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

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## 1. Round 1

### *1.1. Reviewer 1*

Reviewer:

In the second paragraph of the Introduction, the statement that the term “quasi-legislative institution” is used “as an analytical label for a spectrum of structures” is defensible, but the manuscript must provide a stronger jurisprudential justification for selecting this terminology rather than established concepts such as delegated legislation, administrative rulemaking, quasi-judicial bodies, regulatory agencies, constitutional review institutions, or non-state normative orders. The term “quasi-legislative” currently functions as an umbrella concept, yet it may obscure more than it clarifies unless the authors explain its added analytical value. The revision should explicitly distinguish “quasi-legislative institution” from “quasi-judicial institution,” “regulatory authority,” “constitutional organ,” and “informal normative institution,” and explain whether the proposed concept is descriptive, functional, comparative, or doctrinal.

In the third paragraph of the Introduction, the sentence “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?” combines norm-making institutions and quasi-judicial institutions within the same central research question, although these categories engage substantially different constitutional concerns. Norm-making principally implicates legislative delegation, hierarchy of norms, legality, and democratic legitimacy, whereas quasi-judicial authority implicates due process, independence, impartiality, and access to courts. The manuscript should either justify analytically why these categories belong within one unified framework or reformulate the research questions into separate but related lines of inquiry. A matrix linking each institutional category to its constitutional concern and review standard would substantially strengthen the conceptual architecture.

In Section 3.1.2, the proposed "multi-stage test" for legitimacy is highly promising, particularly the questions regarding clarity of competence, hierarchy, transparency, review, publication, and proportionality. However, the manuscript does not explain whether all criteria have equal weight or whether some constitute indispensable minimum requirements. The authors should distinguish legality criteria from procedural legitimacy criteria and substantive rights criteria. For example, a clear statutory basis cannot cure violation of fundamental rights, while effective judicial review may mitigate but not necessarily validate an excessively broad delegation. The test should therefore be reformulated as a structured framework, possibly separating legality, procedural due process, institutional accountability, judicial review, and rights compatibility.

In Section 4.1, the sentence "The history of Iranian public law is closely connected with efforts to constrain political power through law and to establish representative institutions" introduces an important historical claim but the historical section is presently too compressed relative to its analytical importance. The manuscript moves rapidly from the Constitutional Revolution to the post-1979 constitutional framework without explaining how earlier patterns of executive decrees, religious authority, administrative decision-making, and legislative centralization contributed to the current institutional configuration. A brief but more precise historical bridge would improve the analysis, especially by showing whether contemporary extra-parliamentary norm-making represents institutional continuity, constitutional redesign, administrative expansion, or a combination of these processes.

In Section 4.2, the paragraph discussing Iraq's "transition from a centralized state to a federal constitution" should more carefully distinguish federalism from decentralization. The statement that the Constitution grants powers to "regions and governorates not incorporated into a region" is correct at a general level, but the manuscript should clarify that regions and non-regional governorates do not necessarily possess identical constitutional statuses or legislative capacities. Because the article later treats territorial norm-making as a significant source of normative plurality, the legal distinction among exclusive federal competences, shared competences, regional powers, and powers of governorates should be presented more precisely. This is particularly important because disputes over residual and concurrent powers are central to Iraqi constitutional practice.

In Section 5.1, the sentence "whenever an extra-parliamentary authority adopts a general rule, it must be determined whether that action is based on valid delegation" correctly identifies the key issue, but the manuscript should distinguish explicit delegation from constitutionally inherent regulatory competence. Not every executive or constitutional norm-making function necessarily derives from parliamentary delegation. Article 138, for example, provides an independent constitutional basis for certain executive regulatory powers, although their exercise remains subordinate to legislation. The analysis should therefore avoid treating all non-parliamentary norm-making as delegated legislation and instead distinguish constitutionally conferred competence, statutory delegation, implied administrative authority, and internal organizational power.

In Section 5.2, the discussion of the Guardian Council states that "its function is to review enacted legislation rather than to adopt an independent body of laws across all fields." This distinction is important, but the analysis should address more directly the normative status and practical effects of the Council's constitutional interpretations. Because official constitutional interpretation may decisively shape the scope of legislative, executive, and institutional powers, it is not sufficient merely to state that interpretation is distinct from ordinary legislation. The manuscript should examine whether such interpretations are binding on public authorities, how they are published, whether interpretive methodology is consistent, and whether there is any institutional mechanism capable of reconsidering or limiting an interpretation over time.

Authors revised the manuscript and uploaded the document.

### *1.2. Reviewer 2*

Reviewer:

In Section 2.1.1, the paragraph beginning "To avoid ambiguity, it is preferable to distinguish among 'legislation,' 'regulation-making,' 'interpretation,' 'supervision,' 'dispute resolution,' and 'social norms'" is central to the article but remains somewhat descriptive. These concepts should be defined through legally measurable criteria rather than through general functional descriptions. For example, legislation may be distinguished by source, rank, generality, democratic authorization, and capacity to alter primary legal rights; administrative regulation may be defined by statutory authorization and subordination

to superior law; constitutional interpretation may be distinguished by authoritative interpretive effect; and quasi-judicial adjudication by individualized application of law through an adversarial or adjudicative procedure. The article would benefit from a concise doctrinal framework establishing these distinctions before applying them to Iran and Iraq.

In Section 2.1.2, the paragraph identifying four dimensions—"source of authority," "nature of the output," "scope of effect and enforcement mechanism," and "review and accountability"—is one of the strongest parts of the manuscript and should be elevated into the formal analytical model of the article. At present, however, these dimensions are introduced conceptually but are not systematically applied in later sections. I recommend that every institution examined in Sections 5 and 6 be assessed explicitly according to the same four dimensions. A standardized comparative structure would allow the reader to determine, for example, the constitutional source, normative output, external legal effect, and review mechanism of the Guardian Council, Expediency Discernment Council, Council of Ministers, Federal Supreme Court of Iraq, and independent commissions on comparable terms.

In the paragraph stating that "five categories may be distinguished," the classification requires further refinement because several categories overlap significantly. For example, a constitutionally established institution may simultaneously perform interpretive, supervisory, adjudicative, or regulatory functions, while an independent commission may also constitute a quasi-judicial body. The authors correctly acknowledge possible overlap, but the typology would be more analytically robust if it distinguished between institutional status and institutional function. A two-dimensional model is recommended: one axis for institutional source or status—constitutional, statutory, executive, private/customary—and another for function—legislative, regulatory, interpretive, supervisory, adjudicative, mediatory. This would avoid treating legally different characteristics as mutually exclusive institutional categories.

In Section 3, the sentence "the constitutional issue is not the existence of this division of labor, but rather the control of its boundaries" expresses an important normative proposition, but it requires a clearer constitutional doctrine of delegation. The article should specify what constitutes a permissible delegation of normative authority and what would amount to an unconstitutional transfer of primary legislative power. The authors should discuss criteria such as statutory intelligibility, definition of purposes and limits, reservation of essential matters to parliament, prohibition of unfettered discretion, and availability of judicial review. Without such criteria, later references to "valid delegation" remain under-theorized and cannot reliably distinguish legitimate administrative regulation from de facto legislation.

In Section 3.1.1, the paragraph on legal pluralism appropriately warns against "the romanticization of custom," but the treatment of customary and tribal mechanisms should be more differentiated between Iran and Iraq. The current discussion largely treats kinship, tribal, religious, and customary authority as a shared regional phenomenon. However, their institutional significance, state recognition, procedural role, and interaction with formal courts may differ substantially between the two jurisdictions and within different regions of each country. The authors should therefore avoid broad national generalizations and identify which forms of customary dispute resolution are legally recognized, tolerated, informally practiced, or legally prohibited. The analysis would also benefit from differentiating voluntary mediation from coercive customary adjudication.

Authors revised the manuscript and uploaded the document.

## 2. Revised

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