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The Role of Judicial Review in the Realization of Constitutional Rights in Iran and Iraq

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Judicial review constitutes one of the principal mechanisms through which constitutional supremacy and the effective protection of constitutional rights are secured. This article comparatively examines the role of constitutional review in Iran and Iraq, focusing on the institutional structure of review, citizens' access to constitutional protection, institutional independence, procedural effectiveness, and the enforceability of constitutional decisions. The study adopts a comparative descriptive-analytical approach and evaluates the Iranian Guardian Council and the Iraqi Federal Supreme Court as two distinct models of constitutional supervision. In Iran, constitutional review is predominantly preventive and is exercised by the Guardian Council before parliamentary enactments acquire final legal force. This model contributes to normative coherence and prevents unconstitutional legislation from entering the legal system, but it does not provide citizens with a general mechanism for direct constitutional complaint. In Iraq, constitutional review is predominantly judicial and subsequent, allowing constitutional questions to arise after laws and regulations have entered into force and providing broader procedural opportunities for interested parties. Nevertheless, the effectiveness of the Iraqi model is affected by challenges relating to institutional stability, political pressure, jurisdictional boundaries, and the practical implementation of constitutional decisions. The comparative analysis demonstrates that neither a political-preventive model nor a judicial-subsequent model is sufficient by itself to guarantee constitutional rights. Effective constitutional protection requires the simultaneous presence of accessible procedures, institutional independence, transparent and consistent constitutional reasoning, clear jurisdictional rules, and reliable enforcement mechanisms. The study concludes that Iran would benefit from developing controlled mechanisms for post-enactment constitutional access and greater transparency in constitutional reasoning, while Iraq requires stronger institutional stability, clearer jurisdictional boundaries, and enhanced safeguards for judicial independence. The comparative experience of both countries shows that the realization of constitutional rights ultimately depends on the functional quality of constitutional review rather than the formal classification of the reviewing institution.

Keywords: *Judicial Review; Constitutional Rights; Guardian Council; Federal Supreme Court of Iraq; Constitutional Supremacy; Comparative Constitutional Law*

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1. Introduction

The practical value of a constitution depends not merely on the declaration of rights and the organization of public power but also on the existence of institutional mechanisms capable of ensuring that public authorities remain within constitutional limits. Constitutional rights may be formulated in broad and authoritative language, yet their effective realization requires procedures through which legislation,

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regulations, administrative action, and the exercise of governmental authority can be measured against superior constitutional norms. Judicial or constitutional review therefore occupies a central position in modern constitutionalism because it transforms constitutional supremacy from an abstract principle into an enforceable institutional commitment. The rule of law presupposes that governmental authority is exercised according to publicly ascertainable legal standards and that public institutions themselves remain subject to law. Raz's conception of the rule of law emphasizes the importance of clear, relatively stable, prospective, and institutionally enforceable legal rules in constraining arbitrary power (Raz, 1979). From this perspective, constitutional review is not simply a technical mechanism for resolving conflicts between ordinary and superior norms. It is part of the institutional structure through which the legal order seeks to secure predictability, accountability, and limits on the exercise of political authority. The interaction between law and political institutions is particularly important in constitutional adjudication because the body exercising review inevitably operates at the boundary between legal interpretation and political decision-making (Friedman, 1962). The effectiveness of constitutional review consequently depends not only on the formal existence of a reviewing institution but also on its legal authority, independence, accessibility, interpretive methods, procedural design, and capacity to produce decisions that are respected and implemented by other institutions.

Comparative constitutional experience demonstrates that there is no single institutional model through which constitutional supremacy must be guaranteed. Some legal systems entrust constitutional review to courts that exercise adjudicatory authority after legislation has entered into force, whereas others establish specialized bodies that review legislation before promulgation or combine legal, political, and institutional forms of supervision. The expansion of constitutional adjudication across different legal systems has increasingly transferred questions once regarded as belonging primarily to legislative or political processes into institutions that employ the language and procedures of constitutional law. Hirschl describes this broader development as part of the movement toward the judicialization of politics and the growing influence of constitutional adjudicatory bodies over matters of substantial political significance (Hirschl, 2004). Stone Sweet similarly demonstrates that constitutional review can reshape relationships among legislatures, executives, courts, and other public bodies because the possibility of constitutional invalidation affects governmental behavior even before a final constitutional decision is issued (Stone Sweet, 2000). Such observations are relevant to the comparison between Iran and Iraq because the two systems have selected markedly different institutional arrangements for constitutional supervision. The Iranian system places the Guardian Council at the center of constitutional and Sharia review of parliamentary legislation, while the Iraqi system recognizes the Federal Supreme Court as an independent judicial institution with constitutional jurisdiction. The comparison is therefore particularly useful for examining whether different formal models of review generate different capacities for realizing constitutional rights.

The Iranian constitutional structure is distinguished by the central role assigned to the Guardian Council in reviewing parliamentary enactments. The Council is not a constitutional court in the conventional judicial sense. Its composition combines Islamic jurists and legal specialists, and its constitutional responsibilities are closely connected to the requirement that legislation conform both to the Constitution and to Islamic standards. Ansari Jam and Raoufi Fard emphasize that the Council simultaneously performs Sharia supervision and constitutional supervision, creating a distinctive normative hierarchy in which constitutional evaluation operates within the broader ideological and legal structure of the Islamic Republic (Ansari Jam & Raoufi Fard, 2023). The constitutional review performed by the Guardian Council is predominantly preventive because legislation adopted by the Islamic Consultative Assembly must undergo review before it can acquire final legal effect. This structure has the important advantage of preventing unconstitutional legislation from entering the legal system at the outset. It can preserve systemic consistency and reduce the possibility that citizens will be subjected for a prolonged period to legislation later found incompatible with superior norms. Sharifani and colleagues identify the Guardian Council's supervision of legislation as an important component of the institutional realization of the rule of law in Iran

(Sharifani et al., 2026). At the same time, the preventive character of review creates a significant limitation from the perspective of individual constitutional justice: ordinary citizens cannot generally bring a direct constitutional complaint before the Guardian Council alleging that an existing statute has violated one of their constitutional rights.

This absence of direct individual access is particularly important because constitutional rights are ultimately experienced through specific governmental decisions, legal restrictions, administrative practices, and applications of statutory rules. An institution that reviews legislation only before its implementation may identify facial constitutional defects but cannot always observe how apparently neutral legislation affects citizens once it is applied in concrete social circumstances. Alidadzadeh and colleagues, in their analysis of the Guardian Council's structure and the authority of its decisions in comparison with other constitutional adjudicatory institutions, highlight the distinctive institutional nature of the Council and the questions that arise concerning the legal authority and consistency of constitutional supervisory decisions (Alidadzadeh et al., 2024). The Iranian system nevertheless contains other mechanisms that contribute to the protection of individual rights, including administrative judicial review and parliamentary complaint procedures. These mechanisms are important because they partially compensate for the absence of a direct constitutional complaint before the Guardian Council. Khabouri Gol Ashkani and colleagues demonstrate that the protection of individual and social rights in Iran cannot be evaluated solely by examining one constitutional institution; rather, guarantees are distributed across several legal and institutional mechanisms (Khabouri Gol Ashkani et al., 2025). The central question, therefore, is not whether the Iranian system possesses mechanisms for rights protection, but whether the constitutional review structure itself provides citizens with a sufficiently direct and effective connection between constitutional rights and constitutional remedies.

Iraq represents a substantially different institutional configuration. The 2005 Constitution recognizes the Federal Supreme Court as a judicial institution entrusted with reviewing the constitutionality of laws and regulations, interpreting constitutional provisions, and resolving constitutional and federal disputes. Constitutional adjudication in Iraq is therefore located within a formally judicial framework rather than a political-legal supervisory council. Al-Abadi connects constitutional adjudication in Iraq with the broader project of constructing a state governed by law, emphasizing the constitutional judiciary as an institutional mechanism for subjecting political authority to superior legal standards (Al-Abadi, 2011). Al-Zawawi likewise presents constitutional adjudication as an essential mechanism for consolidating the rule-of-law state because the supremacy of constitutional norms requires an institution capable of enforcing them against governmental authorities (Al-Zawawi, 2011). The Iraqi system is also distinguishable from the Iranian model because constitutional review can occur after legal rules have entered into force and may arise through disputes concerning their application. This creates a potentially closer relationship between constitutional adjudication and concrete rights claims. Individuals who satisfy procedural requirements may obtain access to constitutional adjudication in circumstances that do not have a direct equivalent in the Iranian Guardian Council model.

The existence of formal judicial access, however, does not automatically guarantee effective constitutional rights. The institutional environment within which a constitutional court operates can substantially influence whether formal jurisdiction is converted into genuine protection. Constitutional adjudication requires a degree of independence from political actors whose decisions may become the object of review. It also requires stable rules governing judicial composition, jurisdiction, admissibility, and the legal consequences of decisions. Kamel Jouzari and Kashkoulian stress the broader relationship between constitutional review institutions and the realization of a law-governed state, suggesting that constitutional supervision must be assessed according to its functional capacity rather than merely its formal classification (Kamel Jouzari & Kashkoulian, 2025). In Iraq, the Federal Supreme Court possesses constitutionally important powers, but questions regarding institutional structure, political pressures, and the boundaries of jurisdiction complicate the assumption that judicialization necessarily produces stronger rights guarantees. Al-Shammari's examination of the Court's competence regarding regulatory decisions of the

Council of Ministers illustrates the practical importance of defining the scope of constitutional jurisdiction and distinguishing constitutional review from other forms of judicial control (Al-Shammari, 2024). The effectiveness of the Iraqi model therefore depends on more than the recognition of a judicial institution; it also depends on whether citizens can use constitutional procedures predictably and whether constitutional decisions can resist political contestation and achieve practical implementation.

The comparison between Iran and Iraq thus presents a broader constitutional problem. Iran demonstrates the potential strengths and weaknesses of centralized, preventive, and institutionally integrated constitutional supervision. Iraq demonstrates the opportunities and difficulties associated with judicial, subsequent, and dispute-oriented constitutional review. Neither system can be evaluated solely through the dichotomy between a "political" and a "judicial" model. A preventive system may contribute strongly to normative consistency while remaining weak in individual access, whereas a judicial system may provide broader procedural opportunities while suffering from political pressure or institutional instability. The objective of this article is to examine how these institutional differences affect the realization of constitutional rights in Iran and Iraq. It adopts a comparative-functional approach that evaluates the two systems through the interconnected dimensions of institutional design, citizens' access to constitutional protection, independence of the reviewing institution, procedural effectiveness, and the enforceability of constitutional decisions. The central argument is that the realization of constitutional rights depends less on the formal designation of a body as judicial or political than on the combination of accessible procedures, institutional independence, transparent constitutional reasoning, consistency of practice, and effective implementation of decisions.

2. Theoretical and Legal Foundations of Judicial Review and Constitutional Rights

Constitutional review derives its normative significance from the principle that the constitution occupies a superior position within the legal hierarchy. If legislation and governmental decisions could contradict the constitution without legal consequence, constitutional supremacy would be largely symbolic. The existence of a superior constitutional text therefore creates a related institutional problem: there must be some mechanism capable of determining whether lower-ranking legal norms are compatible with constitutional requirements and of attaching legal consequences to incompatibility. The rule of law provides one important theoretical foundation for this function. Raz explains the rule of law principally in terms of formal characteristics that enable law to guide conduct, including clarity, stability, prospectivity, and the independence of institutions responsible for applying legal rules (Raz, 1979). Within constitutional systems, these characteristics imply that legislative and executive authorities cannot be permitted to redefine the limits of their own power without meaningful legal supervision. Constitutional review institutionalizes this supervision by creating a process through which governmental action can be tested against constitutional standards. It also gives constitutional rights a juridical dimension: rights cease to be purely declaratory when an institution has authority to identify violations and require legal correction.

The relationship between constitutional law and political power explains why constitutional review has always generated debate about institutional legitimacy. Review necessarily permits one institution to assess the legality of decisions made by another, and when the reviewed decisions have been adopted by elected legislatures, constitutional supervision may appear to place limits on majoritarian decision-making. Friedman emphasizes the close relationship between law and politics and the difficulty of treating legal institutions as entirely separate from their broader political environment (Friedman, 1962). Constitutional adjudication is therefore not politically significant merely because judges or supervisory bodies occasionally decide controversial cases; it is inherently political in the institutional sense that it allocates authority, determines boundaries among public bodies, and can invalidate decisions supported by political majorities. The constitutional legitimacy of review consequently depends upon a defensible allocation of powers and upon procedures capable of demonstrating that decisions are grounded in constitutional norms rather than partisan preferences. This issue is particularly important when comparing Iran and Iraq because neither system exists outside politics, even

though their reviewing institutions differ significantly in formal composition and institutional location.

The growth of constitutional adjudication in modern states has intensified the role of review bodies in defining constitutional meaning. Hirschl's analysis of the emergence of powerful constitutional courts demonstrates how the expansion of judicial review can shift significant political and policy questions into the judicial arena (Hirschl, 2004). Such a development creates possibilities for stronger rights protection, particularly when vulnerable individuals or minorities cannot obtain adequate protection through ordinary political processes. Yet it may also concentrate interpretive authority in a small institution whose members are not directly accountable through electoral mechanisms. Stone Sweet explains that constitutional courts influence not only the disputes formally brought before them but also the legislative process itself, because lawmakers anticipate constitutional scrutiny and may adapt legislation accordingly (Stone Sweet, 2000). This observation reveals an important connection between preventive and subsequent forms of review. Even a court that acts only after enactment can exert preventive influence when legislators take established constitutional jurisprudence into account, while a body that formally performs preventive review may indirectly shape future legislative behavior by consistently articulating constitutional standards.

The classic distinction between political and judicial constitutional review remains useful, but it must not be treated as absolute. Judicial review generally entrusts constitutional interpretation to courts whose decisions emerge through adjudicatory procedures, whereas political review places constitutional supervision in a body associated more directly with the political or legislative structure. In reality, many systems combine elements of both. The Guardian Council illustrates this hybridity particularly clearly. It is institutionally separate from ordinary courts, yet its constitutional judgments employ legal reasoning and exercise authoritative consequences within the legislative process. Its composition also combines juristic and legal expertise. Ansari Jam and Raoufi Fard show that the Guardian Council performs both Sharia and constitutional supervision, a dual function that cannot be reduced to the conventional model of a constitutional court (Ansari Jam & Raoufi Fard, 2023). The Council's constitutional role is therefore better understood as a specialized form of constitutional guardianship that incorporates legal, religious, and institutional elements. Alidadzadeh and colleagues similarly place the Council within a comparative field of constitutional adjudicatory institutions while emphasizing the distinctiveness of its structure and the legal authority of its decisions (Alidadzadeh et al., 2024).

A second major theoretical distinction concerns the timing of constitutional review. Preventive or a priori review occurs before a legal norm enters fully into force. Its primary logic is prophylactic: an unconstitutional norm should be stopped before it can produce legal consequences. This form of review can be efficient because it avoids the social and institutional costs created when unconstitutional laws remain operative for years before being invalidated. It can also support legislative discipline because legislators know that enactments will systematically pass through constitutional scrutiny. The Iranian Guardian Council exemplifies this logic. Sharifani and colleagues treat the Council's involvement in the legislative process as part of its contribution to the rule of law because constitutional supervision operates within the law-making process itself (Sharifani et al., 2026). Preventive review, however, usually takes place in an abstract setting. The reviewing institution considers the text and apparent implications of a measure before concrete disputes have revealed how it affects particular persons. A rule that appears constitutionally acceptable in abstract form may generate serious rights problems through implementation, administrative interpretation, or interaction with other legal rules. Preventive review therefore has a structural difficulty: it can prevent evident constitutional violations but cannot always anticipate the full range of practical consequences.

Subsequent or a posteriori review follows a different logic. It permits constitutional examination after a legal norm has acquired operative force and may therefore arise in connection with actual disputes. This form of review can bring constitutional law closer to lived experience because courts can assess not merely the text of a statute but also its legal effects. The Iraqi Federal Supreme Court broadly reflects this judicial model. Al-Abadi regards constitutional adjudication as a mechanism through which Iraq's constitutional order can be protected against governmental departures from

legality (Al-Abadi, 2011). Al-Zawawi likewise links constitutional judicial control with consolidation of the law-governed state (Al-Zawawi, 2011). Subsequent review can provide remedies where legislative provisions become problematic only through application, but it also has disadvantages. Unconstitutional laws may remain in force until a challenge reaches the competent institution, affected individuals may bear litigation costs, and access may depend on procedural requirements concerning standing, jurisdiction, or admissibility. The superiority of one model over the other therefore cannot be presumed. Their relative effectiveness depends on how they are embedded within the broader constitutional system.

Accessibility is one of the most important criteria for assessing constitutional review from the perspective of rights realization. Constitutional rights are meaningful to citizens when there is a practical route through which an alleged violation can be raised before a competent body. A constitutional system may provide exceptionally sophisticated abstract review yet remain difficult for individuals to use. Conversely, broad standing provisions may exist formally while procedural obstacles, political pressure, expense, delay, or restrictive interpretations make access ineffective in practice. The comparative study of enforcement guarantees for individual and social rights in Iran and Iraq indicates that rights protection must be evaluated through the totality of available institutional guarantees rather than by constitutional text alone (Khabouri Gol Ashkani et al., 2025). This distinction between formal access and effective protection is fundamental. Formal access concerns whether legal procedures exist. Effective protection concerns whether those procedures can realistically produce timely and authoritative remedies.

Institutional independence constitutes another essential criterion. A constitutional review institution is frequently required to assess decisions made by powerful political actors. If appointments, tenure, finances, jurisdiction, or internal functioning are excessively dependent on those actors, constitutional review may become vulnerable to political influence. Judicial status alone does not eliminate this problem. Hirschl's account of constitutional empowerment shows that constitutional institutions can emerge from, and remain connected to, political strategies and institutional interests (Hirschl, 2004). Nor does a nonjudicial structure automatically imply the absence of meaningful independence. What matters is whether the institution possesses sufficient structural and normative autonomy to apply constitutional standards even when doing so conflicts with immediate political preferences. In Iran, debates regarding the Guardian Council concern its appointment structure, its combination of Sharia and constitutional supervision, and the absence of individual petition. In Iraq, questions arise concerning the Court's institutional composition, political environment, and practical ability to maintain authority amid constitutional disputes. Kamel Jouzari and Kashkoulian's analysis underscores that the functional contribution of constitutional review institutions to the law-governed state depends on the quality of their operation, not simply their formal category (Kamel Jouzari & Kashkoulian, 2025).

Transparency and consistency of constitutional reasoning are equally important. Constitutional review develops standards that influence legislatures, administrative authorities, courts, and citizens. If constitutional decisions are insufficiently reasoned, unpredictably applied, or difficult to access, the reviewing institution may resolve individual constitutional questions without successfully guiding the legal system as a whole. Alidadzadeh and colleagues draw attention to issues concerning the authority and structure of Guardian Council decisions within the broader comparative framework of constitutional adjudication (Alidadzadeh et al., 2024). In Iraq, the need for clear jurisdictional boundaries is illustrated by disputes over the Federal Supreme Court's role in reviewing regulatory decisions. Al-Shammari's analysis of regulatory measures issued by the Council of Ministers demonstrates how questions concerning the scope of constitutional jurisdiction affect the practical operation of constitutional supervision (Al-Shammari, 2024). Predictability is therefore closely connected to rights realization. Citizens and public authorities must be able to understand not only what the Constitution says but also how constitutional standards are likely to be applied.

Finally, the enforceability of constitutional decisions determines whether constitutional review produces practical consequences. A reviewing institution may issue legally sophisticated judgments, but rights will remain insufficiently protected if other institutions can

disregard or delay implementation. The authority of constitutional review therefore rests on the relationship between legal finality and institutional compliance. Stone Sweet's analysis of constitutional governance demonstrates that effective constitutional adjudication gradually structures interactions among public bodies by establishing standards that political institutions learn to incorporate into decision-making (Stone Sweet, 2000). This perspective suggests that constitutional review should be evaluated through a combination of factors: the capacity to identify constitutional violations, citizen access to procedures, institutional independence, clarity and consistency of reasoning, binding legal effect, and actual compliance. These criteria provide the theoretical basis for comparing the Iranian and Iraqi systems without assuming that either preventive political-legal supervision or subsequent judicial adjudication is inherently superior.

3. Constitutional Review and Protection of Fundamental Rights in Iran and Iraq

Iran's constitutional review system is centered on the Guardian Council, an institution whose functions cannot be understood without considering its dual responsibility for constitutional and Sharia supervision. The Constitution assigns the Council a decisive role in the legislative process by requiring parliamentary enactments to be examined for compatibility with superior norms before they can become legally operative. The Council consists of twelve members, divided between Islamic jurists and lawyers, and this composition reflects the constitutional system's effort to integrate religious legitimacy with legal expertise. Ansari Jam and Raoufi Fard emphasize that the Council's supervisory activity involves two distinct yet interconnected standards: conformity with Islamic norms and compatibility with the Constitution (Ansari Jam & Raoufi Fard, 2023). This duality has significant implications for constitutional rights because rights analysis does not occur in isolation from the broader normative commitments of the Islamic Republic. The Council must assess legislation within a constitutional order in which Islamic requirements and constitutional provisions interact, and this distinguishes the Iranian system from constitutional courts whose principal normative reference is a secular constitutional text.

The preventive nature of Guardian Council review gives the institution a powerful position in the law-making process. Parliamentary legislation does not simply acquire final legal force upon approval by the legislature; constitutional and Sharia review constitute an additional institutional stage. In functional terms, this means that constitutional supervision is integrated into legislation itself rather than primarily activated by later litigation. Sharifani and colleagues describe the Guardian Council's legislative supervision as a mechanism contributing to realization of the rule of law, because requiring conformity with superior legal standards limits the capacity of the legislature to enact rules beyond constitutional boundaries (Sharifani et al., 2026). This preventive approach can provide substantial systemic benefits. It reduces the possibility that openly unconstitutional rules will operate for long periods, protects the coherence of the legal hierarchy, and creates a routine expectation that legislation must satisfy constitutional standards. In systems relying predominantly on subsequent judicial review, unconstitutional legislation may remain effective until a suitable claimant brings proceedings and the competent court reaches a final judgment. The Iranian model seeks to intervene earlier.

At the same time, the institutional strength of preventive review is accompanied by a significant limitation: the constitutional review process is structurally oriented toward legislation rather than individual constitutional grievances. Ordinary citizens cannot generally approach the Guardian Council in the manner in which a litigant might file a constitutional complaint before a constitutional court. This difference affects the relationship between constitutional rights and remedies. Alidadzadeh and colleagues' comparative analysis of the Guardian Council and constitutional adjudicatory institutions in other jurisdictions demonstrates that the Council occupies a distinctive position because its authority is concentrated on review and interpretation within a specialized constitutional framework rather than ordinary adjudication of individual rights claims (Alidadzadeh et al., 2024). The result is a form of constitutional protection that operates mainly at the level of norm control. If unconstitutional legislation is prevented from entering the legal order, citizens benefit collectively. Yet if a constitutional problem emerges only through implementation or if an apparently valid legal

rule is applied in a manner that disproportionately burdens a particular person, the route from the individual grievance to Guardian Council review is indirect.

The distinction is especially important in relation to the constitutional rights of citizens. Rights such as equality, liberty, property, procedural guarantees, political participation, and social freedoms often acquire meaning through concrete disputes. Legislative text may be general, while actual violations emerge through administrative decisions, selective enforcement, or restrictive interpretations. Preventive constitutional review is less suited to assessing such context-dependent effects because the institution reviews the norm before its implementation. Khabouri Gol Ashkani and colleagues show that enforcement guarantees for individual and social rights in Iran involve a broader network of institutions and procedures rather than exclusive reliance on the Guardian Council (Khabouri Gol Ashkani et al., 2025). The Administrative Justice Court and parliamentary complaint procedures, including the Article 90 mechanism, can address certain forms of governmental misconduct and administrative illegality. These bodies help fill part of the remedial gap, but they do not transform the Guardian Council into an institution of direct constitutional complaint. Consequently, the Iranian system distinguishes between constitutional norm control and other forms of rights protection more sharply than systems where constitutional courts directly hear claims by affected individuals.

The Guardian Council's interpretive authority further strengthens its position within the constitutional order. Constitutional interpretation determines the meaning of institutional powers, legislative competence, and rights guarantees, and the concentration of interpretive authority in one body can generate consistency. At the same time, interpretive authority creates a need for transparent reasoning because constitutional interpretations can have effects far beyond a single legislative measure. Alidadzadeh and colleagues identify the authority of Guardian Council decisions as a major issue in comparative constitutional analysis (Alidadzadeh et al., 2024). Consistency and publication of constitutional reasoning are especially important in a preventive system because citizens rarely encounter constitutional adjudication through direct litigation. Their ability to understand constitutional standards depends substantially on the accessibility of opinions and on the articulation of the principles that guide review. Where reasons are concise or standards appear variable, it becomes more difficult for lawmakers, legal practitioners, and citizens to anticipate how the Council will evaluate future measures.

The interaction between constitutional and Sharia review also affects the conceptualization of rights. Ansari Jam and Raoufi Fard argue that the Iranian supervisory framework accords particular normative significance to Sharia compatibility (Ansari Jam & Raoufi Fard, 2023). This institutional feature means that constitutional rights cannot always be analyzed according to the same assumptions found in constitutional systems based solely on a hierarchy of secular positive norms. The Guardian Council performs a form of constitutional guardianship in which the validity of legislation depends upon conformity with two authoritative normative frameworks. From the perspective of rights realization, this can reinforce legality by subjecting legislation to multiple standards, but it can also generate interpretive complexity where constitutional rights and religious norms require reconciliation. The effectiveness of review thus depends substantially on the clarity with which the Council explains its reasoning and on whether stable interpretive criteria emerge over time.

Iraq's constitutional review system differs fundamentally in both institutional form and procedural orientation. The Federal Supreme Court is constitutionally defined as a judicial body and performs constitutional review within an adjudicatory framework. The 2005 Constitution assigns the Court responsibilities including review of the constitutionality of laws and regulations, interpretation of constitutional provisions, resolution of disputes involving federal authorities, and adjudication of matters arising under the federal constitutional order. Al-Abadi describes constitutional judiciary as an essential component of Iraq's effort to establish a rule-of-law state after periods in which political authority was insufficiently constrained by effective constitutional institutions (Al-Abadi, 2011). The Court's judicial character is significant because constitutional review is structurally connected to legal disputes rather than incorporated exclusively into the legislative process. This enables constitutional issues to emerge after legislation has entered into force and after its practical consequences have become visible.

The Iraqi model therefore possesses an important potential advantage in relation to individual rights. Subsequent constitutional review allows legal norms to be assessed against concrete consequences, and the recognition of avenues through which interested parties can challenge unconstitutional norms creates a more direct relationship between constitutional rights and constitutional adjudication. Al-Zawawi links the consolidation of constitutional judiciary with the development of the rule-of-law state, emphasizing the capacity of constitutional adjudication to restrain the exercise of public authority (Al-Zawawi, 2011). Where individuals can bring constitutional issues before an independent court, constitutional rights may become operative claims rather than solely standards guiding institutional lawmaking. The ability to challenge legislation or regulatory action after implementation also allows the reviewing institution to consider problems that could not easily have been predicted during abstract pre-enactment scrutiny.

Nevertheless, access to the Federal Supreme Court is not equivalent to unlimited constitutional complaint. Jurisdictional boundaries remain significant, particularly where disputes concern individual administrative measures rather than general legal norms. Al-Shammari's examination of the Court's jurisdiction over regulatory decisions issued by the Council of Ministers demonstrates the importance of distinguishing between the constitutionality or legality of general regulatory measures and ordinary administrative adjudication (Al-Shammari, 2024). Constitutional courts cannot function efficiently if every administrative dispute is automatically transformed into constitutional litigation. At the same time, overly restrictive jurisdictional interpretations may reduce the capacity of citizens to obtain constitutional protection when rights violations are embedded in administrative action. The Iraqi system must therefore maintain a workable boundary between constitutional adjudication and administrative justice without allowing that boundary to deprive constitutional rights of practical remedies.

Institutional independence presents another significant concern. A constitutional court may possess extensive formal jurisdiction while operating in a political environment that complicates the exercise of its powers. Kamel Jouzari and Kashkoulian's examination of constitutional review institutions emphasizes that the realization of a law-governed state depends on the actual functioning of supervisory institutions, not simply their formal existence (Kamel Jouzari & Kashkoulian, 2025). Iraq's post-2005 constitutional order has experienced political fragmentation, institutional conflict, and disputes involving federal and regional authorities. Constitutional adjudication in such an environment inevitably places the Federal Supreme Court at the center of politically sensitive controversies. The Court must therefore maintain legal authority while avoiding the perception that constitutional interpretation merely reflects the preferences of competing political actors. This challenge demonstrates why judicial status alone cannot serve as a sufficient measure of independence.

The comparison between the two countries consequently reveals opposite institutional strengths and vulnerabilities. Iran possesses a highly institutionalized preventive review process integrated into legislation, but citizens have limited direct access to the constitutional reviewing body. Iraq provides a judicial framework capable of reviewing constitutional questions after laws have become effective and offers broader procedural pathways, but the effectiveness of this model depends heavily on institutional independence, jurisdictional clarity, and political acceptance of constitutional decisions. Khabouri Gol Ashkani and colleagues' comparative discussion of rights guarantees confirms that neither legal system can be evaluated solely according to the formal breadth of constitutional rights or the existence of a single reviewing institution (Khabouri Gol Ashkani et al., 2025). Rights protection emerges from the interaction of constitutional texts, review bodies, administrative and judicial institutions, procedural opportunities, and enforcement mechanisms. The central comparative issue is therefore not which country possesses the more "judicial" system, but which institutional characteristics most effectively connect constitutional norms to actual protection.

4. Comparative Evaluation of Judicial Review in Realizing Constitutional Rights

A functional comparison of Iran and Iraq demonstrates that constitutional review should be assessed through the relationship among institutional structure, citizen access, independence, procedural predictability, and the practical effect of decisions. The most immediately

visible difference concerns the timing and institutional location of constitutional control. Iran primarily employs preventive supervision exercised by the Guardian Council as part of the legislative process, whereas Iraq relies on judicial constitutional review through the Federal Supreme Court after legal norms have entered the legal order. These differences affect the kinds of constitutional problems each institution is best positioned to address. Preventive review is particularly effective in excluding facially unconstitutional legislation before it produces legal consequences, while subsequent adjudication is better suited to identifying constitutional defects revealed through implementation. Kamel Jouzari and Kashkoulian's account of constitutional review institutions supports a functional understanding in which effectiveness is measured by contribution to a law-governed state rather than by formal institutional classification (Kamel Jouzari & Kashkoulian, 2025). On this basis, the relevant question is not whether judicial review is inherently superior to political-legal supervision, but whether each mechanism adequately prevents, identifies, and remedies constitutional violations.

Citizen access reveals one of the clearest differences between the two systems. The Iranian Guardian Council does not operate as a constitutional complaint court for ordinary citizens. Constitutional review is primarily triggered through the legislative process and institutional channels rather than individual applications alleging violation of constitutional rights. This feature can distance constitutional jurisprudence from concrete experiences of rights infringement. Khabouri Gol Ashkani and colleagues demonstrate, however, that Iran has several additional mechanisms for protecting individual and social rights, meaning that the absence of direct Guardian Council access should not be equated with the complete absence of legal remedies (Khabouri Gol Ashkani et al., 2025). Administrative judicial review can address unlawful governmental action, and parliamentary mechanisms can receive complaints concerning the functioning of public institutions. These alternative routes are important, but they fragment rights protection across different bodies and do not provide a single procedure through which an individual can ask the constitutional reviewing institution to invalidate a statute because it violates a constitutional right.

This fragmentation creates both institutional resilience and remedial complexity. On the one hand, rights protection does not depend on a single constitutional tribunal. On the other hand, an individual may obtain relief against an administrative decision without securing review of the statutory basis from which the decision arose. The constitutional problem can therefore persist beyond the individual case. A carefully designed individual-access mechanism could potentially strengthen the Iranian model without eliminating preventive review. Such a mechanism need not convert the Guardian Council into an ordinary court or permit unlimited constitutional petitions. Access could be filtered through standing requirements, referral procedures, or designated judicial institutions. The objective would be to create a controlled pathway through which constitutional issues emerging after implementation could return to the constitutional supervisory level. Alidadzadeh and colleagues' comparative analysis of constitutional adjudicatory institutions highlights the importance of examining not merely the formal authority of the Guardian Council but also how its institutional design affects constitutional supervision (Alidadzadeh et al., 2024). A limited ex post mechanism could complement rather than replace the Council's existing preventive role.

Iraq provides broader potential access because constitutional review is vested in a court and can be connected to disputes arising after laws or regulations become operative. This structure creates a more direct pathway between constitutional injury and constitutional adjudication. Al-Abadi views the constitutional judiciary as essential to realizing a law-governed state in Iraq because effective constitutional supremacy requires the possibility of judicial enforcement against public power (Al-Abadi, 2011). Yet the mere existence of a judicial route does not determine whether constitutional justice is genuinely accessible. Procedural standing, the definition of an interested party, jurisdictional boundaries, litigation costs, delay, and the distinction between constitutional and administrative disputes all shape the real availability of review. Al-Shammari's discussion of the Federal Supreme Court's jurisdiction over regulatory decisions of the Council of Ministers illustrates how disputes about jurisdiction can influence whether constitutional claims remain within the Court's competence or are redirected

elsewhere (Al-Shammari, 2024). Therefore, Iraq's relative advantage in formal access must be qualified by examination of how the Court interprets and administers its jurisdiction.

A second major comparative dimension is institutional independence. Constitutional review requires the reviewing institution to make decisions that may frustrate legislative majorities, executive preferences, or influential political actors. Formal independence is therefore necessary but insufficient. The institution must also possess organizational stability, authoritative procedures, and a political environment in which adverse decisions can be implemented. Hirschl's analysis of constitutionalization warns against treating judicial empowerment as automatically synonymous with neutral rights protection because the creation and operation of constitutional courts may remain deeply connected to political structures and strategic interests (Hirschl, 2004). This observation applies especially strongly to Iraq, where constitutional litigation frequently intersects with disputes over federalism, governmental formation, institutional competence, and politically sensitive regulatory action. A court with extensive jurisdiction can become more vulnerable to political pressure precisely because its decisions matter so much.

Iran faces a different independence problem. The Guardian Council's composition and appointment process place it outside the conventional model of judicial independence. Yet this does not mean that its decisions are simply political acts. The Council is a constitutionally established institution with specialized functions and a stable role in legislative review. Sharifani and colleagues emphasize its contribution to the realization of the rule of law through supervision of the legislative process (Sharifani et al., 2026). Its institutional continuity may provide greater predictability than systems in which constitutional courts face recurring structural disputes. However, the concentration of constitutional interpretation and pre-enactment review in a body whose membership is linked to other constitutional authorities raises legitimate questions about the extent to which institutional design supports independent rights-oriented scrutiny, especially where politically significant legislation is involved. The relevant comparative insight is that independence takes different forms in the two systems: Iran's central issue concerns structural distance and access, whereas Iraq's concerns include political contestation and institutional stability.

Procedural transparency represents a third comparative criterion. Constitutional review does more than approve or invalidate individual measures; it communicates constitutional standards to lawmakers, administrators, judges, and citizens. Reasoned and accessible decisions can create a body of constitutional doctrine that guides future conduct. Stone Sweet shows that constitutional adjudication can influence legislative behavior because political actors adapt to established constitutional expectations (Stone Sweet, 2000). Such anticipatory effects depend heavily on the clarity and predictability of constitutional jurisprudence. If a review body simply announces incompatibility without articulating consistent reasoning, its decisions may resolve immediate disputes while providing limited guidance for future legislation. Alidadzadeh and colleagues' attention to the authority of Guardian Council decisions is relevant here because the legitimacy and systemic usefulness of constitutional supervision are strengthened when decision-making standards can be identified and compared over time (Alidadzadeh et al., 2024). Greater publication of detailed reasoning would improve the capacity of legal professionals and legislators to understand constitutional boundaries.

The same requirement applies to Iraq. Judicial decisions generally carry an expectation of reasoned adjudication because courts justify outcomes through legal analysis. However, the existence of written judgments does not by itself ensure doctrinal consistency. Constitutional interpretation can become unpredictable where methodological standards are insufficiently developed or where politically sensitive disputes encourage shifts in reasoning. Al-Zawawi's account of constitutional judiciary and the rule-of-law state underscores the need for constitutional adjudication to operate as a legal institution rather than a substitute political forum (Al-Zawawi, 2011). Stable interpretive methodology contributes to this objective because it constrains discretionary reasoning and allows constitutional actors to anticipate how the Court will approach comparable cases. Greater doctrinal consistency is particularly important when the Court adjudicates disputes concerning the scope of federal authority or the legality of executive regulatory decisions.

The enforceability of decisions is another decisive distinction between formal and effective constitutional protection. In the Iranian preventive system, an important enforcement advantage derives from timing. A parliamentary enactment that fails to obtain the necessary constitutional approval does not simply remain operative pending later litigation. The review mechanism is built into the process through which legislation acquires final validity. This structure can make enforcement relatively direct because the legislature must address objections before the measure proceeds. Sharifani and colleagues' treatment of the Guardian Council within the legislative process illustrates how constitutional supervision is embedded in institutional lawmaking rather than dependent upon post hoc compliance (Sharifani et al., 2026). From a systemic perspective, this is a substantial strength. The weakness is that enforcement primarily protects the constitutional order at the normative level and may not respond as effectively to unconstitutional effects that emerge only during application.

In Iraq, Federal Supreme Court decisions possess binding constitutional significance, and the Court can remove unconstitutional norms or definitively interpret constitutional provisions. Judicial review therefore provides a potentially powerful remedial mechanism. Yet the practical effectiveness of judgments depends on implementation by political and administrative authorities. Al-Abadi's conception of constitutional judiciary as a component of the law-governed state assumes that constitutional decisions possess authority over other public institutions (Al-Abadi, 2011). Where compliance is delayed, contested, or politicized, the gap between judicial declaration and effective constitutional protection widens. This is one reason that institutional legitimacy matters. A constitutional court cannot rely solely on coercive power; much of its authority depends on the willingness of other institutions to treat constitutional judgments as final and binding.

The two systems also differ in the relationship between abstract norm control and concrete rights protection. Iran is stronger in systematic preventive review because every relevant parliamentary enactment is subjected to constitutional scrutiny, but weaker in enabling individuals to transform concrete constitutional injuries into constitutional challenges. Iraq is stronger in connecting constitutional review to post-enactment legal disputes but may face greater uncertainty regarding standing, admissibility, jurisdictional boundaries, and political compliance. Khabouri Gol Ashkani and colleagues' comparative examination of individual and social rights suggests that neither system can be reduced to a simple ranking in which broader formal judicial access necessarily equals stronger rights guarantees (Khabouri Gol Ashkani et al., 2025). Rights may be protected through multiple institutional routes, and the effectiveness of each route depends on its design and operation.

A more effective Iranian model would preserve the advantages of preventive review while improving responsiveness to rights violations revealed through implementation. The strongest reform would therefore not necessarily be the replacement of the Guardian Council with a constitutional court. Instead, reform could focus on procedural access, transparency, and complementary review. A controlled mechanism permitting constitutional questions to be referred from courts or qualified individual claims could address the principal weakness of purely preventive supervision. Greater publication of constitutional reasoning and more explicit articulation of review standards could also improve predictability. Ansari Jam and Raoufi Fard's analysis of the simultaneous exercise of Sharia and constitutional supervision demonstrates the complexity of the Council's evaluative task (Ansari Jam & Raoufi Fard, 2023). That complexity increases rather than reduces the need for reasoned explanations showing how constitutional rights and Sharia standards are interpreted in relation to one another.

For Iraq, reform priorities are different. The basic judicial model already provides substantial constitutional jurisdiction, so the central challenge is to strengthen the conditions under which that jurisdiction operates. Institutional stability, clear procedures for appointment and composition, transparent standing requirements, predictable jurisdictional boundaries, and consistent interpretive methodology would improve the Court's capacity to protect constitutional rights. Al-Shammari's analysis demonstrates the practical importance of clarifying the distinction between the Federal Supreme Court's constitutional competence and administrative judicial review (Al-Shammari, 2024). Citizens should be able to determine with reasonable confidence where a constitutional claim belongs and

what procedural requirements govern it. Uncertainty concerning forum and jurisdiction can itself become a barrier to rights protection.

The most important comparative conclusion is therefore that access and independence must be considered together. Iran possesses institutional continuity and systematic preventive supervision but offers limited direct citizen access to constitutional adjudication. Iraq offers broader judicial channels but must ensure that those channels operate through a stable and independent constitutional institution. Kamel Jouzari and Kashkoulian's functional perspective supports the conclusion that constitutional review contributes to a law-governed state only when its institutional form is accompanied by practical effectiveness (Kamel Jouzari & Kashkoulian, 2025). A reviewing body that citizens cannot reach may fail to address concrete constitutional injuries, while an accessible court that lacks institutional independence may fail to provide reliable protection. Effective constitutional review therefore requires a combination of accessibility, independence, procedural clarity, consistency, transparency, and enforceability.

The Iranian and Iraqi experiences also suggest that constitutional review should be understood as part of a broader constitutional ecosystem rather than an isolated institutional function. Legislatures must internalize constitutional standards, ordinary courts must apply rights consistently, administrative bodies must respect legal limitations, and political authorities must accept constitutional decisions. Stone Sweet's analysis of constitutional governance demonstrates that the influence of constitutional adjudication extends into the behavior of other institutional actors (Stone Sweet, 2000). The long-term effectiveness of review therefore depends on the development of a constitutional culture in which constitutional reasoning becomes integrated into ordinary governmental decision-making. In Iran, stronger articulation of constitutional rights standards during legislative review could improve this anticipatory function. In Iraq, greater consistency in Federal Supreme Court jurisprudence could enable legislatures and executive authorities to anticipate constitutional limits before disputes arise.

Ultimately, the comparison undermines any simple claim that judicial review is necessarily more rights-protective than political or preventive review. Judicialization can provide powerful remedies and individual access, but it can also generate problems of politicization, institutional overreach, or unstable jurisprudence. Hirschl's analysis of the expansion of constitutional judicial power illustrates the need to assess the consequences of judicial empowerment rather than assuming that stronger courts automatically produce stronger constitutionalism (Hirschl, 2004). Conversely, preventive supervision can contribute significantly to constitutional legality while leaving individuals without a direct constitutional remedy. The appropriate standard of evaluation is therefore functional: whether the institutional system as a whole can prevent constitutional violations, identify those that occur, provide accessible remedies, preserve the independence of constitutional decision-making, and ensure that constitutional judgments have practical effect.

5. Conclusion

The comparison of constitutional review in Iran and Iraq demonstrates that the effective realization of constitutional rights cannot be explained by a simple opposition between political and judicial models of review. The two countries have constructed fundamentally different institutional mechanisms for preserving constitutional supremacy, yet each mechanism combines important advantages with structural limitations. Iran relies principally on a centralized and preventive model in which the Guardian Council examines parliamentary enactments before they acquire final legal validity. Iraq, by contrast, places constitutional review within the Federal Supreme Court and adopts a predominantly judicial and subsequent model capable of addressing constitutional questions after legal norms have entered into force. These differences influence not only institutional relations but also the practical ways in which constitutional rights can be protected.

The Iranian model possesses a significant systemic strength because constitutional scrutiny is integrated directly into the legislative process. Potentially unconstitutional legislation can be identified before it begins producing legal consequences, and the routine character of review reinforces the superior normative position of the Constitution. The institutional continuity of the Guardian Council also creates a stable center for constitutional interpretation and legislative supervision. This arrangement can promote coherence within the

legal system and encourage the legislature to consider constitutional limitations during the drafting and enactment of legislation. Preventive review therefore performs an important protective function even though it is not organized around individual litigation.

The principal weakness of the Iranian model is the distance between constitutional review and individual constitutional grievance. Citizens do not possess a general direct route for bringing allegations of statutory unconstitutionality before the Guardian Council. Rights protection is consequently divided between preventive constitutional supervision and other mechanisms such as administrative judicial review and parliamentary complaint procedures. These alternative mechanisms provide meaningful forms of legal protection, but they do not fully resolve the problem created when the constitutional defect lies in the statute itself or becomes visible only after implementation. Preventive review can assess the apparent meaning of legislation, but it cannot always predict how legal rules will affect different persons in actual social and administrative contexts.

This limitation suggests that reform in Iran should focus on complementing rather than dismantling the existing preventive model. A carefully controlled mechanism allowing constitutional issues to reach the constitutional supervisory level after implementation could strengthen rights protection without sacrificing the advantages of pre-enactment review. Such access could operate through judicial referrals, qualified petitions, or another filtering procedure designed to prevent excessive caseloads while ensuring that serious constitutional rights claims receive authoritative examination. Greater transparency in constitutional reasoning would further strengthen the system. The publication of fuller reasons, clearer constitutional standards, and more consistent criteria for evaluating legislation would make the constitutional framework more predictable for citizens, lawyers, legislators, and administrative authorities.

Iraq's constitutional arrangement provides a different set of strengths. The Federal Supreme Court gives constitutional review a clearly judicial character and creates the possibility that constitutional disputes will be examined after the consequences of legislation and regulatory action have become apparent. This allows constitutional rights to function more directly as legal claims capable of being asserted within an adjudicatory framework. The judicial model can also provide authoritative remedies against unconstitutional laws and governmental actions and can clarify the distribution of powers among public institutions. In this respect, Iraq offers a closer formal connection between constitutional rights and constitutional justice than the Iranian Guardian Council model.

Yet the Iraqi experience demonstrates that formal judicial access is not enough. Constitutional adjudication becomes genuinely effective only when the court exercising it possesses institutional independence, stable legal foundations, predictable procedures, and the practical authority necessary to secure implementation of its judgments. Political pressure can weaken public confidence in constitutional adjudication even where a court possesses extensive formal powers. Uncertainty regarding jurisdiction can also reduce effective access by making it difficult for litigants to determine whether a dispute belongs before the constitutional court or another judicial institution. The effectiveness of the Federal Supreme Court therefore depends upon the consolidation of institutional stability and the development of coherent constitutional jurisprudence.

The distinction between procedural access and effective rights protection is one of the principal findings of the comparison. Iraq provides broader formal opportunities for constitutional litigation, but those opportunities must operate within an institution capable of acting independently and consistently. Iran provides more systematic preventive review, but systemic scrutiny cannot completely substitute for an individual's ability to obtain constitutional consideration of a concrete rights violation. Each model therefore possesses one element that the other demonstrates to be indispensable: Iran illustrates the value of institutionalized and routine constitutional supervision, while Iraq illustrates the importance of linking constitutional rights to adjudicatory procedures accessible after implementation.

The comparison also shows that constitutional independence must be understood functionally rather than formally. A body does not become genuinely independent merely because it is called a court, nor is constitutional supervision automatically ineffective because it is performed by an institution outside the ordinary judiciary. Independence concerns the reviewing institution's capacity to apply constitutional standards without being controlled by the authorities

whose actions it reviews. This capacity depends on appointment arrangements, institutional continuity, legal authority, decision-making procedures, transparency, and the broader political acceptance of constitutional limitations. Consequently, reform should focus less on institutional labels and more on the safeguards that enable impartial and authoritative constitutional decision-making.

Consistency of constitutional reasoning is similarly central to the realization of rights. Constitutional review should guide future conduct rather than merely resolve isolated questions. When review institutions articulate clear standards, legislatures can draft more constitutionally compliant laws, administrative institutions can adapt their practices, courts can apply constitutional principles consistently, and citizens can understand the boundaries of governmental authority. Transparent reasoning therefore has a preventive effect even in systems organized around subsequent judicial review. Conversely, inconsistent or insufficiently explained decisions weaken both legal certainty and public confidence.

The practical realization of constitutional rights also depends on the relationship between constitutional review and the broader legal system. No constitutional institution can protect rights in isolation. Administrative courts, ordinary courts, legislatures, executive agencies, parliamentary institutions, and other public bodies all participate in implementing constitutional norms. The effectiveness of constitutional review therefore depends partly on whether these institutions recognize constitutional principles as binding standards of everyday governance. A strong constitutional order is one in which constitutional considerations influence governmental action before litigation becomes necessary, while effective remedies remain available when violations nevertheless occur.

For Iran, the most significant priorities are to narrow the distance between constitutional supervision and individual rights claims, strengthen transparency in constitutional reasoning, improve the predictability of review standards, and reinforce complementary institutions capable of addressing constitutional injuries arising through implementation. These reforms can be developed without abandoning preventive review. Indeed, preserving preventive scrutiny while adding controlled forms of subsequent constitutional consideration could produce a more comprehensive structure in which unconstitutional legislation is both prevented where possible and challengeable where unforeseen problems emerge.

For Iraq, the main priorities are to reinforce the institutional foundations of the Federal Supreme Court, preserve its independence from political pressure, clarify jurisdictional boundaries, improve procedural predictability, and ensure consistent implementation of constitutional judgments. The judicial model already contains the basic mechanisms required for rights-oriented constitutional adjudication. Its effectiveness depends primarily on strengthening the institutional environment in which those mechanisms operate. Greater stability would allow the Court to develop constitutional doctrine over time and would make constitutional protection less dependent on immediate political circumstances.

Neither Iran nor Iraq has therefore achieved a complete equilibrium between the systemic protection of constitutional supremacy and the individual protection of constitutional rights. Iran's system favors preventive normative coherence but limits direct individual constitutional access. Iraq's system provides broader judicial possibilities but confronts challenges arising from institutional and political conditions. These contrasting experiences demonstrate that neither preventive supervision nor judicial adjudication alone constitutes a sufficient guarantee of constitutional rights. The decisive requirements are instead cumulative. Constitutional rights are most effectively realized when citizens have realistic access to procedures capable of addressing constitutional violations, when the reviewing institution enjoys sufficient independence to decide against powerful governmental actors, when constitutional standards are transparent and predictable, when decisions carry binding legal consequences, and when other public institutions accept and implement those decisions. Institutional design matters, but it matters because it shapes these substantive conditions.

Accordingly, the Iranian and Iraqi experiences should not be understood as competing examples from which one model must be selected as universally superior. They reveal complementary lessons about constitutional governance. Iran demonstrates the value of embedding constitutional scrutiny within the legislative process but

also the risks of separating constitutional review from individual constitutional litigation. Iraq demonstrates the importance of judicial access but also the vulnerability of constitutional justice when institutional stability and independence are contested. A more effective constitutional system in either country would therefore draw on these comparative lessons by combining systematic constitutional supervision with meaningful access, institutional autonomy, reasoned decision-making, and reliable enforcement.

The realization of constitutional rights ultimately requires constitutional review to function as a practical bridge between the normative promises of the Constitution and the lived relationship between citizens and public power. Rights become effective not merely because they are written in constitutional text, but because institutions can prevent their violation, identify unconstitutional conduct when it occurs, provide authoritative remedies, and require public authorities to respect constitutional limitations. The comparative experience of Iran and Iraq confirms that the quality of this institutional bridge, rather than the formal label attached to the reviewing body, is the central determinant of effective constitutional protection.

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

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