitution, Article 115.
[72] IranPolitik, "Could economic turmoil lead to a new protest movement in Iran? General Nasser Sha'bani certainly thinks so," *IranPolitik*, January 17, 2013, http://www.iranpolitik.com/2013/01/17/news/economic-turmoil-lead-protest-movement-iran-general-naser-shabani-thinks-so/.
[73] The new law creates "a new central election board made up of representatives of the three branches of government, as well as 'seven national, political, social, and cultural figures'" to take over the Ministry's task. Though the Interior Minister is the head of the board, and the Ministry nominates the 30 people who choose the 'seven figures,' its powers are largely delegated and thus reduced.
[74] Golnaz Esfandiari, "Changes to Iran's Election Law Seen as Attempt to Prevent Ahmadinejad Influence," *RRERL*, January 30, 2013.

Ahmadinejad was fielded as a presidential candidate by Khamenei because of his long history of loyalty to the regime and Revolutionary principles.[76] Khamenei's support was instrumental to the rise and sustenance of his power, particularly in the face of massive protests that followed the contested 2009 elections. It is therefore unsurprising that Khamenei's enmity coincides with Ahmandinejad's frustrated attempts to empower the executive. Ahmadinejad himself is constitutionally barred from seeking a third consecutive term in office, but it now appears that his supporters have low chances of being approved by the Guardian Council for the 2013 Presidential elections.

Ahmadinejad's power struggle highlights the consequences for the democratic executive when it challenges the authority of the Leader. Note the regime's two-prong strategy: state apparatuses manage the opposition while in office; and then subsequently bar it from reassuming office.

**Candidates for the 2013 Presidential Elections**

Now, in light of these previous considerations, I want to briefly consider the list of candidates who appear to have a viable chance of approval by the Guardian Council to run in the upcoming June 2013 Presidential elections. Ahmadinejad's camp is currently the only serious opposition against the regime, a role previously performed by the Reform movement. The latter, however, have "essentially been eliminated from the political scene"[77] following the aftermath of the 2009 election protests. The regime feels that the Reformists present too serious of a threat to its power. Though the regime must

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[75] The Interior Ministry still has organizational and oversight power over Parliamentary elections, though, once again, the Guardian Council is the ultimate authority on candidate qualification. See D. Parvaz, "What it takes to run for Iran's parliament," *Aljazeera*, February 28, 2012, http://www.aljazeera.com/indepth/features/2012/02/201221813251766886 8.html.
[76] Rakel, *Power, Islam, and the Political Elite in Iran,* 57-8.
[77] Golnaz Esfandiari, "Who Will Be Iran's Next President?" *RFERL*, January 6, 2013, http://www.rferl.org/media/photogallery/24815015.html

balance concern for safeguarding power with that of maintaining legitimacy, the scale appears to be leaning in favour of the former concern. The regime has risked decreasing its semblance of democratic legitimacy in order to safeguard power.

Similar considerations apply to the Ahmadinejad camp. Ahmadinejad has become an increasingly dangerous opposition, trying in earnest to assert the authority of the Presidential executive at the expense of the Leader's authority. Thus, if the regime feels seriously threatened by his power, it will risk decreasing democratic legitimacy in order to safeguard power. I believe the regime does feel so threatened, as indicated by the coercive measures taken against Ahmadinejad and his supporters thus far.

Nonetheless, it must be made explicit that there is a large degree of speculation here because of the limited availability of information. It is difficult to say what 'really' is going on behind the scenes. The introduction of some novel piece of information could undermine my whole argument. For example, Smyth of *The Guardian* argues that Ahmadinejad's right-hand man, Mashaei, will pass the vetting process because, among other reasons, Ahmadinejad has influence in other powerful branches of government, and because he has blackmailed the regime that "he has dossiers on corruption in high places."[78] This may be true, but based on the evidence available, particularly the marginalization of Ahmadinejad and his supporters so far, I think it unlikely. But I make these arguments with reservation, working with, and extrapolating from, available information, past behaviour, and general political knowledge.

For these reasons, I tentatively designate the likelihood of candidacy as high for figures who are reportedly loyal regime figures - close associates of Khamenei who have

[78] Gareth Smythe, "Don't underestimate Ahmadinejad's chosen heir in Iran election," *The Guardian,* April 2, 2013, http://www.guardian.co.uk/world/iran-blog/2013/apr/02/iran-ahmadinejad-election-mashaei.

shown loyalty in the past - and the likelihood of candidacy as low for figures representing forces threatening Khamenei's power:

| Table 3: POTENTIAL 2013 PRESIDENTIAL CANDIDATES | | | | | |
|---|---|---|---|---|---|
| Name | Political Alignment | Political Position | Relation to Leader | Likelihood of Candidacy | Notes |
| Ali Larijani | Conservative | Speaker of Majles | "Especially well-connected" | High | Staunch opponent of Ahmadinejad |
| Gholam Ali Haddad-Adel | 'Hardline' Conservative | Member of Majles; Advisor to Khamenei | Close; through marriage | High | |
| Ali Akbar Velayati | Conservative | Principal foreign policy advisor to Khamenei | Close | High | Reportedly supported by many regime insiders |
| Said Jalili | 'Hardline' Conservative | Chief nuclear negotiator; special representative to Khamenei | Close | High | Reportedly backed by RG |
| Esfandiar Mashaei | Ahmadinejad Camp | Ahmadinejad's "right-hand man"; former chief of staff | Opposed by implication | Low | Considered Ahmadinejad's "main theoretician"; "hated" by hard-liners |
| Hassan Musavi | Ahmadinejad Camp | Ahmadinejad's new chief of staff | Opposed by implication | Low | |
| Ali Nikzad | Ahmadinejad Camp | Cabinet Minister | Opposed by implication | Low | |
| Mohammad Reza Aref | Reformist | Former vice-president to Khatami | Not close | Low | |
| Mohammad Shariatmadari | Reformist | Former minister under Khatami | Not close | Low | |
| Mostafa Kavakebian | Reformist; Democracy Party of Iran | Member of Majles | Not close | Low | |

Larijani, in particular, is "especially well-connected" to Khamenei and the establishment; has served in government in various capacities and offices; and his brother is Khamenei's appointed head of the judiciary. However, his popularity is suspect, having garnered only 6% of votes in the 2005 Presidential elections. In addition, Mohammad-Bagher Qalibaf, mayor of Tehran and former Revolutionary Guard commander, has

reportedly been "attracting growing support within the clerical establishment."[79] Mostafa Pour-Mohammadi, Ali Fallahian, Manoucher Mottaki, Mohammad-Reza Bahonar, and Mohammad Saeed-Kia also are all loyal figures, all of whom have already declared their candidacy or their intentions to do so.[80] These figures therefore have viable odds of passing the vetting process, though only few will in order not to fragment the vote.

The Reformists have been virtually eliminated as viable contenders in the political arena, and the regime appears to be trying to do the same to the Ahmadinejad camp in the interest of safeguarding power. So in the absence of new developments, I expect the upcoming Presidential elections to be a contest between broadly 'Conservative' figures, likely consisting of some subset of the above.

**The Possibility of Democratization in Iran**

Democratic institutions in Iran are not mere facades. Candidates are vetted by the regime, but results are not necessarily known in advance. Elections provide an element of risk and uncertainty for the regime by presenting a genuine opportunity for some degree of public engagement in the political process. Consider, for example, Khatami's unexpected 1997 Presidential victory. Nor are democratic institutions completely suppressed. Consider Ahmadinejad's public conflicts with the Leader; and attempts by the 'Reformist Majles' of 2000-2004 to pass its own legislation, for example, changes to

[79]All data (including that for Table 3) is synthesized from four sources: 1) IranPolitik, "Iran Election Watch 2013: A look at the main political currents," January 5, 2013, http://www.iranpolitik.com/2013/01/05/analysis/iran-election-watch-2013-main-political-currents/. 2) Golnaz Esfandiari, "Who Will Be Iran's Next President?" *RFERL*, 3) January 6, 2013, http://www.rferl.org/media/photogallery/24815015.html. 3) Saul Bakhash, "Part I – Pivotal Election: The Conservatives," *The Iran Primer*, January 28, 2013, http://iranprimer.usip.org/discussion/2013/jan/28/part-i-pivotal-election-conservatives. 4) IranPolitik, "Iran Election Watch 2013: Twenty four presidential candidates emerge," *IranPolitik,* March 17, 2013, http://www.iranpolitik.com/2013/03/17/guide-to-iranian-politics/iran-election-watch-2013-twenty-presidential-candidates-emerge/.

[80] PressTV, "Iran's roads, urban development minister to run for president," *PressTV,* March 31, 2013, http://www.presstv.ir/detail/2013/03/31/295870/iran-roads-minister-to-run-for-president/.

the Press Law. Nonetheless, Iran is not a democratic country. Democratic institutions and actors are consistently dominated by non-democratic ones, and the political sphere is closely controlled. My argument is that an important obstacle to democratization – understood here only in the limited sense of empowering democratic institutions to function autonomously - is the concentration of power in the office of Leader. My argument is that this occurs most significantly through informal-constitutional means. The formal constitution provides for checks limiting the behaviour of governmental organs. Informal constitutional practices reduce this to one check – the Leader – limiting the behaviour of all other governmental organs. Democratization – empowering democratic institutions - requires eliminating informal-constitutional practices that concentrate power in the office of Leader by eliminating checks on that office. The formal constitution permits a greater degree of autonomy to democratic institutions than is currently witnessed in Iran. If the Leader's pervasive influence is eliminated and confined to its formally defined arena, then democratic institutions can become, to a much greater degree than they are now, forums representing popular forces, and contenders with non-democratic institutions.

A necessary precondition for democratic actors to challenge non-democratic institutions is for opposition actors to occupy democratic office. The pre-election vetting of candidates therefore presents the largest obstacle to the behaviour of democratic institutions. It limits their occupants to regime-favoured actors, and permits subsequent banning of candidates who have fallen out of favour. Consequently, it hinders the development of opposition candidates and parties sufficiently organized and powerful to contest power. Yet, the removal of vetting powers alone from the Guardian Council is

insufficient to increasing democratization. It is necessary that democratic actors not be marginalized or intimidated by regime institutions while occupying office. Coercion of democratic actors is clearly a significant obstacle to their capacity to compete with regime institutions. It is therefore necessary to eliminate the coercive behaviour of regime institutions. These two features which present the greatest threat to democratization are informal-constitutional features of Iranian politics. The formal Iranian constitution presents a real possibility for increased democratization within its limits. Consider that the removal of vetting powers from the Guardian Council would make the Leader, at least in principle, accountable to the Assembly of Experts. Note that religious qualifications currently necessary to hold office in the Assembly are not stipulated by the constitution, but by the Assembly. But restricted membership is not the primary, or even a necessarily relevant reason, for the Assembly's ineffectiveness as a check on the Leader. Religious qualifications function to limit how democratic that body is in the sense of reducing the range of eligible candidates to clerics, not by reducing its effectiveness as an institutional check. If a broader range of clergy – dissident clergy - were permitted to run for this office, then it could become an effective body checking the Leader's powers: for the Leader may be found lacking in political and religious qualifications. There are, in fact, clerics who disagree with the Leader. It is, after all, the function of the Special Court for the Clergy to suppress them. But so long as eligibility to run for this office is determined by the Guardian Council in accordance with its (i.e., the Leader's) interests, then it remains highly unlikely that this body would ever evolve to act as a check on the Leader; for the Leader indirectly determines the eligibility of candidates. Furthermore, removal of the Guardian Council's vetting powers would in

effect both essentially eliminate the Leader's scope of influence over the legislature and Presidency, and increase democratization in those bodies by allowing real electoral competition between diverse groups to compete with one another and non-democratic institutions.

Changes to informal-constitutional features amounts to a change in political culture from the present one centred on fear of, and obedience to, the Leader to one that recognizes a limited and clearly defined role for him. It is not sufficient, for example, for the Assembly of Experts to be free of the Guardian Council's vetting process. It must see itself as an independent body with the authority and legitimacy to check the Leader's behaviour. If it remains permeated with an atmosphere of fear and obedience to the Leader, then one informal-constitutional obstacle to democratization, vetting, has been eliminated, but another, a culture of fear, remains. Though the latter is also a significant obstacle, it cannot be overcome until the former has been. Changes in political culture are gradual. But the beginnings of this process are prevented by those precedent informal-constitutional features that I have identified above. Those features are therefore the greatest obstacles to democratization.

This is not to say that these changes would make Iran a full-fledged liberal democracy. The Iranian constitution establishes a regime centred on a particular understanding of Islamic principles. Non-Muslims are not accorded the same opportunities as Muslims. The highest offices are reserved only for Muslims; and "absolutely and generally … all articles of the Constitution as well as … all other laws and regulations … must be based on Islamic criteria," a requirement reiterated in Articles

guaranteeing basic rights.[81] But constitutionally entrenched religious biases do not preclude the capacity of democratic institutions to function autonomously *as institutions* in a society that is predominantly Muslim: Islamic religious restrictions to assuming office can still enfranchise a large majority of society. Furthermore, religious requirements are not constitutionally stipulated for membership to the Majles, the Assembly of Experts, the Expediency Council, or Presidential Ministries.

There obviously exist institutional and practical biases against Muslims. But the biggest obstacle to democratization in Iran is not that non-Muslims are discriminated against, but that the opposition in general – which will be composed largely of Muslims in a Muslim society like Iran – is marginalized because of informal institutional practices that hinder democratic institutions.

**Concluding Remarks**

In the Islamic Republic of Iran, there are democratic and non-democratic institutions, grounded in a common constitution, that compete with one another. Though the latter dominate the former, domination is not absolute. There is competition and tension between the two. First, I identified the formal constitutional sources of tension in the executive and legislature. Second, I identified informal-constitutional means the Leader uses to extend control over all branches of government. Third, I argued that domination is not explained merely by the Constitution. I argued that explanation requires identifying the role of security and judicial institutions, and the Guardian Council in managing elections and democratic institutions. I then argued that, all of the above considerations taken together explain how the Leader's control extends over all spheres of government. Fourth, I considered why the regime has any concern for

[81] Cf., Iranian Constitution, Articles 4, 20, 21, 26, 27.

democratic legitimacy. Fifth, I used the current power struggle between Ahmadinejad and Khamenei to demonstrate an instance of competition and domination taking place. Sixth, the above considerations led me to propose a tentative list of likely candidates for the upcoming June 2013 Presidential elections. Finally, I argued that the greatest obstacles to greater democratization in Iran are informal-constitutional practices because the formal constitution allows a greater degree of democratization than currently witnessed in Iran.

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