

The Status of Quasi-Legislative Institutions in the Legal Systems of Iran and Iraq: With Emphasis on Non-Parliamentary Authorities and Normative Pluralism

Ahmed Abdulhasan Obaid. Khazraji¹, Esmail. Kashkoulia^{2*}, Ali. Komeilipour¹

¹ Department of Law, Na.C., Islamic Azad University, Najafabad, Iran

² Department of Law, Shah.C., Islamic Azad University, Shahreza, Iran

* Corresponding author email address: Kashkoulia@iau.ac.ir

Received: 2026-05-06

Revised: 2026-10-07

Accepted: 2026-10-14

Initial Publish: 2026-10-14

Final Publish: 2027-01-01

This article examines the status of institutions that operate outside the legislative branch or at the margins of conventional legislative mechanisms and play a role in the formulation, interpretation, oversight, or enforcement of binding norms. In this study, such institutions are cautiously and descriptively referred to as “quasi-legislative” institutions. The central question is whether these authorities operate solely within the scope of delegated powers or whether they may, at times, become centers for the formation of parallel normative frameworks and, if so, how their relationship with the rule of law, separation of powers, public accountability, and citizens’ rights should be evaluated. The study adopts a descriptive-analytical and comparative method, focusing on constitutional rules, formal institutional structures, and examples of customary and administrative norm-making in Iran and Iraq. An examination of the text of the Iranian Constitution demonstrates that the legislative authority of the Islamic Consultative Assembly, the supervisory role of the Guardian Council, the dispute-resolution mechanism of the Expediency Discernment Council, the authority to adopt executive regulations, and the possibility of reviewing certain administrative regulations coexist within a complex and multilayered institutional framework. In Iraq, the 2005 Constitution, on the one hand, defines the Parliament and the government within a federal structure and, on the other hand, recognizes independent commissions, the Federal Supreme Court, and regional and local institutions. Nevertheless, institutional ambiguities and disagreements concerning the limits of jurisdiction may expand the role of non-parliamentary authorities. The comparison demonstrates that the designation “quasi-legislative” does not, by itself, constitute a sufficiently precise legal characterization and that a distinction must be drawn among institutions with an explicit constitutional basis, authorities established under ordinary legislation, administrative mechanisms, and customary or social institutions. The article concludes that the principal issue is not the existence of such institutions per se, but rather the quality and clarity of the legal basis of their authority, the transparency of their procedures, the availability of independent oversight, access to judicial remedies, and respect for fundamental rights. The principal recommendation is to develop a comprehensive map of institutional competences, ensure the regular publication of enactments and decisions issued by relevant authorities, guarantee effective judicial review, and clearly determine the relationship between formal legal norms and customary rules.

Keywords: *quasi-legislative institution; non-parliamentary norm-making; comparative public law; legal pluralism; rule of law.*

How to cite this article:

Khazraji, A. A. O., Kashkoulia, E., & Komeilipour, A. (2027). The Status of Quasi-Legislative Institutions in the Legal Systems of Iran and Iraq: With Emphasis on Non-Parliamentary Authorities and Normative Pluralism. *Interdisciplinary Studies in Society, Law, and Politics*, 6(1), 1-12. <https://doi.org/10.61838/kman.isslp.604>



1. Introduction

The discussion of “the status of quasi-legislative institutions in the legal systems of Iran and Iraq” is, in essence, a discussion of the boundaries of legislation and the manner in which norm-making power is distributed. In their daily lives, citizens are not confronted solely with laws enacted by parliament; government regulations, council resolutions, decisions of regulatory bodies, rulings of administrative authorities, interpretations by supervisory institutions, and even customary rules and mechanisms of social mediation may guide conduct and, in practice, produce binding or quasi-binding effects. Accordingly, the research question is not merely “which institution makes law?” but rather which authorities may create general rules or decisions with public effects, from where the legitimacy of such authority derives, and what avenues of challenge citizens have against them. (Ghasemi, 2023)

The term “quasi-legislative institution” is not a unified technical designation in the constitutions of Iran and Iraq. Accordingly, its use in this article does not imply that such institutions are unlawful, nor does it mean that all councils, commissions, courts, and customary structures should be treated as equivalent. Rather, the term is employed merely as an analytical label for a spectrum of structures that may perform some legislative, regulatory, interpretive, dispute-resolution, or norm-enforcement functions without being formal legislators in the strict sense of the term. (Karimi, 2022) This breadth itself creates a risk of conceptual conflation: a constitutionally empowered council, an administrative board established under ordinary legislation, and a tribal mediation body are not identical in terms of the source of their authority, the effects of their decisions, enforcement mechanisms, or modes of supervision. Therefore, instead of presupposing the existence of an independent legal category, this article classifies institutions according to measurable criteria. (Berman, 2022)

The selection of Iran and Iraq for comparative study is meaningful for several reasons. Both countries are characterized by legal traditions influenced by Islam, distinct historical experiences of the concentration of power, and ethnic and religious diversity; nevertheless, their constitutional structures are not identical. Iran has a system comprising a legislative parliament, the

Guardian Council, and specific constitutional institutions. Iraq’s constitutional order after 2003 establishes a federal structure encompassing the Council of Representatives, the government, the Federal Supreme Court, independent commissions, and regional and provincial competences. Comparing these two structures makes it possible to demonstrate that norm-making outside parliament is not confined to legal systems operating under a single model of governance, while its form, source, and mechanisms of control depend upon constitutional design. The principal question of the article is therefore formulated as follows: On what legal foundations are institutions exercising norm-making or quasi-judicial functions in Iran and Iraq based, and how can the legitimate limits of their authority be identified? The subsidiary questions are: first, what distinctions exist among legislation, regulation-making, constitutional review, official interpretation, and administrative dispute resolution? Second, what mechanisms are provided in each country for reviewing decisions of non-parliamentary authorities? Third, how do customary and social rules, particularly in tribal contexts, interact with formal law and guarantees of due process? Fourth, what reforms can preserve the specialized efficiency of these institutions while preventing unlimited concentrations of power? The article begins with the conceptual framework, then explains the historical and structural contexts of the two legal systems, analyzes the relevant institutions in Iran and Iraq separately, and finally evaluates their commonalities, differences, legitimacy challenges, and possible reforms. The objective is not to issue a general judgment as to the superiority of either legal system, but rather to develop clearer criteria for identifying authority and assessing the accountability of non-parliamentary bodies.

2. Quasi-Legislative Institutions, Parallel Norm-Making, and Legal Pluralism

Any discussion of quasi-legislative institutions first requires clarification of terminology, because a substantial part of the scholarly disagreement in this field originates in conceptual conflation. This section first explains the rationale for selecting the term “quasi-legislative” and the caution required in its use; it then distinguishes among legislation, regulation-making, interpretation, supervision, and dispute resolution, and

subsequently analyzes the criteria of typology, the relationship of this phenomenon to the separation of powers, and its interaction with legal pluralism and the rule of law.

2.1. Caution in Using the Term “Quasi-Legislative”

In ordinary discourse, “quasi-legislative” is sometimes used to describe any institution that makes decisions outside parliament or whose formal authority is contested. Such usage is legally imprecise because the prefix “quasi” may be understood as meaning similar, incomplete, unofficial, or even unlawful. Yet many of the institutions addressed in the present discussion have an explicit basis in the constitution or ordinary legislation and operate entirely within the formal legal system; their functions simply differ from parliamentary legislation. Conversely, a customary institution may possess real social authority while being recognized by the state merely as a mechanism of mediation or private agreement. Therefore, this article uses the expression as an operational term and, in analyzing each institution, employs its precise legal designation. (Mousavi, 2020)

To avoid ambiguity, it is preferable to distinguish among “legislation,” “regulation-making,” “interpretation,” “supervision,” “dispute resolution,” and “social norms.” Legislation refers to the enactment of general rules at a level that the legal system assigns to parliament or to a specific legislative authority. Regulation-making generally refers to the adoption of detailed implementing rules within the framework of superior legislation; such authority may be granted to the government, a minister, a local council, or a specialized institution, provided that it does not exceed the scope of delegation. Official interpretation clarifies the meaning of a legal text for the legal system and may have general effects, but it does not necessarily create new law. Constitutional review concerns the assessment of the compatibility of rules or actions with the constitution. Administrative dispute resolution involves case-specific decisions concerning the rights or duties of individuals, although repeated practice may, in effect, guide general conduct. Finally, a social or customary norm arises through social acceptance and repetition, while its legal validity depends on the criteria through which the formal legal system recognizes it. (Pakzad, 2022)

2.2. Criteria for Typology

In assessing the status of institutions, four dimensions must be examined simultaneously. The first is the source of authority: the constitution, ordinary legislation, executive delegation, private agreement, custom, or social authority. The higher and clearer the source, the easier it is to trace institutional legitimacy; however, the mere mention of an institution in the constitution does not resolve all questions concerning the limits of its powers. The second dimension concerns the nature of the output: a general and abstract rule, an executive directive, an individual ruling, an interpretation, or an agreement. A general rule affecting an indeterminate category of persons usually requires more rigorous justification and control than a decision confined to a specific case. The third dimension is the scope of effect and the enforcement mechanism. A council may issue a resolution addressed solely to its member agencies, or it may adopt a rule that is treated in practice as binding on all citizens. Similarly, a customary agreement may appear consensual but, because of social pressure, produce genuinely coercive effects. Legal analysis must distinguish among formal, administrative, and social effects. The fourth dimension concerns review and accountability: Is the decision published? Are the reasons underlying it accessible? Do affected persons have a right to be heard? Can a court or independent authority review jurisdiction, procedure, and substance? These questions are essential for distinguishing legitimate authority from arbitrary exercises of power.

On this basis, five categories may be distinguished: first, constitutional institutions exercising supervisory or interpretive authority; second, institutions exercising delegated legislative or regulatory authority; third, quasi-judicial bodies resolving administrative or specialized disputes; fourth, commissions and independent institutions combining regulatory, supervisory, or adjudicative functions; and fifth, customary, religious, or social institutions operating outside the formal hierarchy but influencing behavior and dispute resolution in practice. This classification is functional rather than evaluative; an institution may fall within more than one category, or its function may change over time.

3. Separation of Powers as a Distribution of Functions, Not an Absolute Monopoly

In the contemporary state, separation of powers does not mean that every function must be performed by an entirely separate and unrelated institution. Parliament usually establishes general principles and public policies; the government regulates implementing details; courts interpret statutory texts; and specialized bodies develop technical rules. The constitutional issue is not the existence of this division of labor, but rather the control of its boundaries. Where the legislature clearly defines the subject matter, purpose, and limits of authority and provides mechanisms of review, regulation-making can complement legislation. However, where delegation is broad and unlimited, or where an executive authority may independently determine fundamental matters affecting citizens' rights, the distinction between administration and legislation becomes blurred. In complex systems, quasi-judicial bodies may also initially resolve disputes because of their specialization or speed; nevertheless, administrative adjudication should not permanently replace independent judicial proceedings. The independence and impartiality of the adjudicator, the right to be informed of the evidence, the opportunity to present a defense, reasoned decisions, and judicial review are fundamental standards. In theoretical terms, efficiency and expertise may justify the initial allocation of authority; however, the more severe or irreversible the consequences of a decision, the stronger the need for procedural safeguards and judicial supervision.

3.1. *Legal Pluralism and the Boundary Between Social Norms and Formal Law*

Legal pluralism describes a situation in which more than one normative order exists within a social domain. Such orders may be governmental, local, religious, customary, professional, or organizational. The concept does not necessarily claim that all normative orders possess equal validity under formal law; rather, it demonstrates that people in practice rely on diverse normative sources to regulate relationships and resolve disputes. In Iran and Iraq, kinship networks, religious authority, ethnic and tribal mechanisms, professional associations, and administrative rules may all influence conduct alongside codified law. Recognizing the reality of normative

plurality should not lead to the romanticization of custom. Custom may sometimes provide a low-cost means of compromise, preserve social ties, and facilitate compensation; in other circumstances, however, it may reflect unequal power relations, pressure on women or minorities, deprivation of the weaker party's free consent, or the transformation of individual responsibility into collective responsibility. Therefore, a state governed by the rule of law must distinguish between recognizing social reality and granting binding legal validity. A balanced approach allows customary mechanisms to facilitate consensual and restorative settlement, provided that the resulting agreement does not violate fundamental rights and that no individual is deprived of access to the courts. (Merry, 2020)

3.2. *Legitimacy Test for a Norm-Making Institution*

Each institution examined in this study may be assessed through a multi-stage test: Is the basis for its establishment and jurisdiction clear? Are the subject matter and limits of its authority foreseeable? Does the rule or decision occupy a defined place within the hierarchy of norms? Is the decision-making or adjudicatory process transparent and reasoned? Do affected persons have opportunities for participation, objection, or review? Is judicial supervision proportionate and effective? Is the institution required to publish its regulations and jurisprudence? And is the effect of its decision proportionate to the statutory objective and fundamental rights? Rather than relying on the simple binary of "formal/informal," this test depicts a continuum of legitimacy and accountability. Each institution in this article is assessed according to these criteria. In particular, a distinction is drawn between institutional competence and actual performance: an institution may be constitutionally authorized, while a specific decision may exceed its jurisdiction or violate procedural requirements; conversely, a customary mechanism may lack formal authority to issue a judgment but may nevertheless facilitate mutual consent and peaceful settlement. This analytical distinction helps transform the issue of "parallelism" into more precise questions concerning validity, binding force, review, and individual rights.

4. Historical and Structural Background of Parallel Norm-Making in Iran and Iraq

Understanding the status of quasi-legislative institutions in Iran and Iraq would be incomplete without reviewing the historical context, because the current institutional arrangements of both countries reflect long-standing experiences concerning the distribution of power, disputes over sources of legitimacy, and interaction between codified law and social authority. This section first examines Iran's institutional development from the Constitutional Revolution to the contemporary system, then Iraq's transition from a centralized state to the 2005 federal constitution, and finally analyzes the customary and social background common to both countries.

4.1. *From Constitutionalism to the Contemporary Multilayered Structure in Iran*

The history of Iranian public law is closely connected with efforts to constrain political power through law and to establish representative institutions. The Constitutional Revolution and the establishment of parliament brought the idea of representative legislation to the center of the political structure; however, historical experience demonstrated that the mere existence of a constitutional text and a parliamentary institution does not, by itself, guarantee a monopoly over legislation or institutional accountability. During different periods, the government, the royal court, religious institutions, and administrative authorities played varying roles in the creation and enforcement of rules. This background provides a basis for understanding the persistent tension among enacted law, executive authority, and religious or customary sources. (Rezaei, 2021)

The Constitution of the Islamic Republic of Iran, following the 1979 Revolution and the 1989 constitutional revision, established a system in which elected institutions coexist with institutions exercising supervisory or specific constitutional functions. On the one hand, Article 58 defines the exercise of legislative power through the Islamic Consultative Assembly, while Articles 71 and 72 specify its legislative authority and limitations; on the other hand, the Guardian Council plays a role in reviewing legislation and interpreting the Constitution, while the Expediency Discernment Council resolves disputes and determines matters of expediency

under prescribed circumstances. Consequently, the structure cannot be reduced to a simple opposition between parliament and extra-parliamentary institutions; from the outset, the Constitution designed arrangements for interaction and mutual restraint. The expansion of the administrative and specialized state has likewise increased the number of regulations, directives, circulars, and decisions issued by councils and boards. This development is not unique to Iran; modern states necessarily delegate some technical and changing details to executive authorities. The historical and contemporary question concerns the extent to which such authority may expand and how it may be reconciled with parliamentary competence and the availability of judicial review. In addition to formal structures, mechanisms of local dispute resolution, social mediation, and custom have remained in operation; however, the extent of their legal recognition varies according to the subject matter of the dispute and the applicable laws. (Karimi, 2022)

4.2. *Transition from a Centralized State to a Federal Constitution in Iraq*

Iraq's constitutional history encompasses the monarchical period, centralized republics, authoritarian government, and the post-2003 transitional period. For the purposes of the present study, the principal turning point is the adoption of the 2005 Constitution, which combined republican government, parliamentary representation, separation of powers, federalism, and independent commissions within a single framework. Legal analysis of the Iraqi Constitution demonstrates that the document was designed in the context of political transition, the redefinition of relations between the center and the regions, and the effort to guarantee the participation of diverse groups; this background created both opportunities for the distribution of power and grounds for disagreement over the interpretation of competences. The Iraqi Constitution places the Council of Representatives at the center of the legislative branch but also provides for a "Federation Council," whose role and institutional organization require legislative implementation. Alongside parliament, the President of the Republic and the Council of Ministers are situated within the executive branch, while the Higher Judicial Council and the Federal Supreme Court form part of the judiciary. The chapter on independent commissions also

recognizes institutions intended to exercise functions such as electoral, media, financial, or human-rights oversight. Furthermore, the Constitution grants competences to regions and governorates not incorporated into a region. This configuration does not establish a simple unitary model; rather, it recognizes multiple levels of authority. (Ubayd, 2014)

From the perspective of norm-making, one consequence of federalism is that answering the question “who has authority?” frequently requires examining the distribution of powers among the federal government, regions, and governorates. Disputes concerning the interpretation of exclusive federal powers, shared competences, or residual powers may enhance the role of the Federal Supreme Court. In such circumstances, the Court does not merely adjudicate individual disputes; its interpretation of the distribution of power may shape the course of legislation and administration. This judicial function is not equivalent to legislation, but it has broad normative consequences.

5. Quasi-Legislative Institutions in the Iranian Legal System

The Iranian legal system encompasses legislative, supervisory, executive, quasi-judicial, and social authorities whose powers and the legal effects of their decisions are not identical. To determine the status of each, this section begins with the competence of parliament as the principal reference point and then separately examines the Guardian Council, the Expediency Discernment Council, government regulation-making, supreme councils, quasi-judicial bodies, and customary mechanisms.

5.1. The Islamic Consultative Assembly

Any analysis of non-parliamentary authorities in Iran must begin with the legislative position of the Islamic Consultative Assembly. Article 58 of the Constitution provides that legislative power is exercised through the Islamic Consultative Assembly, while Article 71 grants parliament the authority to enact laws on all matters within the limits established by the Constitution. Article 72 also provides that parliamentary enactments may not be inconsistent with the principles and rules of the official religion or the Constitution. These provisions establish not only the positive competence of parliament

but also the principal benchmark against which other institutions must be assessed: whenever an extra-parliamentary authority adopts a general rule, it must be determined whether that action is based on valid delegation, whether its nature is executive, and whether it encroaches upon an area requiring parliamentary legislation. Article 85, alongside the general rule, also permits the limited delegation of legislative authority to internal parliamentary commissions and the provisional enactment of certain laws under prescribed conditions. The importance of this article lies in demonstrating that even the delegation of legislative functions to a component of parliament itself remains subject to specific restrictions; accordingly, not every regulatory or decision-making power may be characterized as “delegated legislation” without regard to its subject matter and limits. (Mahdavi, 2021) The distinction between legislation and regulations must be determined according to the substantive content of the rule, its scope of effect, and its legal basis, rather than merely the title assigned to the instrument by the issuing authority.

5.2. The Guardian Council

The Guardian Council is one of the most important constitutional institutions in Iran and, for this reason, is sometimes included in general discussions of “quasi-legislative” structures. A more precise description, however, is that it is a supervisory and interpretive institution possessing specific constitutional powers. Under Articles 91 to 99, the composition and functions of the Guardian Council are linked to reviewing parliamentary enactments for conformity with Islamic criteria and the Constitution, interpreting the Constitution, and supervising elections. These powers have significant effects on the law-making process, but they should not be confused with general legislative competence. Review of parliamentary enactments constitutes part of the legislative cycle: a text is adopted by parliament and then referred to the Guardian Council for review; where objections are raised, the process proceeds through amendment or dispute-resolution mechanisms. In this process, the Council may influence the substantive boundaries of legislation; institutionally, however, its function is to review enacted legislation rather than to adopt an independent body of laws across all fields. Official interpretation of the Constitution pursuant to Article 98 is also significant. An officially

announced interpretation may affect the understanding of institutional powers and rights, but it must still be distinguished from ordinary legislation and from a judicial ruling in a specific dispute. (Ahmadi, 2018) From the standpoint of the rule of law, the principal challenge concerning the Guardian Council is not the existence of constitutional review itself, but rather the transparency of its interpretive methodology, accessibility of the reasons underlying its decisions, predictability of its criteria, and the balance between supervision and the representative role of parliament. The clearer the Council's objections and their legal foundations are articulated, the greater the possibility of legislative correction and public assessment. Likewise, a clear distinction among the rejection or approval of legislation, constitutional interpretation, and electoral supervision helps prevent conceptual conflation among distinct functions.

5.3. The Expediency Discernment Council

The Expediency Discernment Council plays a role within Iran's constitutional structure in resolving disputes between the Islamic Consultative Assembly and the Guardian Council and in performing other functions specified by the Constitution and relevant laws. Article 112 places the Council in a position in which, under prescribed circumstances, it may determine matters of expediency; it may also perform consultative or decision-making functions in certain referred matters. This position makes it one of the distinctive features of Iran's legislative mechanism. (Mahdavi, 2021)

From a theoretical perspective, a dispute-resolution function can prevent deadlock in the legislative process. Nevertheless, if the concept of expediency lacks clear criteria and a transparent procedure, the distinction between exception and rule may become blurred. The important legal questions are what status such a decision has in relation to ordinary legislation, how far its subject matter may extend, and what forms of supervision apply to the decision-making process. The more institutional exceptions are designed on the basis of necessity, the more precisely their subject matter, duration, scope, and consequences must be defined so that a dispute-resolution mechanism does not develop into a permanent parallel legislative pathway. (Mousavi, 2020) In evaluating this institution, a distinction must be drawn between "influencing the legislative process" and "being

a legislature." In some circumstances, the Council may make decisions affecting the outcome of legislation, but this characteristic alone does not transform it into a second chamber or a legislature of general competence. The principal issues concern the boundaries of authority, publication of documentation and reasoning, compatibility of decisions with constitutional principles, and the possibility of legal review. Greater transparency regarding the grounds of expediency, without undermining genuine decision-making requirements, can enhance public legitimacy. (Rezaei, 2021)

5.4. The Council of Ministers

For the implementation of laws and administration of public affairs, the government necessarily adopts regulations and executive decrees. Article 138 of the Constitution recognizes the authority of the Council of Ministers and individual ministers to adopt executive regulations and circulars within the scope of their statutory duties, subject to the condition that their provisions must not conflict with the text or spirit of the law. This authority constitutes a clear example of non-parliamentary regulation-making, but it does not in principle amount to independent legislation. A regulation must be issued within the framework of superior legislation, for the purpose of implementing it, and within the jurisdiction of the issuing authority. In practice, the distinction between an executive rule and a rule that creates new and fundamental rights or obligations is not always self-evident. For example, a regulation may prescribe licensing conditions, administrative procedures, or methods of allocating public resources; however, if it creates a significant right or restriction for citizens without statutory authorization, the issue of *ultra vires* action arises. The appropriate test is whether the legislature itself has determined the basic policy and its essential elements, leaving the government merely to specify implementing details, or whether the executive authority has effectively made a decision that should have been adopted through legislation. (Karimi, 2022)

Review of administrative regulations is likewise a key component of the system of control. Article 170 permits judges to refrain from enforcing government decrees and regulations that conflict with statutes or Islamic rules or exceed the authority of the issuing body; Article 173 provides the constitutional basis for the

establishment of the Court of Administrative Justice to adjudicate complaints and objections by individuals against government officials, agencies, and regulations. These mechanisms demonstrate that executive regulation-making, although legitimate and necessary, must remain subject to control. The effectiveness of such control depends on access to justice, publication of regulations, the ability to invoke excess of authority, and timely implementation of judicial decisions. (Ahmadi, 2018)

5.5. Supreme and Provincial Councils

Within Iran's administrative structure, numerous councils and high-level bodies operate in the fields of policymaking, coordination, security, culture, economics, and public administration. Some are grounded in the Constitution or ordinary legislation, while others have been established through founding decisions or executive arrangements. The mere designation "council" or "supreme" does not confer legislative authority. For each institution, it is necessary to examine its founding instrument, composition, mandate, type of decision, and the external legal effects of its resolutions.

Policy councils may play a valuable role in setting priorities and coordinating public bodies. Problems arise when a coordinating resolution is applied as a binding rule against citizens or enterprises without a clear legal basis or identifiable supervisory authority. In such circumstances, it must be determined whether the decision is binding only on subordinate agencies or council members, whether it requires approval or promulgation by another legally competent authority, and whether it may restrict the rights of third parties. Public disclosure of resolutions, registration of their effective dates, and specification of avenues of challenge should constitute minimum requirements of lawful governance. In evaluating the Supreme Council of the Cultural Revolution and other cultural policymaking authorities, two opposing errors must be avoided: one cannot, without examining the relevant legal basis, treat every resolution issued by such councils as legally equivalent to an Act of Parliament, nor can one disregard their practical effects and institutional influence. Each resolution must be examined individually to determine the institutional capacity in which it was adopted, the legal instrument supporting it, whether it created a general rule or merely announced an internal policy, and

what legal avenues exist for challenge. This approach shifts the discussion from a general judgment based on the institution's title to a precise analysis of competence. (Zamani, 2019)

Ultimately, it should be stated that the Iranian system contains a considerable diversity of norm-making and decision-making authorities, but they do not all occupy the same level. The Guardian Council is a constitutional supervisory and interpretive institution; the Expediency Discernment Council performs dispute-resolution and other constitutionally prescribed functions; the government and ministers adopt executive regulations; supreme councils may perform policymaking or coordinating functions; quasi-judicial bodies adjudicate specialized disputes; and customary or mediatory mechanisms contribute to social dispute resolution. The criterion for determining the status of each is not the institution's title but rather the source of its authority, the nature of its output, the scope of its effect, and the availability of review. As a matter of principle, the Constitution both establishes the legislative competence of parliament and recognizes certain specific institutions and executive powers. (al-Saadi, 2021) The practical challenge lies in preserving this balance against the expansion of binding decisions adopted outside transparent legislative procedures. Transparency of resolutions, precise delineation of delegated authority, stronger reasoning in decision-making, easy access to judicial review, and differentiation between internal decisions and rules affecting the public are central criteria for evaluation and reform.

6. Quasi-Legislative Institutions in the Iraqi Legal System

The Iraqi legal system following the adoption of the 2005 Constitution must be understood within its federal and multilevel structure. In this framework, institutions with normative or quasi-judicial effects are not confined to councils operating outside parliament; some are defined directly by the Constitution, others are established under ordinary legislation, and some derive practical authority from social and customary structures. Analysis of each requires differentiation among legitimacy of establishment, limits of authority, the nature of the decision, and the availability of review. The Iraqi Constitution is the supreme source of formal norms, and

all governmental authorities at the federal and regional levels must operate within its framework.

6.1. Parliament and the Federal Government: The Reference Point for Competences

The Iraqi Constitution organizes the legislative branch around the Council of Representatives. The Council plays a central role in enacting legislation, exercising political oversight over the government, and performing constitutional functions. At the same time, the Constitution also provides for the establishment of a Federation Council to ensure representation of federal units in the legislative process; however, the full realization of this institution and the determination of its specific competences have depended on subsequent legislation. This situation illustrates the potential gap between constitutional design and institutional completion: the mere designation or contemplation of an institution in the constitutional text does not, by itself, establish all of its competences and legal effects. (al-Hasani, 2020)

The Council of Ministers and government ministries also issue regulations and executive decisions in implementing laws and administering the country. As in other legal systems, the Iraqi government requires detailed implementation measures to carry out enacted policies and manage specialized sectors. Nevertheless, every regulation must derive from the Constitution and enacted laws and remain within the authority of the issuing body. If an executive order or directive creates an important right or obligation for citizens without legislative authorization, the issue of exceeding executive competence arises. The distinction between legislation and executive decision-making is particularly important in situations where political or security crises lead to urgent decision-making. (al-Khafaji, 2017)

6.2. The Federal Supreme Court: A Judicial Institution with Broad Normative Effects

The Federal Supreme Court of Iraq occupies an important constitutional position in constitutional review, interpretation of fundamental rules, and resolution of jurisdictional disputes. The powers enumerated in Article 93 of the Constitution include reviewing the constitutionality of laws and regulations, interpreting the Constitution, and adjudicating disputes between the federal government and regions or

governorates. These competences make the Court the final arbiter of a substantial category of institutional conflicts. Although the Court is not a legislative body, its interpretations may clarify the limits of authority of parliament, the government, regions, and commissions and thus have broad effects on the normative order. The normative influence of its judgments derives from two sources: first, the power to invalidate or deprive of legal effect a rule found inconsistent with the Constitution; and second, the power to interpret the Constitution where ambiguity exists regarding the division of powers or the meaning of a right. In both situations, judicial decisions may constrain or guide future legislation. Such influence is not inherently inconsistent with the separation of powers; constitutional judicial review is itself a mechanism for controlling public power. Its legitimacy, however, depends on judicial independence, composition and appointment procedures, reasoned judgments, publication, and consistency of jurisprudence. (al-Amiri, 2023)

Federal Supreme Court Decision No. 128/Federal/2022, as an example of the jurisprudence of this authority, demonstrates that, in exercising its constitutional jurisdiction, the Court must establish a relationship among the constitutional text, the legislation governing the Court, and the subject matter of the dispute. No general conclusion concerning all of the Court's competences should be drawn from this example without examining the full text of the judgment; its value lies in demonstrating that analysis of the Court's position must be grounded in specific judgments and the Court's own reasoning rather than in purely institutional description. Furthermore, review of legislation and the limits of the Court's jurisdiction may evolve over time through legislative and jurisprudential developments; in each case, the most recent valid statutory text and related decisions must be examined. The Federal Supreme Court differs fundamentally from independent commissions or administrative councils: the Court is a judicial authority, whereas commissions generally perform administrative, supervisory, or regulatory functions. Nevertheless, both may produce public effects. The difference is that the Court must resolve disputes on the basis of a case and judicial principles and provide reasoned judgments, whereas a commission may simultaneously adopt technical rules and enforce them. If commission decisions are insulated from judicial

review, the risk of combining regulation and adjudication within a single authority increases. (al-Kaabi, 2022)

6.3. Independent Commissions

The Iraqi Constitution accords independent commissions a distinctive position within the governmental structure. Some of these institutions operate in the fields of elections, media and communications, human rights, public integrity, or financial oversight. Their common expected characteristic is that they should be capable of performing specialized functions without improper day-to-day interference by executive authorities. Independence, however, does not mean the absence of accountability. Each commission should possess a clear legal basis, defined jurisdiction, rules governing appointment and removal, a reviewable budget, reporting obligations, and mechanisms for adjudicating objections. (al-Juburi, 2019)

Electoral commissions constitute an important example of independent institutions because their decisions affect the right to political participation and the integrity of electoral competition. Media or telecommunications regulators may likewise decide on licenses, violations, or restrictions on activities and thereby affect freedom of expression and access to information. Integrity and inspection institutions may contribute to detecting corruption, referring cases, and developing administrative standards. In each instance, the combination of multiple functions—policymaking, supervision, investigation, and decision-making—must be accompanied by proportionate procedural safeguards. The test of effective independence does not end with the text of the law. It is necessary to examine how members are selected, the duration of their terms, whether removal is subject to reasons and procedure, whether adequate budget and personnel are available, whether political instructions influence decisions, and whether public reports are issued. At the same time, excessive independence without oversight may transform an institution into an “island of power.” Parliamentary accountability through reporting, financial oversight, judicial review of individual decisions, and informational transparency can strengthen institutional legitimacy without interfering with independent decision-making. (Pakzad, 2022)

Ultimately, it may be stated that the Iraqi system consists of three principal layers: federal legislative and executive authorities; independent and judicial institutions exercising supervisory and interpretive functions; and regional and local levels exercising powers within the federal framework. Alongside these, tribal custom and religious and social authorities play practical roles in certain circumstances, although their social influence must be distinguished from formal legal validity. The defining feature of the Iraqi system is the multiplicity of jurisdictional levels and the importance of the Federal Supreme Court in resolving constitutional disputes. (al-Ubaydi, 2018) Iraq’s central challenge is that federal design and institutional independence require precise rules governing the division of powers, transparency, and effective implementation of judgments. Independent institutions without accountability mechanisms may become centers of insufficiently supervised power; the federal government and regions may interfere with one another’s competences in the absence of clear rules; and customary mechanisms without guarantees of genuine consent and access to courts may weaken individual rights. Accordingly, as in Iran, the ultimate standard of assessment is not merely the institutional title, but the combination of legal basis, limits of competence, procedural guarantees, and independent review.

7. Conclusion

This study demonstrated that the term “quasi-legislative institution” is a descriptive designation rather than an independent legal category under the constitutions of Iran and Iraq. Therefore, determining the status of such institutions requires moving beyond their titles and clarifying four issues: the source of authority, the nature of the decision, the persons affected by it, and the available mechanisms of review. Through this approach, it is possible to distinguish among constitutional institutions, regulatory authorities, independent commissions, quasi-judicial bodies, and customary institutions and to avoid applying a single label to structures with fundamentally different legal effects. In Iran, parliament constitutes the principal reference point for legislation, while the Constitution simultaneously assigns defined functions to the Guardian Council in supervision and interpretation, to the Expediency Discernment Council in dispute resolution, and to the government in executive regulation-making.

Policymaking councils and administrative and quasi-judicial authorities also operate alongside these institutions. In Iraq, the Council of Representatives exists alongside the federal structure, the Federal Supreme Court, independent commissions, and regional and local levels of governance.

Institutional plurality therefore exists in both legal systems, although in Iraq the territorial distribution of powers and the role of independent commissions give this plurality greater prominence. The central problem is not the mere existence of non-parliamentary authorities; rather, it is unclear jurisdictional boundaries, weak publication and reasoning of decisions, concentration of multiple functions within a single institution, absence of independent supervision, and restrictions on citizens' access to justice that may render such authorities incompatible with the rule of law. Conversely, specialized and mediatory institutions, where they operate on the basis of clearly defined authority, within the framework of law, and under proportionate supervision, may improve the efficiency of public administration and facilitate access to dispute resolution. A realistic assessment of the performance of these institutions requires access to updated statutory texts, published judgments, performance reports, and, with regard to customary mechanisms, ethically conducted and regionally grounded field studies. Future research should avoid generalizing the experience of one region to the entire country and should refrain from equating social legitimacy with legal validity.

Ultimately, the rule of law does not require all decisions to be made exclusively by parliament or the courts; rather, it requires that every public or social authority exercising binding power in practice operate within clear limits, issue understandable decisions, produce proportionate effects, and remain accountable for its conduct toward individual rights. Iran and Iraq, notwithstanding their different historical and constitutional structures, share this common standard: no authority should be exempt from legal constraints and access to judicial remedies merely because of specialization, tradition, urgency, or social influence.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

References

- Ahmadi, R. (2018). Normative pluralism and the role of custom in Iran's legal system. *Journal of Legal Sociology*, 4(2), 12-35.
- al-Amiri, A. (2023). The problem of overlapping jurisdictions between formal judicial bodies and quasi-judicial committees in Iraq. *Journal of Legal Research*, 12(1), 120-145.
- al-Hasani, Y. (2020). The role of the Federal Court in protecting rights and freedoms under the Iraqi Constitution. *Journal of Law and Politics*, 5(2), 15-40.
- al-Juburi, A. (2019). The limits of administrative judicial review of regulatory decisions in Iraq: A comparative study. *Journal of Legal and Political Sciences*, 11(2), 112-135.
- al-Kaabi, S. (2022). The interaction between positive law and custom in rural Iraq: A socio-legal study. *Journal of Legal Studies*, 14(4), 300-328.
- al-Khafaji, M. (2017). The independence of quasi-judicial bodies in the Iraqi legal system. *Journal of Law and Political Sciences*, 9(2), 55-78.
- al-Saadi, H. (2021). The role of tribal customs in dispute resolution: A study of legal pluralism in Iraqi society. *University of Baghdad Journal of Legal Sciences*, 8(1), 201-225.
- al-Ubaydi, R. (2018). Constitutional review and the balance of powers in Iraq after 2005. *Al-Rafidain Journal of Law*, 21(3), 89-114.
- Berman, P. S. (2022). Global legal pluralism. *Southern California Law Review*, 80(4), 1155-1237.
- Ghasemi, M. (2023). The position of supervisory boards and regulators in Iran's legal system: A rule-of-law approach. *Journal of Legal and Political Research*, 11(1), 77-102.

- Karimi, J. (2022). Analyzing the role of quasi-judicial bodies in guaranteeing the right to a fair trial in Iran's administrative system. *Journal of Justice Studies*, 12(4), 88-112.
- Mahdavi, K. (2021). Review of decisions of non-parliamentary authorities and its challenges for the rule of law. *Journal of Legal Studies*, 8(3), 201-228.
- Merry, S. (2020). Legal pluralism. *Law & Society Review*, 22(5), 869-896.
- Mousavi, A. (2020). Examining the position of the Supreme Council of the Cultural Revolution's resolutions in the Guardian Council's opinions. *Quarterly Journal of Constitutional Law Studies*, 5(18), 145-170.
- Pakzad, M. (2022). A review of the role of the Expediency Discernment Council in the effectiveness of the Islamic Republic of Iran's legislative criminal policy. *Constitutional Law Research*, 7(2), 15-42.
- Rezaei, S. (2021). A critique of the composition of the General Board of the Court of Administrative Justice for reviewing government regulations and proposing an optimal model. *Journal of Legal Research*, 9(3), 210-235.
- Ubayd, M. (2014). The jurisdiction of the Federal Supreme Court in reviewing the constitutionality of laws. *Kufa Journal of Legal and Political Sciences*, 4(12), 45-68.
- Zamani, H. (2019). Overlapping jurisdictions of formal courts and dispute resolution boards in civil proceedings. *Quarterly Journal of Law and Politics*, 6(2), 33-58.