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Challenges and Solutions for the Iraqi and Egyptian Governments in Preventing Abuse of Government Power

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1. Round 1

1.1. Reviewer 1

Reviewer:

The paragraph beginning “In Iraq, the legal and constitutional reconstruction that followed the political transformation beginning in 2003” contains a useful overview of the post-2003 constitutional context, but the manuscript should more carefully distinguish the constitutional transition beginning in 2003 from the legally operative framework established by the 2005 Constitution. The temporal scope of the Iraqi analysis needs to be stated explicitly. If the article analyzes the period from the adoption of the 2005 Constitution through the present framework, that should be specified. Otherwise, the reader cannot determine whether institutional developments occurring under transitional arrangements, the 2005 Constitution, or later amendments and legislation are being treated as belonging to the same legal period. A clearer temporal boundary would also prevent historical background from substituting for analysis of the presently relevant accountability framework.

The Introduction's discussion of Egypt states that “The Egyptian public-law tradition possesses a long and sophisticated body of administrative jurisprudence centered on the State Council and the judicial review of administrative action.” This is doctrinally important, but the article should identify more clearly the constitutional and statutory period governing the Egyptian comparison. The manuscript moves between the long historical development of the State Council, scholarship concerning the Mubarak period, the 2011 revolt, and the contemporary constitutional framework without explicitly specifying whether the principal positive-law reference point is the 2014 Constitution and current administrative legislation. Because the article is presented as a comparative public-law analysis rather than an intellectual history, the authors should distinguish historical sources used to explain institutional development from legal sources used to describe the current allocation of authority.

The paragraph stating that “Abuse of governmental power in this study is understood broadly enough to include the unlawful, arbitrary, improperly motivated, disproportionate, or institutionally unaccountable exercise of executive and administrative

authority" is one of the most important paragraphs in the manuscript, but it currently introduces a very broad dependent concept without providing an analytical taxonomy. The authors should reorganize this definition into identifiable categories, even if they remain within prose rather than a separate table. At minimum, the analysis should distinguish abuse resulting from lack of competence, improper purpose, procedural illegality, disproportionate interference with rights, misuse of discretion, corruption or private gain, and institutional avoidance of accountability. This taxonomy should then be used consistently in the Iraq–Egypt comparison. At present, different sections discuss different manifestations of abuse, making it difficult to determine whether equivalent phenomena are actually being compared.

The final paragraph of the Introduction states that "The analysis employs a comparative and descriptive-analytical method," but the methodological explanation is too brief for an article whose principal contribution is comparative. The authors should specify the units of comparison, sources of law examined, criteria used to assess effectiveness, and method for distinguishing formal institutional capacity from practical performance. For example, the study appears to compare constitutional allocation of powers, parliamentary oversight, constitutional adjudication, administrative judicial review, independent supervisory bodies, transparency, and anti-corruption institutions. Those dimensions should be expressly identified as the comparative framework. The article should also explain whether "effectiveness" is inferred from legal design, judicial practice, institutional independence, implementation of decisions, or secondary literature. Without such clarification, evaluative statements risk appearing impressionistic rather than methodologically derived.

In the second major section, the paragraph beginning "The public-law framework for preventing abuse of governmental power begins with the principle of legality" provides a solid doctrinal foundation, but the discussion of legality should be more closely connected to the later country analysis. The manuscript currently explains competence, purpose, procedure, and substantive limitations in general terms, yet it does not explicitly indicate which of these legality dimensions are later assessed in Iraq and Egypt. The authors should transform the theoretical discussion into an analytical framework by explaining that governmental abuse will subsequently be evaluated according to competence, proper purpose, procedural compliance, reason-giving, rights compatibility, and availability of judicial remedies. Doing so would prevent the theoretical section from functioning merely as background and would strengthen the internal architecture of the article.

The paragraph beginning "The modern understanding of legality must nevertheless accommodate administrative discretion" would benefit from a more rigorous distinction between review of legality and review of administrative merits. The sentence "Discretion remains subject to statutory purpose, procedural requirements, rationality, equality, proportionality, relevant considerations, and judicial supervision" introduces standards associated with several different administrative-law traditions without explaining whether and to what extent each standard is doctrinally established in Iraq and Egypt. The article should avoid appearing to import a generic common-law model into both jurisdictions. The authors should indicate which standards are used as comparative analytical benchmarks and which are actually recognized in the domestic administrative jurisprudence of the two systems. This distinction is particularly important given the manuscript's reliance on comparative public-law reasoning.

The manuscript's treatment of corruption requires conceptual tightening. The paragraph beginning "Independent and specialized institutions add further layers of control" correctly explains that corruption may represent one form of abuse, but later parts of the article occasionally allow anti-corruption reform to occupy the same conceptual level as control of governmental power generally. The authors should clarify that corruption is a specific manifestation of abuse involving the misuse of entrusted public authority for improper advantage, whereas governmental abuse encompasses a broader range of unlawful or arbitrary exercises of authority even in the absence of personal enrichment. This distinction would help prevent analytical overextension and ensure that anti-corruption institutions are presented as one component of the accountability architecture rather than as substitutes for constitutional and administrative controls.

The fourth section begins with the statement that "The principal challenge confronting both Iraq and Egypt is the persistent gap between formal legal design and practical institutional effectiveness." This is arguably the article's central finding, but it should be operationalized more rigorously. The authors should explain how the "gap" is identified in each country and which indicators demonstrate it. Possible indicators include non-use or weak use of parliamentary oversight powers, structural dependence of supervisory institutions, inconsistent implementation of court judgments, politicization of appointments, barriers to access to information, and weaknesses in enforcement. The manuscript currently draws the correct conceptual distinction

but needs stronger analytical evidence linking each identified institutional limitation to the overarching implementation-gap thesis.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The paragraph beginning “The separation of powers provides the constitutional counterpart to administrative legality” correctly rejects an excessively rigid conception of institutional separation, but the article would be strengthened by distinguishing “separation of powers,” “checks and balances,” and “institutional independence.” These concepts are repeatedly used as if interchangeable, even though they perform different analytical functions. Separation of powers concerns the constitutional allocation of governmental functions; checks and balances concern mechanisms through which institutions control or influence each other; institutional independence concerns the conditions allowing oversight bodies to exercise their functions without improper interference. The authors should preserve these distinctions throughout the manuscript because the central weaknesses identified in Iraq and Egypt often arise not from the formal absence of separation but from deficiencies in independence and countervailing control.

The discussion of parliamentary accountability states that “Parliamentary questions, requests for information, committee investigations, interpellations, debates, budgetary scrutiny, and confidence mechanisms can reveal governmental conduct before it reaches the threshold of judicial illegality.” This is a strong analytical observation, but the article later treats parliamentary oversight largely at a general level. The comparative section should identify the principal constitutionally available oversight instruments in each jurisdiction and evaluate them according to equivalent criteria, such as initiation thresholds, information rights, ministerial response obligations, committee powers, capacity to impose political consequences, and practical barriers to use. Without this symmetry, the comparison risks becoming descriptive rather than genuinely comparative. The article would particularly benefit from explaining why similar formal tools might operate differently under Iraq's coalition politics and Egypt's more centralized executive-legislative relationship.

The paragraph concerning Iraq's Federal Supreme Court states that the Court plays a pivotal role in “constitutional interpretation, institutional competence, federal relations, and the constitutionality of legislation.” However, the manuscript does not sufficiently separate these functions from the specific problem of governmental abuse. The authors should identify which dimensions of the Court's jurisdiction directly constrain governmental power and explain the causal mechanism through which constitutional adjudication prevents abuse. For instance, judicial review of legislation, resolution of competence disputes, and review of executive-related constitutional controversies perform different functions. The manuscript should therefore avoid treating the Court's institutional importance in general as equivalent to its effectiveness in preventing abuse. A more focused account would improve doctrinal precision.

The Egyptian discussion contains the important sentence, “The existence of a court with jurisdiction to issue binding judgments is a necessary safeguard, but it becomes insufficient where administrative actors can delay or avoid implementation.” This should be developed into a more systematic analytical distinction between adjudicative independence and remedial effectiveness. The article currently treats judicial independence as the principal judicial variable, yet a court may be formally independent and doctrinally robust while still being ineffective if judgments are delayed, implementation is incomplete, standing is restrictive, proceedings are costly, or remedies are limited. The authors should therefore assess judicial control through at least three dimensions: independence of adjudication, accessibility of review, and effectiveness of remedies and enforcement. Applying the same framework to Iraq would improve comparative symmetry.

The section “Mechanisms for Controlling Governmental Power in Iraq and Egypt” contains several sequential paragraphs describing Iraq followed by several paragraphs describing Egypt. Although the information is relevant, the section remains partially parallel rather than fully comparative. The authors should increase direct comparison within individual analytical paragraphs. For example, after discussing parliamentary oversight in Iraq, the manuscript could immediately compare the equivalent Egyptian mechanism and identify why its practical constraints differ. The same approach could be applied to

administrative justice, constitutional review, anti-corruption institutions, and access to information. A comparative article should do more than place two national descriptions next to each other; it should systematically identify convergence, divergence, and explanatory institutional variables.

The paragraph stating that “The Iraqi and Egyptian systems therefore share several structural characteristics” is central to the comparative argument, but the conclusion that “neither system can accurately be described as lacking mechanisms for preventing governmental abuse” requires a more precise assessment of institutional sufficiency. The manuscript should distinguish existence, legal authority, independence, accessibility, enforcement capacity, and actual effectiveness. A mechanism may formally exist while remaining institutionally weak. The authors could strengthen the analysis by adopting these dimensions consistently: legal basis, scope of competence, degree of institutional independence, access or initiation mechanism, enforceability of outcomes, and practical limitations. This would permit the article to demonstrate rather than merely assert the gap between formal design and implementation.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.
Editor in Chief’s decision: Accepted.