

An Analysis of the Role of Imami Jurisprudential Foundations in Shaping the Constitution of the Iranian Constitutional Revolution

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1. Round 1

1.1. Reviewer 1

Reviewer:

The paragraph stating that “the emerging structure attempted to distribute and constrain political authority through law while retaining a normative position for Sharia” should more carefully distinguish constitutional supremacy from Sharia supremacy. This is one of the most important theoretical issues in the article, but it remains conceptually underdeveloped. If Sharia constitutes the superior normative criterion against which parliamentary legislation is assessed, the manuscript should explain whether the Constitution itself is also understood as normatively subordinate to Sharia or whether constitutional law mediates the institutional application of Sharia. The distinction matters because the article repeatedly characterizes the Constitutional order as a “two-level” or hierarchically ordered normative system. A clearer hierarchy of norms should therefore be articulated, identifying the respective positions of Sharia, the Constitution and Supplement, parliamentary statutes, royal authority, and administrative regulation.

The paragraph introducing “supervisory jurisprudence” is crucial to the originality of the manuscript, but the term currently functions more as an organizing label than as a fully operationalized analytical concept. The author states that “the jurist and the jurisprudential tradition do not necessarily assume direct responsibility for governing every component of the state but retain the authority to define the Sharia boundaries within which governmental institutions operate.” This definition should be refined by specifying the necessary and sufficient features of supervisory jurisprudence. For example, does it necessarily require institutionalized juristic review, or can informal clerical oversight also qualify? Is the model defined by negative review of legislation, by nonexecutive juristic authority, by acceptance of ‘urfi regulation, or by all three? Providing explicit analytical criteria would allow the subsequent constitutional evidence to demonstrate the model rather than merely being described through it.

The paragraph asserting that “The principle of consultation provided another bridge between inherited normative concepts and representative government” is appropriately cautious in stating that *shūrā* should not be equated with modern democracy, but the manuscript should carry this caution further. At present, consultation is still used to support parliament without sufficiently distinguishing consultation from representation, election, legislative authority, and political accountability. These are separate institutional functions. The author should identify precisely what *shūrā* can and cannot justify. It may support collective deliberation and rejection of unilateral decision-making, but it does not by itself establish electoral representation or legislative sovereignty. Making these distinctions would prevent retrospective projection of modern parliamentary institutions onto classical concepts and would strengthen the article's broader claim of jurisprudential adaptation rather than direct institutional derivation.

In the section “Jurisprudential Foundations of the Constitutional Order,” the opening discussion of “the rejection of arbitrary political power” should distinguish more carefully between the jurisprudential prohibition of *zulm* and a constitutional theory of anti-despotism. The sentence “When political authority becomes a source of systematic harm, the same normative logic acquires public-law consequences” is plausible, but this transition requires demonstration rather than assertion. The author should explain the intermediate jurisprudential reasoning by which a prohibition directed against injustice becomes an argument for institutional devices such as constitutional limitation, parliamentary supervision, ministerial responsibility, and statutory procedures. This would allow the manuscript to demonstrate the process of constitutional translation that is central to its thesis rather than assuming that the existence of an ethical-jurisprudential prohibition automatically generates a particular institutional arrangement.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The final methodological paragraph of the Introduction, beginning “Methodologically, the study adopts a doctrinal, historical, and analytical approach,” is insufficiently detailed for a research article of this scope. The author should identify the corpus of primary materials examined, the criteria for selecting jurisprudential and constitutional sources, and the method through which doctrinal propositions were connected to constitutional provisions. In particular, the article analyzes the 1906 Constitution, the 1907 Supplement, Article Two, parliamentary authority, juristic supervision, and the thought surrounding the Constitutional Revolution, yet the methodological statement does not indicate whether constitutional texts, parliamentary debates, jurisprudential treatises, political writings, or historical documents were systematically analyzed. A stronger methods paragraph should distinguish primary from secondary sources and describe the interpretive procedure used to identify a jurisprudential principle and trace its institutional translation into constitutional law.

In the section “Imami Jurisprudence and the Constitutional Question,” the paragraph beginning “The movement from the demand for an ‘*adālat-khāna*, or house of justice, toward a constitutional assembly” makes a valuable connection between justice and institutionalization, but the transition is presented too linearly. The manuscript should recognize that the movement from demands for an ‘*adālat-khāna* to a Majlis and constitutional government involved political contestation, conceptual change, and competing understandings among participants rather than a straightforward evolution of one demand into another. More importantly, the author should show how the meaning of justice changed in this transition. Was justice understood initially as fair administration by rulers, as Sharia-based adjudication, as protection from arbitrary officials, or as institutional equality before law? Distinguishing these meanings would make the later claim that justice became a “structural property of government” considerably more persuasive.

The paragraph beginning “The theological context of the occultation gave these controversies an additional depth” should engage more directly with the doctrinal problem of authority during the occultation rather than treating the existence of multiple interpretations as sufficient explanation. The manuscript would benefit from explicitly differentiating juristic authority in *iftā*, adjudication, *hisba* or public necessities, and broader political authority. Without this distinction, the later movement from conventional juristic functions to constitutional supervision appears more seamless than it actually was. The author should

explain what jurisprudential reasoning permitted authority traditionally associated with legal interpretation and limited public functions to become relevant to parliamentary review. This is especially necessary because the article's main contribution concerns precisely the constitutional institutionalization of juristic authority.

The paragraph stating that “A political order might not represent the perfect realization of religious government and yet still be preferable to unrestricted despotism” identifies a key argument but requires a more explicit jurisprudential reconstruction. The manuscript repeatedly invokes comparative preference, reduction of injustice, and the superiority of a less harmful political arrangement, but does not distinguish among principles such as avoidance of the greater evil, prohibition of harm, necessity, preservation of order, and the obligation to reduce oppression. These are not interchangeable legal propositions. The author should identify which jurisprudential principle performs which argumentative function. For instance, the permissibility of a nonideal constitutional order may rest on one line of reasoning, whereas the obligation to constrain an oppressive ruler may require another. Such differentiation would significantly improve doctrinal rigor.

The paragraph beginning “The development of parliamentary government presented an equally important conceptual challenge” appropriately distinguishes divine legislation from human regulation, but the manuscript should introduce and consistently define the category of *‘urfi* or statutory law. The current text alternates among “public regulation,” “positive law,” “statutory law,” “human regulation,” and “parliamentary legislation” without clarifying whether these terms are synonymous. This is a substantive rather than merely terminological matter because the permissibility of parliamentary activity depends on the legal character assigned to it. The author should explain whether the Majlis was understood as legislating within a sphere of administratively variable matters, determining secondary rules for public administration, identifying appropriate mechanisms for implementing Sharia-based objectives, or exercising autonomous positive-law authority subject only to a non-contradiction requirement.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.