

Principle 99 of the Constitution in the view of Guardian Council

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Abstract

Study of the Guardian Council's opinions on the position of both constitutional interpreter and constitutional controller suggests that the control mentioned in the principle 99 of the Constitution, is "general", "approbative", "obligatory", "exclusive", "conclusive and final", "denying unnecessary legal constraints" and its "criterion of voting is absolute majority". Despite of some legal arguments based on principles of the Constitution provided by the lawyers regarding exclusion of investigating the qualifications of the candidates from general control, it seems that the philosophy of the control on elections makes it necessary that Guardian Council's control also be exerted on investigating the qualifications of the candidates. Despite of expression to approbative control, Guardian Council's procedure in investigating Parliament's statutes in many cases indicates Guardian Council's shift from approbative to legal control. The lawyers' arguments justifying the legal control are more legitimate than those justifying approbative or informative control. In the view of Guardian Council, the control on elections is obligatory, and, such legislations as appointing some Controllers - including person, authority or agency- along with Guardian Council, appointing an agency reviewing Guardian Council's opinions, constraining Guardian Council's jurisdiction, and specifying the criteria

other than absolute majority for pronouncing, all of these, are contrary to principle 99 of the Constitution.

Keywords: Control, Elections, Guardian Council, Approbative Control, Constitutional Interpreter, Constitutional Controller.