

Obstacles to the Delegation of Powers and Transfer of Competences and the Role of the Judiciary in Addressing Them: A Comparative Study of Iraqi and Iranian Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

In the second paragraph of the Introduction, particularly the sentence “The research problem lies in the fact that... these mechanisms may encounter a range of legal and practical obstacles,” the research problem remains relatively broad and descriptive. It should be reformulated as a clearly identifiable doctrinal and comparative legal problem. The authors should specify whether the central problem concerns deficiencies in statutory authorization, constitutional allocation of competence, judicial standards governing delegability, institutional capacity for transferred functions, or all of these dimensions. Formulating two or three explicit research questions would substantially improve analytical coherence and would permit the findings and conclusion to be traced directly back to the stated research problem.

The third paragraph of the Introduction, which states that “The study also seeks to explain the legal framework governing delegation of powers and transfer of competences...,” substantially overlaps with the objective already articulated in the Abstract and with the research problem presented in the preceding paragraph. This paragraph should be strengthened by distinguishing the primary objective from subsidiary objectives. For example, the manuscript should clarify whether it seeks merely to describe the two legal systems or also to evaluate the adequacy of their regulatory and judicial mechanisms according to specified legal criteria such as legality, clarity of competence, accountability, local autonomy, and judicial enforceability.

In the fifth paragraph of the Introduction, beginning with “The study relies primarily on the comparative method...,” the methodological description is insufficient for a comparative legal study. The authors should explain the basis on which Iraq and Iran were selected, the units of comparison, the hierarchy of legal materials examined, and the temporal scope of the analysis. It is also necessary to distinguish between constitutional provisions, ordinary legislation, administrative regulations,

judicial decisions, and secondary doctrinal literature. The manuscript would be methodologically stronger if it explained how conflicts among these sources were resolved and whether the comparison follows a functional comparative-law approach or a purely doctrinal comparison of formal legal rules.

In Section One, First Subsection, the first paragraph on Iraqi federalism, the sentence “The view advanced here is that the competences of the regions should instead have been defined exhaustively, with residual competences left to the federal authorities...” introduces a normative constitutional position without sufficiently demonstrating the doctrinal basis for preferring that allocation. The authors should separate description of the current constitutional framework from their own normative assessment. They should also explain how this proposed reversal would interact with Articles 110, 114, and 115 of the Iraqi Constitution and with the federal character of the Iraqi state. Otherwise, the argument may appear to assume that stronger central authority is inherently preferable rather than establishing why it would improve legal certainty or administrative effectiveness.

In the paragraph beginning “Another legal obstacle in Iran concerns the constitutional status of Islamic councils,” the relationship between Articles 7 and 100 of the Iranian Constitution should be analyzed more systematically. The manuscript currently reports differing interpretations but does not articulate the competing doctrinal readings. The authors should explain whether Article 7 establishes councils as constitutionally autonomous decision-making institutions or whether Article 100 confines them principally to supervisory and local administrative functions. This distinction is central to determining whether limitations on council powers constitute a legal obstacle to decentralization or merely reflect the constitutional design itself.

In the Second Subsection, first long paragraph on Iraqi administrative obstacles, beginning with “Administrative obstacles are impediments encountered by administrative bodies...,” several analytically distinct issues are combined into one very long paragraph: bureaucratic delay, leadership capacity, employee training, ministerial reluctance, coordination between legislative and executive institutions, personnel incentives, and human-resource development. These should be analytically differentiated, even if the manuscript retains its existing structural headings. The authors should explain which obstacles are institutional, organizational, personnel-related, or political, and show how each affects the successful implementation of transferred competences. The present aggregation weakens causal precision.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In the paragraph beginning “Law No. 21 of 2008 on Governorates Not Incorporated into a Region...”, the manuscript correctly identifies ambiguity in the distribution of competence, but the analysis would benefit from greater doctrinal specificity. Rather than stating generally that “each level of authority” may encroach upon the other, the authors should identify concrete categories of competence in which overlap has occurred—for example, public services, budgeting, education, health, infrastructure, or regulatory authority—and explain whether the overlap results from constitutional silence, statutory inconsistency, executive practice, or judicial interpretation. Providing specific legal examples would transform the discussion from a general observation into a demonstrable legal finding.

In the paragraph discussing Article 115 of the Iraqi Constitution, particularly the assertion that giving priority to local law “is inconsistent with the traditional essence of administrative decentralization,” the manuscript should distinguish more carefully between federalism and administrative decentralization. Article 115 operates within a federal constitutional arrangement, whereas governorates not incorporated into a region occupy a legally distinctive position that cannot necessarily be assessed solely according to classical doctrines of administrative decentralization. The authors should therefore explain whether the constitutional structure creates a hybrid model and discuss how this affects the classification of governorate powers and the legal characterization of “transfer of competences.”

In the paragraph beginning “Financial obstacles consist of the challenges and barriers...”, the discussion should differentiate fiscal decentralization from administrative delegation. Dependence on federal transfers, limited control over local revenues, and budgetary approval mechanisms clearly affect local autonomy, but the manuscript should demonstrate how these financial

arrangements specifically obstruct the exercise of transferred or delegated competences. A stronger causal analysis would examine whether functions are legally transferred without corresponding appropriations, whether earmarked federal transfers restrict discretion, and whether budgetary delays or shortfalls produce identifiable failures in the execution of transferred responsibilities.

The two paragraphs concerning Iran's rentier-state characteristics, beginning with "In Iran, the central governments have historically been able..." and "The existence of a rentier state..." require tighter integration with the article's legal research question. At present, these paragraphs move toward political economy without fully demonstrating their connection to delegation of legal competence. The authors should explain precisely how dependence on oil revenues affects statutory decentralization, fiscal autonomy of local councils, vertical accountability, or the willingness of central authorities to transfer legally meaningful decision-making power. Otherwise, these passages risk appearing theoretically relevant but insufficiently connected to the doctrinal analysis.

In the paragraph discussing Article 120 of the Iranian Court of Administrative Justice Law, beginning with "In Iran, although judicial supervision by the Court of Administrative Justice..." the discussion is informative but disproportionately long relative to the article's central subject. The authors should clarify how the newly established public-rights mechanism directly affects delegation or transfer of competences. In particular, it would be useful to explain whether Article 120 has been used to challenge regulations involving unlawful delegation, excessive exercise of delegated authority, or interference with local competences. Without such a connection, this section reads more as a general account of administrative judicial review than as analysis of delegation doctrine.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.