

Separation of Powers in Contemporary Iran: From Imported Idea to Indigenous Architecture of Power

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The present study seeks to examine the process through which the concept of separation of powers entered contemporary Iranian thought and to analyze its role in shaping the political and institutional order of the state. It further aims to critically assess the influence of this concept on the structure and interactions among the three branches of government—legislative, executive, and judicial—while emphasizing its compatibility with the principles of the Guardianship of the Jurist and the supervisory functions of the Guardian Council in the Islamic Republic. The overarching objective of this research is to evaluate the localization of this concept and assess its strengths and limitations within Iran's political architecture. To investigate the role of separation of powers in the system of the Islamic Republic, this research employed a comparative and analytical method, focusing on the interrelations among the three branches of government and the influence of institutional oversight mechanisms—such as the Guardian Council and the Supreme Leadership—on the distribution and exercise of power. The findings indicate that the operation of the separation of powers in the contemporary Iranian political order is evident in the performance and mutual interactions of the three branches of government. These interactions are frequently accompanied by supervision from institutions such as the Guardian Council and the Leadership, which may at times result in intervention or the practical limitation of each branch's authority. This phenomenon reflects a uniquely localized manifestation of the separation of powers within the constitutional structure of the Islamic Republic. Overall, the process of introducing and institutionalizing this concept has played a fundamental role in regulating relations among power institutions and maintaining equilibrium within the governance system of the Islamic Republic of Iran.

Keywords: separation of powers; Islamic Republic of Iran; political structure; Guardian Council; balance of power.

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1. Introduction

The concept of separation of powers, as one of the fundamental pillars of modern political systems, gradually gained recognition following the social and political transformations of contemporary Iran. This

concept—originally rooted in Western political philosophy—refers to the division of responsibilities and authorities among the three principal institutions of government: the executive, legislative, and judicial branches. The separation of powers not only establishes a legal and institutional foundation for governance but



also provides a framework through which each branch assumes distinct duties, thereby enabling reciprocal supervision and control among them (Alavi & Sadeghian, 2010; Shapiro, 2001).

In Iran, the introduction of the concept of separation of powers reached its peak under the influence of significant events such as the Constitutional Revolution and the establishment of the National Consultative Assembly (Majles). These historical developments spurred social and political mobilization toward building legal institutions and strengthening the role of citizens in political decision-making (Amid Zanjani, 2000; Kasravi, 1977). Through heightened public awareness, the emergence of civic movements, and the expansion of individual rights, the groundwork was laid for embedding the principle of separation of powers within Iran's evolving political structure.

The significance of this principle in Iran's political order is profound. The separation of powers has created a framework that limits government authority and clarifies responsibilities. By defining the jurisdictional boundaries of each governmental branch, the system allows for mutual oversight, thereby enhancing the protection of human rights and the promotion of democratic values (Fathi & Arouti-Mofaq, 2013; Lotfi, 2012). Similarly, the establishment of independent legal institutions—free from direct influence by any single branch—fosters transparency and accountability at all levels of governance and helps prevent the monopolization and corruption of power. In this respect, independent judicial bodies and systems of checks and balances represent vital dimensions of the separation of powers, contributing to public confidence in the political order (Ghotbi & Habib-Zadeh, 2015).

The idea of dividing state authority among legislative, executive, and judicial branches constitutes a cornerstone of political science and comparative constitutional law. Although the principle is now embedded in the constitutions of many nations, its philosophical foundations date back to classical antiquity. The modern form of the doctrine—attributed to Montesquieu, the 18th-century French philosopher—conceptualized the division of power among three distinct branches, establishing a basis for legal balance and mutual restraint (Jafar Ndoushen, 2004; Shapiro, 2001).

The importance of restraining the government's absolute authority through this principle was underscored by the 1789 *Declaration of the Rights of Man and of the Citizen*, which proclaimed that “any society in which the rights of individuals are not guaranteed and the separation of powers is not established, has no constitution.” This foundational idea led to the widespread adoption of the principle of separation of powers in modern constitutional frameworks (Alavi & Sadeghian, 2010; Tabatabaei-Motamani, 2008).

The central question guiding this study is: *How did the model of separation of powers evolve from an imported concept into the legal and political structure of contemporary Iran, and what transformations occurred in its form and function as it interacted with the indigenous institutions of the Islamic Republic?* The working hypothesis suggests that although the theory of separation of powers entered Iran as a Western import, it has undergone profound transformation—particularly after the establishment of the Islamic Republic—and has been localized to align with indigenous political-religious doctrines such as *Velayat-e Faqih* (Guardianship of the Jurist) and the oversight role of the Guardian Council (Mesbah, 2011; Mohseni-Shanbe-Bazari, 2011; Shia Ali & Zare, 2017). Consequently, the independence of the three branches of government in Iran remains relative, with overlapping authorities, interactions, and occasional interference forming a distinctive pattern in the country's political architecture (Zarei & Aziz Mohammadi, 2017).

In this regard, previous studies are noteworthy. Mohseni-Shanbe-Bazari (2011) examined the relationship between the separation of powers and the authority of the jurist within the Islamic Republic, emphasizing that the distribution of governmental power follows the three traditional branches—legislative, executive, and judicial—while being supervised by the institution of *Velayat-e Faqih* (Mesbah, 2011; Mohseni-Shanbe-Bazari, 2011).

Ackerman (2010) articulated a modern perspective, asserting that the theory of separation of powers serves three core ideals: (1) democracy and the right of citizens to self-governance; (2) the creation of a professional and impartial administrative apparatus to implement democratically enacted laws; and (3) the safeguarding of fundamental rights. In Ackerman's analysis, the first two ideals exist to serve the third—protection of

fundamental rights. Without this orientation, he warns, democratic institutions may degenerate into mechanisms of tyranny (Ackerman, 2010).

In another study, Shia-Ali and Zare (2017) examined the theory of separation of powers in the Islamic Republic from the perspective of the relationship between *Velayat-e Faqih* and the three governmental branches. They argued that the principle functions primarily to harmonize rather than completely separate the branches, given the overarching authority of the jurist. Therefore, the modern, Western interpretation of separation of powers is not entirely applicable to Iran's constitutional framework, where this principle assumes a relative and context-specific character (Shia Ali & Zare, 2017).

Overall, the theory of separation of powers was introduced to Iran as part of a broader project of modernization and limitation of state authority during the Constitutional era, inspired by Western legal thought. Yet, its implementation—especially after the 1979 Islamic Revolution—has evolved within a framework that integrates religious supervision and institutional interdependence. The overlapping jurisdictions of the three branches, their constitutional dependence on the Leadership, and the absence of complete autonomy have generated ongoing debates about the adequacy and adaptability of this concept within Iran's socio-legal context (Zarei & Aziz Mohammadi, 2017). Examining the development, adaptation, and institutionalization of this principle in contemporary Iran is therefore essential for assessing the efficiency, legitimacy, and sustainability of the country's political order.

2. The Concept of Separation of Powers

The concept of separation of powers was first introduced by Aristotle to explain and organize the political power of the state into three main branches and to define the limits of their duties and authorities. Despite this, his view was primarily based on a form of division of labor among political powers, and in addition to lacking the modern specialization of functions, it also differed significantly from later theories in modern centuries (Falah-Rafi, 2004).

After Aristotle, the separation of powers appeared in the works of the founders of the natural law school, who viewed political sovereignty as a combination of specific,

distinct governmental functions. According to this perspective, the duties and powers of the state are multiple, each representing a component of sovereignty. However, a precise explanation of the concept of separation of powers was presented in Montesquieu's *The Spirit of the Laws*. Montesquieu identified the establishment of a balance among three powers as the principal means of achieving liberty, framing political authority in three legislative frameworks. By dividing governmental power among these branches, he also delegated to them the capacity to impose limitations on one another's unrestricted authority. These branches may, at times, supervise each other without infringing upon independence, and this mutual oversight does not imply interference (Shapiro, 2001).

This independence is particularly crucial for the judiciary, given its unique functions. The division of labor aims to ensure that public tasks are performed as efficiently and simply as possible, allowing for clear accountability in each sphere of responsibility (Shapiro, 2001). Furthermore, by assigning individuals to roles that align with their expertise and capacity, the separation of powers contributes to more efficient governance and societal progress (Alavi & Sadeghian, 2010).

The philosophical justification for this division lies in its function as a safeguard against the abuse of authority by the branches of government. The core emphasis of the separation of powers is that political authority must never be concentrated in a single institution or person; instead, it must be distributed among three distinct yet interdependent powers that balance and control one another (Dellacampani, 2001).

3. Conceptual Developments of the Separation of Powers

The theory of separation of powers distributes authority among independent institutions, with each branch confined to its designated function and barred from interfering in the affairs of others. The modern legal-political conception of this theory—disconnected from the ideas of ancient thinkers such as Aristotle—emerged through the works of political philosophers of the seventeenth and eighteenth centuries and has since gained near-universal recognition. Despite certain contextual variations, it is regarded as a fundamental

principle of constitutional law across diverse legal systems (Zarei & Aziz Mohammadi, 2017).

In shaping the classical theory, Aristotle may be regarded as the first philosopher to mention the division of powers in *Politics*, though he did not conceive of them as independent entities. In the late seventeenth century, John Locke refined the concept by differentiating between the legislative and executive powers, emphasizing lawmaking as the principal legislative duty, while leaving enforcement to the executive. Locke did not, however, explicitly articulate an independent judiciary or a full doctrine of checks and balances (Zarei & Aziz Mohammadi, 2017).

In the contemporary era, under the paradigm of regulatory governance, both supporters and critics have revisited this doctrine. Critics have labeled the separation of powers a liberal myth, arguing that it contradicts the democratic ideal of collective authority. Conversely, proponents have sought to reinterpret and adapt it to meet the structural and functional complexities of modern governance. Some have advanced models of structural separation, while others have emphasized the separation of functions, reconstructing the concept to reflect institutional realities (Zarei & Aziz Mohammadi, 2017).

4. The Function of the Three Powers in the Constitution of the Islamic Republic of Iran

A careful examination of the debates of the Assembly for the Final Review of the Constitution reveals that the framers of Iran's 1979 Constitution did not intend an absolute separation of powers. They deliberately avoided adopting the Western-rooted terminology of "separation of powers," instead emphasizing the independence of the three branches within a unified Islamic framework (Ghotbi & Habib-Zadeh, 2015). The implementation of this independence, under the oversight of the Guardian Council, ensures that no branch interferes with the specialized duties of another. Nonetheless, certain overlaps in responsibilities are observable in constitutional practice, where collaboration occurs under the supervision of the Supreme Leader (Amid Zanjani, 2000).

From the perspective of the constitutional jurists of the Islamic Republic, while the branches of government remain independent in their respective domains, they share certain commonalities and are permitted limited

functional overlap within the constitutional framework (Mesbah, 2011). The principle of separation of powers, as envisaged in Iran's constitution, therefore aligns more closely with the notion of the *independence of powers* within a system of *relative separation*, where the position of the Supreme Leader serves as the connecting point between the three branches (Lotfi, 2012).

Within the Islamic Republic, the constitution emphasizes functional separation and division of duties. Consequently, coordination and regulation of inter-branch relations are essential to harmonize independence with mutual cooperation, all under the supervision of the Supreme Leader (Amid Zanjani, 2000). The executive branch, while endowed with defined competencies, operates under parliamentary political supervision—through mechanisms such as votes of confidence, inquiries, and impeachments—as well as under the Supreme Leader's authority, deriving legitimacy from the presidential decree confirmed by him.

Institutions such as the Expediency Discernment Council, the Guardian Council, the Islamic Republic of Iran Broadcasting, and the armed forces exist outside the direct structure of the three branches. The legislature similarly derives indirect legitimacy from the Supreme Leader through the Guardian Council's oversight of elections and parliamentary enactments. The head of the judiciary is appointed directly by the Supreme Leader, reinforcing the integrated nature of Iran's political hierarchy.

Given the complex structure of the Islamic Republic, interaction and oversight among the three branches hold central importance for maintaining equilibrium and harmony within the political system. Each branch—legislative, executive, and judicial—plays a distinct role: the legislature enacts and monitors laws, the executive enforces them, and the judiciary interprets and adjudicates disputes arising from them.

The Supreme Leader serves as the ultimate supervisory authority, overseeing inter-branch relations and ensuring adherence to the principles of the Islamic Republic. This oversight prevents deviations and safeguards the constitutional balance among powers. Coordination and cooperation among the branches are thus essential for realizing the system's foundational goals (Fathi & Arouti-Mofaq, 2013).

Ultimately, the functional balance among the three branches in the Constitution of the Islamic Republic of Iran provides the foundation for ensuring justice and protecting citizens' rights. Through maintaining both independence and collaboration, the branches contribute to political stability, efficient governance, and public accountability. Hence, attention to the mechanisms of interaction and oversight among the three powers is vital for achieving democratic objectives and sustainable political development in Iran (Fathi & Arouti-Mofaq, 2013).

5. Criticisms Raised Against the Theory of Separation of Powers

Despite the undeniable advantages of the theory of separation of powers, numerous legal and political scholars have raised substantial critiques regarding its form, scope, and applicability.

Formal criticisms: One key objection concerns the tendency of some jurists to conflate the concept of "powers" by including within it the *constituent power* and *amending power*. According to these scholars, the constituent power fundamentally differs from the legislative, executive, and judicial powers and ranks hierarchically above them as the original manifestation of sovereignty in society. Prior to the establishment of the three branches of government, the *constituent assembly*—as the creative authority—adopts the constitution, thereby shaping the political and legal architecture of society and laying the foundation for subsequent institutions. Accordingly, the legislative, executive, and judicial bodies emerge as derivative creations of this primary act of sovereignty. This line of critique implies that in the absence of a functioning constituent assembly or robust supervisory and regulatory institutions, the theory of separation of powers cannot be effectively realized and thus requires broader reconsideration and reformulation.

Other jurists emphasize the existence of a *modulating power*—a mediating authority designed to operate between the three branches of government. Proponents of this view argue that the modulating power may legitimately intervene within the constitutional boundaries to resolve conflicts and prevent institutional paralysis. Furthermore, some theorists extend the discussion by recognizing the influence of *economic power* and *media power*—the so-called "fourth" and

"fifth" powers of the modern era—warning that without adequate regulation, these forces may endanger citizens' rights and distort the democratic balance of power.

Substantive criticisms: From a functional standpoint, critics contend that the notion of a complete and impermeable separation among the three branches is unrealistic. The boundaries between legislative, executive, and judicial authority cannot, in practice, be distinctly delineated as theory suggests. The responsibilities and jurisdictions of the branches are interrelated by nature, and effective lawmaking requires ongoing cooperation among them. Because of this inherent overlap, an absolute separation of powers is neither achievable nor desirable.

The coordination among the branches is indispensable for creating and applying law, and therefore the relationship among them must be conceived not as mutual exclusion but as dynamic interaction. Nonetheless, the core objectives of the separation of powers—as envisioned by Montesquieu and later theorists—remain to establish a moderate government, protect individual liberties, and prevent abuse of authority (Shapiro, 2001). Without a robust system of checks and balances, the doctrine risks losing its practical significance, ultimately leading to institutional domination and the erosion of civil freedoms.

6. Examining the Separation of Powers in Contemporary Iran: From an Imported Idea to the Native Architecture of Power

The theory of separation of powers, as one of the foundational principles of public law and political thought, entered Iran in earnest during the Constitutional Revolution. Rooted in the ideas of thinkers such as John Locke and Montesquieu, it was introduced by the Iranian constitutionalists as part of their effort to limit the absolute authority of the monarchy and establish lawful governance. The 1906 *Constitutional Law of Iran* and its subsequent amendments constituted the first formal attempt to institutionalize this concept within Iran's governmental structure, although, in practice, these efforts faced persistent challenges due to institutional fragility and limited understanding of the operational dynamics among the three branches (Kasravi, 1977).

Following the 1979 Islamic Revolution, the concept of separation of powers underwent substantial redefinition

in the *Constitution of the Islamic Republic of Iran*. While the Iranian Constitution formally recognizes the legislative, executive, and judicial branches and delineates their respective functions, it simultaneously embeds the principle of *Velayat-e Faqih* (Guardianship of the Jurist) as a central supervisory authority. Within this framework, separation of powers is reinterpreted not as absolute independence but as structured interaction under the overarching supervision of the Supreme Leader (Tabatabaei-Motamani, 2008).

The *Guardian Council* also plays a decisive role in shaping this system. By reviewing the legislation passed by the Islamic Consultative Assembly for conformity with Sharia and constitutional standards, and by overseeing the qualification of political candidates, the Council exercises significant influence over both the legislative and executive domains. These mechanisms—occasionally perceived as interference—constitute a localized adaptation of the separation of powers model, distinct from classical Western formulations (Shams, 2013).

Overall, the Iranian experience demonstrates a process of transformation in which the separation of powers evolved from an imported constitutional ideal into a localized doctrine that seeks to balance the autonomy of the three branches with the integrative authority of the religious-political institutions. The coexistence of oversight by the Supreme Leader and the Guardian Council reflects an attempt to reconcile republican governance with the theological foundations of the Islamic Revolution. Although this hybrid structure has sometimes led to a concentration of authority, it remains the defining feature of Iran's political system and the cornerstone of its constitutional architecture (Fathi & Arouti-Mofaq, 2013).

7. Conclusion

In examining the process of the introduction and development of the concept of separation of powers in contemporary Iran and its effects on the country's political order, it becomes evident that this idea, as one of the significant achievements of Western political thought, has paved the way for fundamental changes in Iran's legal structure and governance.

The earliest attempts to realize the separation of powers occurred during the Constitutional Revolution, influenced by European political doctrines. The 1906

Constitution and its subsequent amendments marked the first legal effort to limit absolute power and to promote the establishment of independent institutions. Although a lack of socio-political awareness, inadequate cultural foundations, and resistance from traditional structures hindered its full implementation, the experience of constitutionalism nonetheless left an enduring legacy for Iran's legal modernization.

Following the Islamic Revolution and the drafting of the new Constitution, the principle of separation of powers continued to serve as the basis for regulating relations among state institutions. However, the incorporation of religious and indigenous characteristics introduced significant changes to its theoretical and practical meaning. The Constitution of the Islamic Republic, while recognizing three independent branches with specific mandates, has organized the political system so that supervisory and leadership entities—particularly the *Velayat-e Faqih* and the Guardian Council—play central roles in coordinating, mediating, and at times influencing the branches. From this perspective, the Iranian model of separation of powers diverges from its classical theoretical foundation and represents a unique historical synthesis of Islamic principles, modern administrative requirements, and Iran's distinctive experience of governance.

In practice, while each branch of government possesses constitutionally defined powers and duties, the presence and influence of the Supreme Leadership and the Guardian Council as supervisory and strategic authorities have prevented the complete realization of institutional independence. This structure has yielded both advantages and drawbacks: it has ensured unity in national decision-making and preserved the ideological foundations of the system, but it has also contributed to overlapping competencies and reduced the autonomy of elected institutions.

The experience of the Islamic Republic demonstrates the emergence of a hybrid model of separation of powers in which purposeful cooperation and coordination—sometimes uneven—replace absolute independence among the branches. Although classical theory emphasizes distinct and autonomous spheres for the legislative, executive, and judicial powers, contemporary Iran exhibits a localized model where religious, political, and cultural imperatives profoundly influence the practical operation of this principle.

In this Iranian model, each branch, while performing its inherent duties, must coordinate with extra-constitutional and supra-branch institutions, and many major decisions are made by entities occupying a higher position than the traditional tripartite framework defined by the Constitution. Consequently, maintaining equilibrium between power control, administrative efficiency, and institutional accountability has remained an enduring and complex challenge.

Among the positive outcomes of this system are enhanced political stability, improved regulation of inter-institutional relations, and the prevention of excessive concentration of power. However, the same structure may also limit the freedom of elected bodies, reduce public participation in policymaking, and weaken the accountability of the three branches of government. Moreover, the broad interpretability of certain constitutional provisions and the influential role of the Guardian Council in the legislative process may restrict the authority of the people's representatives.

Ultimately, the adaptation of the separation of powers to Iran's cultural, religious, and political realities illustrates the broader challenge of legal modernization in societies with deep historical and ideological roots. This experience confirms that no imported model—particularly in the sensitive realm of power distribution and governance—can achieve lasting efficiency without alignment with national needs and local contexts.

Strengthening the effectiveness of Iran's political order therefore requires continuous reflection, enhanced transparency, and reinforcement of institutional independence, all while preserving the system's political and religious legitimacy. Looking ahead, it is essential to draw upon both the historical lessons and the localized experience of the separation of powers to undertake fundamental reforms that promote transparency, strengthen institutional autonomy, and address structural challenges. Only through such efforts can Iran more fully realize the core objectives of this principle—balancing power, ensuring accountability, and consolidating legitimacy—within its evolving political order.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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