

OPEN PEER REVIEW

Solutions to Remove Interferences and Supervisions Inconsistent with the Independence of the Legal Profession in Light of International Mechanisms and the French Legal System

Ali Akbar. Shahnazari Karbasoraei¹, Valiollah. Ansari^{2*}, Azizollah. Fazli³

¹ PhD student, Department of Law, South Tehran Branch, Islamic Azad University, Tehran, Iran

² Professor, Department of Law, South Tehran Branch, Islamic Azad University, Tehran, Iran

³ Assistant Professor, Department of Law, South Tehran Branch, Islamic Azad University, Tehran, Iran

* Corresponding author email address: drvaliansari@gmail.com

Received: 2024-07-14

Revised: 2024-10-07

Accepted: 2024-10-13

Published: 2025-01-01

EDITOR:

Cavid Qasimov^{id}

Prof, Faculty Of Letters Department Of History, Van Yuzuncu Yil University, Van, Turkiye. Email: cavidqasimov@yyu.edu.tr

REVIEWER 1:

Jeremiah Thuku Thuku^{id}

Department of Literary and Communication Studies, Laikipia University, Nyahururu, Kenya. Email: jerethukuthuku@gmail.com

REVIEWER 2:

Agwu Sunday Okoro^{id}

Lecturer & Clinical Law Administrator at Baze University Abuja, Abuja, Nigeria. Email: agwuokoro@gmail.com

1. Round 1

1.1. Reviewer 1

Reviewer:

The introduction opens with a broad discussion about the interconnectedness of judges, prosecutors, and lawyers, but lacks a clear definition or framework for what constitutes "independence" for each profession. It would be beneficial to introduce a more specific conceptual framework at the outset to guide the reader through the distinctions made later. For example, you could define what "independence" means in legal, judicial, and prosecutorial contexts, supported by citations from seminal works on legal independence (e.g., the UN Basic Principles on the Independence of the Judiciary).

The reference to "state intervention and oversight in organizing and coordinating issues related to lawyers" seems ambiguous. Does this imply judicial, governmental, or administrative oversight? A distinction between these forms of oversight would provide greater precision. You could provide concrete examples of how state intervention functions in practice in other legal systems (e.g., France vs. Iran).

The sentence, "A clear distinction should be made between 'interference' and 'supervision,'" is crucial to the argument but lacks operational clarity. You might want to introduce a framework or model for distinguishing these concepts, perhaps drawing on definitions from legal scholars who have worked on the boundaries between state power and legal profession autonomy.

While the introduction clearly outlines the purpose of the study, it would benefit from specifying the research questions or hypotheses. Stating clear research questions would provide a more structured roadmap for the reader, indicating exactly what legal or theoretical gaps the study aims to address.

The statement, "the Bar Association of Iran is currently facing its most difficult days," is vague and lacks empirical evidence or references to substantiate such a strong claim. It would be useful to incorporate data or specific events that highlight the challenges the Bar Association is facing. This could be strengthened by citing particular legislative changes or political events from 2021 onward.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The sentence "the concept of independence for each of these professions has its own specific nature" could benefit from a brief explanation of how these distinct natures manifest practically. Providing examples from other legal systems, or from comparative jurisprudence, would enhance clarity and depth. How do judicial and legal professionals' independent roles differ in practice?

The statement "the independence of the Bar Association is the guarantor of the lawyer's independence" requires further clarification. It may be useful to explore whether this claim is universally accepted or whether there are contrary views in legal theory. An exploration of opposing arguments regarding the limits of Bar Association independence would offer a more nuanced perspective.

The phrase "appropriate measures should be taken to prevent particularly incompatible interference" introduces an important concept, but the term "incompatible interference" requires a more detailed explanation. Defining what constitutes incompatible interference and referencing case law or scholarly work on this topic would enhance this section's depth and scholarly rigor.

In the sentence, "it is unrealistic to expect that the legal profession and the government in Iran...will have no interaction," the term "unrealistic" could be replaced with a more objective term like "unlikely" or "not feasible." The use of a more neutral term would maintain a formal academic tone.

The introduction of the French legal system's approach to Bar Association oversight is interesting, but the comparison could be expanded. While you briefly mention that France has limited governmental guardianship, it would be useful to provide a specific example of this oversight, possibly drawing from a comparative study or a specific legal case to substantiate this claim.

The reference to the "eighty-year history" of the Bar Association could be expanded with more historical context. It would be helpful to briefly outline some of the most significant events or transformations during this period that have shaped the current challenges the Bar Association faces.

The sentence "ambiguous and sometimes contradictory legislation has posed a threat to the independence of the Bar Association" would benefit from specific examples of ambiguous or contradictory laws. Citations from legal scholars or court rulings where these issues have been raised would strengthen this argument.

The assertion that judicial officers and law enforcement officials "view the lawyer as an obstruction" is a serious claim that warrants empirical evidence. Specific examples or references to studies on the perception of lawyers within Iran's judicial system would add credibility to this claim.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.