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Marie Ladier-Fouladi

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Institutional Arrangements between Religion and Politics, Hybrid Political System: The case of Islamic Republic of Iran

Marie LADIER-FOULADI (CNRS – EHESS, IIAC/TRAM)

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Over the last recent decades, the adoption of the electoral system by many states, particularly in developing countries, has raised debates about the nature of these new political regimes. Although most of these states fail to meet the most elementary rules of democracy, namely freedom of expression, these elections have been taken into consideration by observers and scholars, given that the verdict from the ballot box is universally regarded as the very essence of a democratic regime. They then try to define these regimes using various terms like "competitive authoritarian system", "hegemonic-party system" or "hybrid regimes". Whatever the definition, the common point shared by these regimes is the organization of political elections, more or less free. This led to invent terms like electoral authoritarianism or pseudo-democratic, in order to somehow define the new feature of these regimes. Without going into details and discuss what democracy is and is not, because it might lead me astray, but I will answer your questions during the discussion-time if you wish to discuss the topic, I will only say that, in my opinion, this effort to name or to distinguish various types of political regimes among the "non-democratic" ones, seems to serve, eventually, to grant a certain legitimacy, and thus a place in the concert of nations to these "elected" leaders.

Having said that, the case of Iran seems to me eloquent in this respect. Thus, for my presentation, I suggest investigating the electoral system set up since the establishment of the Islamic Republic in Iran in 1979, and then I'll present and analyze the last presidential election held in 2013 as a concrete example.

Beforehand though, it is important to remember that the Islamic Republic of Iran is built on a dual sovereignty: divine and popular. While the former is the basis and essence of the government of jurisconsult (*velayat-e faghih*), it is the latter which gives its political legitimacy to the Islamic State. Indeed, referring to the people as a legitimate source of power is inherent to the Islamic State as far as it was born in the wake of and thanks to a popular revolution. Khomeini himself became the Guide following a revolutionary process, and he did not hesitate to exploit this popular support, bypassing the classic institutional procedures. In return, the Iranians, driven by the strength and the enthusiasm the revolution generated, remained active on the political scene. In particular, during the first two years following the overthrow of the monarchy, they always responded positively to the calls of the new leaders and expressed their will to participate in the political life effectively to design the country's destiny. To meet the Iranians' demand for democracy the new leaders were thus forced to adopt the elective principle. Since the referendum of March 1979 that gave birth to the Islamic Republic, the leaders resorted systematically to universal suffrage. Between March 1979 and June 2013, 29 elections and 3 referendums were held. This relatively high frequency might suggest that, paradoxically, democracy is exercised without difficulty in the Islamic Republic of Iran, inasmuch as democracy is often equated with the electoral competition of political parties. But don't be mistaken: in Iran, legitimization through the ballot box actually raises questions on the effective exercise of popular sovereignty, as well as on the representativeness of the elected, given the system of the Islamic Republic in which political space is locked and the Supreme Guide (or the *Vali-faghih*) has absolute power to act and intervene in all the areas of public life.

To better understand this contradictory situation and what really the elections represent in Iran, it is necessary to examine the electoral procedures first.

I. The main characteristics of the Islamic Republic's electoral procedure

First, let's turn to the authorities organizing the elections, and their prerogatives:

A. The organizing authorities of the elections and their prerogatives

According to electoral law (precisely the principle number 99 of the Constitution), the Council of the Guardians of the Constitution and the Ministry of the Interior are in charge of the organization and the supervision of the elections.

The Council of the Guardians of the Constitution is composed of 12 jurists, including six clerics appointed by the Supreme Guide, and six jurists elected by Parliament among the

Muslim jurists nominated by the Head of the Judicial System: that is a non-elective authority. As its name suggests, the primary mission of the Council of the Guardians is to interpret the Constitution and it may reject bills voted by Parliament because they are deemed incompatible with the constitution or *sharia* (Islamic law).

Its second mission is to supervise the elections. Between 1980 and 1990, the Council of the Guardians supervised the conformity of the electoral vote, according to that principle. But in 1991 the Council suggested a new interpretation of the 99th principle, imposing the notion of *nezarat-e estesvabi* (fair supervising): it endorsed the right to ban the candidates from the election if their Islamic credentials, in the Council's view, were not adequate. That way, all those who belonged to a group that was "un-Islamic" to the Council's view could be excluded without any further justification. The Council has become since then a formidable machine for the exclusion of those candidates deemed unreliable to the Hardliners. The Islamic Parliament, made up mainly of the conservatives, voted in favor of this interpretation in 1995 by modifying article 3 of the legislative electoral law thus allowing the Council of the Guardians to exert discretionary supervision over the entire electoral process, which implies the endorsement or the exclusion of the candidates at will.[1]

As for the Ministry of the Interior, in every election it sets up a "National Bureau of Elections" *(setad entekhabat keshvar)* directed by someone named by the Minister. In close cooperation with the Ministry of the Interior and the Council of the Guardians, the governors, prefects and other local authorities constitute the "executive councils"*(hey'athayeejra'ee)* that assess the candidates' judiciary past and credentials, and validate or reject their candidacy. Two major conditions are mentioned for the acceptance of a candidate:

-*to have faith in Islam and a real engagement towards it*;

-*to have faith in the foundations of the Islamic Republic and its Constitution*.

These conditions are not defined through objective criteria and therefore, the members of the "executive councils" decide, according to their own views and interpretations, whether a candidate fulfills those two conditions or not. The members of the executive councils closely follow the views of the Council of the Guardians. For instance, in the 2008 parliamentary

[1] For instance, in 2004, it invalidated the candidacy of half of the incumbent members of the parliament who asked for the renewal of their election. Or, in the elections, the Council invalidates sometime hundreds of thousands of votes, mainly in the large districts like Tehran, when the results of the election do not fit its views. See Ladier-Fouladi M., 2009, *Iran Un monde de paradoxes, Nantes*, l'Atalante, coll. Comme un accordéon, 347 p.

elections[2], the executive councils invalidated some 3,200 over 7,168 candidates, mostly among the reformist candidates, many of them being well-known and being even incumbent MPs for some of them. The hemorrhage was so important that Hachemi Rafsanjani and Mohammad Khatami, the two previous Presidents, and Mehdi Karrubi, the previous President of Parliament urged the Supreme Guide to step forward, and he succeeded in convincing the Council of the Guardians to approve of 4,954 candidates, that is 69% of the registered candidates. The established laws are of little avail and the arbitrariness of their interpretation allows the Council of the Guardians to reject or accept a candidate according to the wishes of the ruling oligarchy, at the top of which is the Supreme Guide.

This is one of the major features of the electoral procedure in Iran: many candidates are excluded before the voting, due to the clout of the Council of the Guardians that makes a fair election impossible. Before any vote is cast, the pre-selection of the candidates tips the balance in favor of those singled out by the oligarchy, according to the conjuncture.

As for the candidates' representatives in the polling stations, up to the year 2000, in accordance with articles 80 to 93 of the electoral law, the Council of the Guardians had the prerogative to monitor any electoral process through the Surveillance Committees, from the local up to the central polling stations. In 2000, the Sixth legislature (where the majority lay with the Reformists) voted a single-article bill stipulating that the candidates be granted the right to have their representatives in the polling stations in order to watch the electoral process and in particular, supervise the counting of the ballots. According to this law the candidates were required to introduce their representatives to the prefects and governors in the districts at least 5 days before the elections, and the latter should deliver them a permit at least 48 hours before the polling day. But it is not required that they should be present and the voting process can begin even in their absence. That is why in Statement number 22, where the electoral process is recorded, there is no box for the signature of the candidates' representatives.

This procedure, which existed before Ahmadinejad, highlights the fact that the Islamic Republic has never provided the necessary devices to ensure the transparency of elections. The Iranian electoral procedure is indeed particularly opaque and ambiguous, and it offers a wide scope of opportunities to falsify the elections and rig the vote. It is up to the authorities whether to use these "options" or not. For instance, on the occasion of the 1997 presidential election, the balance of power between the two opposite factions were fairly narrow so that

[2]See Marie-Ladier Fouladi, "La face cachée des législatives iraniennes de 2008", in *La Vie des idées*, July 30th 2008, http://www.laviedesidees.fr/La-face-cachee-des-legislatives.html.

Khamenei and Rafsanjani both delivered speeches urging the ballot boxes to speak freely[3]. It was also the case in the 2000 legislative and in the 2001 presidential elections: indeed, the Reformists were still popular and the balance of power was in their favor, the Hardliners then were not able to use these "options" to rig the ballots. From the 2003 municipal election onwards, the Hardliners, who had managed to achieve unity eventually, began to regain the control over the electoral procedure and succeeded in using its various "options," as the ballots held since 2004 have confirmed.

B. Additional means that Ahmadinejad put at his disposal

Despite this powerful lever, Mahmoud Ahmadinejad felt compelled to set up additional devices in order to control and orientate the vote according to his will. After the 2008 parliamentary elections, he replaced the Interior Minister by someone closer to him, and in March 2009, for the third time since 2006, he changed the director of the National Bureau of Elections, appointing Kamran DANESHJOO, one of his closest right-hand men.

In October 2008, with the approval of the Supreme Guide, he incorporated 4,000 new members into the body of the "Political Guides" *(hadiyan siyasi)*[4]. From then on, that body comprised 12,000 *Pasdaran* and *Bassijis* whose formal task was to encourage people to take part in the vote. In reality, their task is to talk people into voting for the Supreme Guide's candidate, as the daily newspaper Keyhan confirmed clearly. In its editorial of August 19, 2009, it is explained that there were "manufacturers of the vote" (*ra'ysazan*) who played a key role in the election of Ahmadinejad in 2005: These *Bassijis "spontaneously rallied and traveled across the country up to the remotest villages, in order to bring the message of change to the people."*

Ahmadinejad invigorated the machinery to secure the vote of the people in his favor through the *Pasdaran* Army.

Now, I suggest presenting the conditions to be an eligible voter and the voter turnout.

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[3]See the Rafsadjnai's speech at Friday prayer on May 16, 1997 and Khamaeni's speech on May 21, 1997 on the eve of the close of the electoral campaign period, quoted in Ladier-Fouladi M., 2009, *Iran Un monde de paradoxes, op. cit.*

[4]A paramilitary's organization created in 2003 within the *Pasdaran* Army.

C. The electors and voter turnout

In order to be a voter in Iran, one has to be an Iranian citizen, and of sound mind too. The voting age is generally set at 16, but the government decides to lower or increase it at the last minute, according to what is at stake. For instance in the 2000 legislative poll, this age was set at 17, then in the 2005 presidential elections, 15 and in the 2008 parliamentary elections, at 18.

It is very important to know that, in Iran, there is neither an electoral roll nor voter registration card. The voters can vote wherever they like, provided they show their identity card, their identity booklet that will be stamped by the authorities, their forefinger being tainted with indelible ink. This allows the government to register the votes, without any possible supervision at the local or regional level (many towns registered more than 100% voters; the government subsequently argued that voters from other regions had cast their votes in those districts). Furthermore, the pre-printed ballots with the name of the candidates do not exist in Iran. Voters have to write the names and codes corresponding to the candidate of their choice on the blank ballot specifically designed and printed by the Ministry of Interior on the occasion of each vote. It goes without saying that this process leads to many errors of various kinds (inaccurate, illegible or incomplete names of the candidates, etc.) and, consequently, provides great opportunities for manipulation of the ballots.

Since there is no electoral roll, the Interior Ministry's National Office of Elections has to use the population census data (every decade, the last one being 2011) in order to calculate the number of Iranian citizens of legal voting age. The turnout rate is then the ratio between the number of ballots cast and the number of estimated Iranian citizens of legal voting age.

Up to 2005 the Interior Ministry's estimates were based on the statistics provided by the Iranian Statistical Center. But since then, it resorts particularly to the data provided by the Office of Registration and Records *(sazeman sabt ahval),* whose direction is ideologically very close to the Hardliners, to make an estimate of the number of Iranian citizens of legal voting age. Now, this Office used its own statistics which are not published, cannot be verified, and are subject to manipulation. According to my own estimates,[5] the Office's estimates show a gap of 3 to 6 million with those of the Iranian Statistical Center. By under-estimating the number of potential electors, the government artificially increases the turnout

[5]Our estimates are based on an extrapolation of the two last Iranian censuses of 1996 and 2006 by means of the demographic growth rate between these two censuses. The Afghan immigrants, who have no right to vote, were naturally taken into account in this calculation.

rate. Here are a few examples: in the 2009 presidential elections, the Interior Ministry declared 46.2 million the number of Iranian citizens of legal voting age, whereas, according to my calculation, their number was 51.3 million, that is 5 million more (10% of the electorate). After the election, the Ministry of Interior declared that the number of votes cast amounted 39.3 million[6]; therefore, from its perspective the turnout rate was 85%. Assuming that 39.3 million people actually voted, according to my estimate, the turnout rate would rather be around 76%. On top of that, those 5 million "potential electors" are liable to have been used by the government in a "phantom vote", cast in its favor, without supervision by independent observers.

All in all, the lack of an electoral roll, the fallacious number of Iranian citizens of legal voting age, the ever changing legal voting age, and the lack of serious supervision by non-governmental bodies cast indeed serious doubts over the conformity/legality of the entire electoral system. In the absence of representatives of the opposition candidates in the polling stations, it is obvious that members of the executive councils may have influenced the voters and particularly were free to rig the votes cast during the counting.

II. The 2013 presidential election: a minimal consensus

In my opinion, based on an in-depth analysis of the process of the elections, the results of the 2013 presidential election was the result of a minimal consensus between Khamenei and Rafsanjani. The two men shared a common goal: to remove Ahmadinejad and his team from the political scene. In short, it is likely that negotiations and bargaining have taken place between Khamenei and Rafsanjani. As far as it is possible to know, the dice were cast after the third television debate and during the second week of the election campaign. Khamenei and Rafsanjani agreed that Rohani should succeed to Ahmadinejad. Then, they managed to stage his election. A real master stroke! By a sleight of hand, they were able to deceive everyone, especially the Iranian voters, and made them believe that this time, unlike in 2009, their votes had been taken into consideration. Everybody was satisfied with the results, both inside and outside the country.

Shall I remind that the presidential election of June 2013, since it took place in an uncommon explosive sociopolitical and economic context, represented crucial stakes for the regime?

[6]It goes without saying that there is no way to check the statistics on votes cast, declared by the Interior Ministry.

First, on the domestic level, the Islamic Republic was experiencing the worst political crisis of its history characterized, on the one hand, by the weakening of the legitimacy of its power and, on the other hand, by the struggle for power between the Supreme Guide, Ali Khamenei, and Mahmoud Ahmadinejad. Both first and second characteristics were linked to the presidential election of 2009 and its aftermath. Very briefly, Mahmoud Ahmadinejad had begun to avail himself of a robust political legitimacy against the Guide, because, allegedly, 24 million ballots had been cast in his favor. He tried to provide himself with the means to remodel the Islamic Republic so that the Republic remains Islamic for ever but without the active participation of the clergy, and thus without the system of the velâyât-e faqih, the governance of jurisconsult. This project, visible through the positions, speeches and political practices of Ahmadinejad and his team, is at the origin of struggle for power between the two men.

On the international level, then, the discussions on the nuclear program were stalled while international sanctions had tightened since 2009, and had increased the endemic economic crisis, which shook he country for more than three decades.

The Guide was thus in an extremely awkward situation and his choice for a successor to Ahmadinejad seemed critical as far as the survival of the regime was concerned and, consequently, regarding his own power

Choosing Hassan Rohani was wise. He has been very close to the political power since the institution of the Islamic Republic in Iran. He was the first to name Khomeini Imam Khomeini, a former nuclear negotiator, and the Guide's representative to the Iranian Security Council. In short, Rohani is a reliable person to both Khamenei and Rafsanjani, and he does not represent the opposition whatsoever.

Rohani hardly exceeded the threshold of 50% of the votes. Yet, his opponents who conceded their defeat recognized his narrow victory. That way, a very risky second round, for it may have divided the electorate deeply, was avoided eventually

Undoubtedly, it is the supreme Guide, Ali Khamenei, who was strengthened from the very long political battles of the 2000s, particularly from the test of the 2013 presidential election, so that he emerged as the real master of the country again.

It is indeed the intervention of Rafsanjani and Khatami in the last weeks of the election campaign that lent a helping hand to Khomeini to mobilize the voters, and that's why the

turnout could reach a decent threshold (73% according to the Ministry of Interior) for a regime that had just experienced the fiercest disputes in the previous presidential election.

It goes without saying that Rafsanjani and Khatami didn't help out the Supreme Guide without compensation. The latter had to support their candidate, Hassan Rohani.

But this choice, with regard to internal and external stakes, benefited mainly to the Guide. This helped him recover his legitimacy and that of the Islamic regime with the national and international public opinion. The strength of the Islamic regime was no longer an issue.