Standards for the Independence of Constitutional Review Bodies in Iraqi, Egyptian, and Iranian Legislation: A Comparative Study

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Abstract

The independence of constitutional review bodies constitutes a fundamental guarantee for preserving constitutional supremacy, protecting rights and freedoms, and maintaining an effective balance among the branches of government. This study examines the legal and institutional standards governing the independence of constitutional review bodies in Iraq, Egypt, and Iran through a comparative analytical approach. It focuses on the principal safeguards that shape institutional and personal independence, including constitutional status, composition, appointment and selection procedures, professional qualifications, security of tenure, removal mechanisms, administrative autonomy, financial independence, and functional freedom in exercising constitutional review. The study compares the Federal Supreme Court of Iraq, the Supreme Constitutional Court of Egypt, and the Guardian Council of Iran in order to identify the strengths and limitations of each model. The findings indicate that the three systems recognize the importance of protecting constitutional review from improper external influence, but they adopt different institutional mechanisms. Iraq provides constitutional recognition of the Federal Supreme Court but continues to require a coherent legislative framework governing key aspects of its composition, membership, and institutional autonomy. Egypt offers a developed specialized constitutional judiciary with significant safeguards for judicial independence, although appointment mechanisms have historically raised concerns regarding executive influence. Iran establishes a detailed constitutional framework for the Guardian Council, including fixed composition, defined membership categories, six-year terms, and staggered renewal, while the participation of several constitutional authorities in member selection raises questions concerning substantive independence. The study concludes that genuine independence cannot be secured by a single safeguard. Instead, it requires an integrated framework combining constitutional entrenchment, balanced appointment mechanisms, objective qualifications, secure tenure, protection against arbitrary removal, administrative self-government, financial safeguards, and functional autonomy. Strengthening these elements is essential to ensuring effective, impartial, and credible constitutional review.

Keywords: Constitutional Review; Judicial Independence; Federal Supreme Court of Iraq; Supreme Constitutional Court of Egypt; Guardian Council of Iran; Constitutional Adjudication; Separation of Powers; Comparative Constitutional Law

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1. Introduction

Constitutional review occupies a distinctive position within contemporary constitutional systems because it transforms the supremacy of the constitution from an abstract political principle into an enforceable legal rule. A constitution cannot effectively occupy the highest position in the hierarchy of norms unless an institution is capable of determining whether legislation and other exercises of public power conform to its requirements. Constitutional adjudication therefore performs a dual function: it preserves the normative superiority of the constitution and restrains public authorities within the limits of their constitutionally defined powers. The emergence of specialized constitutional courts and other constitutional review bodies reflects the recognition that ordinary political mechanisms are not always sufficient to secure constitutional limits. The institution exercising constitutional review must consequently possess a degree of independence commensurate with the sensitivity of its functions. As Al-Shaikh emphasizes, independence in constitutional adjudication is particularly significant because the reviewing institution may be called upon to invalidate legislation adopted by representative institutions or to resolve disputes involving the highest organs of the state (Al-Shaikh, 2003). This function places the constitutional review body at the intersection of law and politics and makes its institutional position fundamentally different from that of many ordinary judicial institutions.

The independence of constitutional adjudication cannot be reduced to a formal declaration that a particular court or council is independent. The actual effectiveness of constitutional review depends on a combination of structural, personal, functional, administrative, and financial guarantees. Constitutional adjudication must be organized in such a way that neither the legislature whose enactments are reviewed nor the executive whose exercise of authority may be constitutionally constrained can exercise decisive control over the reviewing institution. Mansouri explains that the institutional design of constitutional adjudication has a direct relationship with its capacity to perform constitutional control effectively (Mansouri, 2014). The composition of the body, the method by which its members are selected, the authorities participating in appointment, the qualifications required for membership, the duration of office, the grounds for termination of membership, and the internal organization of the institution all influence the extent to which constitutional review can operate without external pressure. Similarly, constitutional independence must include protection against less visible forms of influence. A court may be formally independent but remain vulnerable when another branch controls its budget, administrative personnel, appointment procedures, or institutional continuity. Constitutional independence must therefore be assessed functionally rather than exclusively textually.

The relationship between constitutional review and the separation of powers further explains the significance of institutional independence. Constitutional courts are not merely passive interpreters of constitutional texts. Their decisions may determine the permissible boundaries of legislative action, affect executive authority, resolve institutional disputes, and influence the relationship among constitutional organs. Al-Shaer associates constitutional adjudication with the broader organization of constitutional authority and the preservation of constitutional limitations on state institutions (Al-Shaer, 1972). At the same time, the existence of a powerful constitutional review body creates an institutional paradox: the body must be sufficiently independent to control political authorities, while its own composition and powers necessarily originate in constitutional or legislative arrangements adopted through political processes. The central design problem is therefore not the complete isolation of constitutional adjudication from the constitutional system, which is neither realistic nor desirable, but the establishment of legal arrangements that prevent participation in appointment or organization from becoming continuing institutional domination.

Judicial independence more generally has both an institutional and an individual dimension. Institutional independence concerns the position of the court or reviewing body as an organ of the state and its freedom from subordination to other authorities. Individual independence concerns the ability of each member to perform constitutional duties without fear of removal, retaliation, arbitrary non-renewal, financial pressure, or political disadvantage. Abdullah stresses that constitutional protection of judicial independence requires safeguards directed both to the judiciary as an institution and to judges in the performance of their functions (Abdullah, 2009). In constitutional adjudication, this distinction is particularly important because even a formally autonomous court may fail to act independently if its members remain dependent upon the authorities that appointed them. Conversely, strong individual tenure protections may not be sufficient when the institution itself lacks control over essential administrative or financial matters. Effective independence thus results from the interaction of multiple safeguards rather than from any single legal rule.

The comparative examination of Iraq, Egypt, and Iran is especially useful because the three systems employ different institutional arrangements for constitutional review. Iraq entrusts constitutional adjudication to the Federal Supreme Court, which occupies a central place within the federal constitutional structure and exercises functions related to constitutional interpretation and the constitutionality of legislation. The development of constitutional adjudication in Iraq has been closely connected to transformations in the country's constitutional and political system. Maki examines the Federal Supreme Court as a key institution within the post-2003 Iraqi constitutional order (Maki, 2007), while Younes emphasizes the importance of its constitutional jurisdiction in controlling legislative conformity with the constitution (Younes, 2008). Al-Talib likewise situates the Iraqi model within the broader development of constitutional adjudication and its institutional requirements (Al-Talib, 2015). The Iraqi experience is therefore significant not only because of the Court's extensive constitutional functions but also because questions concerning its composition, membership, and legislative organization directly affect the strength of its independence.

Egypt represents a more established specialized constitutional-court model. The Supreme Constitutional Court developed within a legal framework that gradually distinguished constitutional adjudication from ordinary judicial activity and gave the Court a specialized institutional position. Al-Jamal's analysis of constitutional adjudication in Egypt demonstrates the central role of the Supreme Constitutional Court in the Egyptian legal order (Al-Jamal, 2011). The Egyptian model is particularly valuable for comparative analysis because it combines explicit recognition of judicial independence with detailed legal arrangements concerning the Court's membership and internal functioning. However, its historical appointment arrangements also reveal the tension that can arise when the executive authority possesses a significant role in appointing the president or members of a constitutional court. The Egyptian experience therefore demonstrates that the existence of a specialized constitutional court does not itself resolve the problem of independence; the manner in which institutional autonomy and appointment authority are regulated remains decisive.

Iran employs a substantially different mechanism. Constitutional review is exercised principally through the Guardian Council, whose constitutional status, composition, and functions differ from those of a conventional constitutional court. The Council combines constitutional review with examination of the conformity of legislation with Islamic criteria and performs additional constitutional functions. Jafari Shah Mansouri and Hosseini show that the Guardian Council constitutes a distinctive institutional model whose composition and powers must be understood within the specific framework of the Iranian constitutional order (Jafari Shah Mansouri & Hosseini, 2025). Six Islamic jurists and six legal experts participate in the Council, and their selection involves the Supreme Leader, the Head of the Judiciary, and the Islamic Consultative Assembly. Arifi, Khademi, and Ghaffari focus specifically on the independence of the legal experts of the Guardian Council and demonstrate the relevance of the appointment process to assessments of independence (Arifi et al., 2022). The Iranian model consequently provides a useful contrast with specialized constitutional courts because constitutional review is entrusted to a constitutionally established council whose membership and functions are integrated into a different institutional configuration.

The comparison among these three systems should not be based on the assumption that one institutional form is inherently independent and another inherently dependent. Rather, the appropriate inquiry concerns the legal safeguards surrounding the constitutional review function. A constitutional court may enjoy strong formal judicial status yet remain vulnerable through appointment or administrative arrangements, while a constitutional council may possess significant institutional stability despite not conforming to the conventional judicial model. Muhammadpour, Ghotbi, and Karami's examination of oversight concerning the Guardian Council and its members illustrates the importance of analyzing the internal legal position of members rather than relying exclusively on institutional labels (Muhammadpour et al., 2019). Similarly, the Iraqi and Egyptian experiences show that the independence of constitutional adjudication depends upon how legal provisions governing composition, appointment, tenure, and institutional administration operate together.

The problem examined in this article concerns the adequacy of the legislative and constitutional standards governing the independence of constitutional review bodies in Iraq, Egypt, and Iran. The central question is whether these systems provide a sufficiently integrated framework to protect constitutional review from institutional, political, and personal influence. This requires attention to several interconnected issues: whether the constitutional review body itself is established and protected at the constitutional level; whether its composition can be altered through ordinary political processes; whether appointment mechanisms distribute authority in a way that limits domination by one branch; whether members possess appropriate

professional qualifications and security of tenure; whether removal and replacement rules protect them against retaliation; and whether administrative, functional, and financial arrangements enable the institution to exercise its powers independently. The objective is not simply to describe three constitutional systems but to identify the standards through which independence can be assessed and to reveal the comparative strengths and vulnerabilities of each model.

The article adopts a descriptive-analytical and comparative approach. It analyzes the constitutional and legislative organization of the Federal Supreme Court of Iraq, the Supreme Constitutional Court of Egypt, and the Guardian Council of Iran and then compares the safeguards relevant to their institutional and functional independence. The focus is deliberately limited to independence. Matters concerning constitutional jurisdiction are addressed only when necessary to explain why particular guarantees are required, and broader historical or political questions are excluded unless they bear directly on the legal safeguards of constitutional review. This approach makes it possible to distinguish the existence of constitutional review from the more demanding requirement of independent constitutional review and to evaluate independence as a composite legal condition involving institutional status, formation, appointment, tenure, personal safeguards, and organizational autonomy.

2. Institutional and Constitutional Standards of Independence

The first requirement for meaningful constitutional independence concerns the legal foundation of the body entrusted with constitutional review. Because this institution is responsible for protecting the constitution against violations committed through ordinary exercises of governmental authority, its own existence should not depend entirely on those authorities whose conduct it reviews. Constitutional recognition therefore provides a fundamental structural safeguard. Al-Hilu situates constitutional institutions within the organization of public powers established by the constitution and emphasizes the importance of constitutional rules in determining their legal position (Al-Hilu, 1993). When the constitutional review institution is itself constitutionally established, the ordinary legislature cannot readily abolish it, fundamentally change its nature, or deprive it of its essential constitutional position through ordinary legislation. The constitutional basis of the institution consequently protects not only its existence but also the continuity of constitutional review as an element of the constitutional system.

This requirement is particularly significant because constitutional adjudication necessarily creates a relationship of supervision between the constitutional review body and political institutions. Legislation enacted by parliament may be subject to constitutional control, and constitutional adjudication may consequently restrict decisions supported by elected majorities. Said Abdul Ahmad explains the distinctive nature of judicial review of constitutionality and its role in examining legislation against higher constitutional norms (Said Abdul Ahmad, 2013). If the legislature possessed unrestricted authority to determine the composition, existence, or essential characteristics of the institution reviewing its legislation, a structural conflict would arise. The same problem would exist if the executive could redesign the reviewing body whenever constitutional decisions conflicted with executive interests. A constitutional foundation limits such possibilities by removing fundamental elements of the institution from ordinary political discretion.

The Iraqi experience illustrates both the importance and the limitations of constitutional recognition. The Federal Supreme Court is constitutionally recognized as the institution responsible for important constitutional functions, thereby preventing its legal existence from depending exclusively upon ordinary legislative preference. Khaled's analysis of the Iraqi constitutional system demonstrates the significance of constitutional institutions in the development of the post-2003 political and legal order (Khaled, 2013). Nevertheless, constitutional establishment does not automatically resolve questions concerning composition and selection. The Iraqi constitutional framework identifies the categories from which membership is to be constituted—judges, experts in Islamic jurisprudence, and legal scholars—but leaves important organizational details to legislation. The constitutional requirement that such legislation receive a qualified parliamentary majority provides a degree of protection against easy alteration, yet the delegation of central questions of composition to the legislature creates a potential point of vulnerability.

The earlier Iraqi framework was more precise concerning the numerical composition of the Court. Under the transitional arrangements, the Federal Supreme Court consisted of nine members, and subsequent legislation reflected that numerical structure. Maki's discussion of the Court indicates the central importance of its legal formation to the performance of its constitutional functions (Maki, 2007). The later constitutional framework changed the underlying approach by identifying

categories of membership without fixing the exact number constitutionally. From the standpoint of independence, this distinction is important. Where the number of members is left to ordinary or subsequent legislation, institutional composition can potentially become an object of political contestation. Altering the number of members of a supreme constitutional body may affect the balance within the institution even without formally removing existing members. Mansouri notes more generally that control over the organizational structure of constitutional adjudication can influence its effective independence (Mansouri, 2014). A constitutional system therefore benefits from establishing sufficiently clear structural rules to prevent manipulation while retaining only such legislative flexibility as is genuinely necessary for administration.

Egypt similarly demonstrates the distinction between constitutional recognition and detailed regulation. The Supreme Constitutional Court enjoys constitutional status, and its position within the judicial system provides an important basis for institutional independence. Al-Jamal treats the Court as a specialized institution whose authority derives from the constitutional role assigned to constitutional adjudication (Al-Jamal, 2011). Yet the constitutional framework does not fix a precise numerical membership in the same manner as some constitutional systems. The Court consists of its president and a sufficient number of vice-presidents and other components required by its legal organization. Supreme Constitutional Court legislation likewise historically used flexible language regarding the number of members while requiring a particular judicial formation for the issuance of judgments. Such flexibility can serve practical administrative needs, but it can also create a theoretical risk if the power to expand the Court's membership is capable of being used to influence its jurisprudential direction.

The concern over numerical flexibility is not merely formal. Al-Majd's examination of judicial review emphasizes the institutional consequences of rules governing the formation of constitutional adjudicatory bodies (Al-Majd, 1960). If political authorities can increase the size of a constitutional court for strategic reasons, the security of existing judges may remain untouched while the institutional balance of the court changes substantially. This phenomenon illustrates why constitutional independence must be conceived as protection of the decision-making structure itself rather than only protection against dismissal. The preferable framework is one in which the constitution or legislation based on clear constitutional standards determines membership with sufficient precision and prevents arbitrary alteration motivated by disagreement with constitutional decisions.

The Iranian Constitution adopts a comparatively detailed approach to the basic composition of the Guardian Council. The Council consists of twelve members divided between six Islamic jurists and six legal experts, and the constitution identifies both categories and the basic method of their selection. Jafari Shah Mansouri and Hosseini describe this dual structure as one of the defining institutional features of the Iranian system of constitutional review (Jafari Shah Mansouri & Hosseini, 2025). The constitutional specification of the Council's composition provides substantial structural stability because the ordinary legislature cannot simply increase or reduce the number of members or eliminate one category of membership. This is an important formal safeguard because the composition of the body responsible for constitutional review is removed from ordinary parliamentary discretion.

The constitutional status of the Guardian Council nevertheless raises a different independence question concerning the relationship between structure and appointing authorities. The fact that composition is constitutionally fixed does not itself establish institutional neutrality. The six Islamic jurists are selected by the Supreme Leader, while the six legal experts are elected by the Islamic Consultative Assembly from candidates nominated by the Head of the Judiciary. Arifi and colleagues show that the parliamentary element in selecting legal experts is directly relevant to their independence and to the institutional balance underlying Council membership (Arifi et al., 2022). The Iranian model thus combines strong constitutional entrenchment of composition with constitutionally structured participation by several public authorities. The independence inquiry must therefore move beyond whether the composition is legally secure and assess whether the distribution of appointment powers sufficiently prevents continuing dependence on those participating authorities.

The participation of multiple authorities in appointment is often defended as a means of preventing concentration of influence. Al-Shuwayhdi discusses constitutional adjudicatory institutions in terms that underscore the importance of their formation and the relationship between appointing institutions and judicial independence (Al-Shuwayhdi, 2011). Where one institution possesses exclusive authority to appoint all members, the risk of institutional alignment with that authority may increase. Distribution of appointment responsibilities among the legislature, judiciary, head of state, or other constitutional authorities can produce pluralism and may reduce the ability of one branch to control the reviewing institution. However, the

simple number of participating authorities cannot serve as a complete measure of independence. Formal multiplicity may conceal substantive concentration if the authorities involved are hierarchically connected, politically aligned, or dependent upon one another.

This observation is particularly important in comparing Iran with Iraq and Egypt. Iran constitutionally divides the process for legal experts between nomination by the Head of the Judiciary and election by the legislature, while the Supreme Leader separately appoints the Islamic jurists. Gholami, Farahani, and Fattahi Zafargandi examine structural judicial independence in light of Guardian Council jurisprudence and indicate the significance of institutional relationships within the Iranian constitutional structure (Gholami et al., 2025). Iraq's constitutional framework, by contrast, leaves more of the detailed method of selection to legislation, thereby making the future legislative framework crucial to the Court's independence. Egypt has historically combined internal judicial participation with presidential appointment mechanisms. Each model thus addresses the problem of appointment influence differently, and none can be evaluated merely by counting the number of authorities involved.

Institutional independence also requires attention to the nature of the constitutional review body itself. The Iraqi Federal Supreme Court and Egyptian Supreme Constitutional Court are organized as courts and consequently derive part of their institutional legitimacy from the judicial character of their functions and procedures. The Iranian Guardian Council does not fit precisely within the same judicial category because its functions extend beyond conventional constitutional adjudication. Muhammadpour and colleagues emphasize that the Council and its members are subject to a distinctive system of institutional organization and oversight (Muhammadpour et al., 2019). Its functions encompass review of legislation for conformity with the Constitution and Islamic standards as well as other constitutional responsibilities. This institutional multifunctionality can affect the independence analysis because the body interacts with political institutions in more than one constitutional domain.

Nevertheless, the different institutional characterization of the three bodies should not obscure the shared requirement that constitutional review be insulated from improper external influence. Whether the institution is designated as a court or council, it performs a function requiring impartial judgment on the conformity of legislation with superior constitutional norms. Fekri's account of general constitutional principles places the supremacy of constitutional norms within the framework of legally limited public authority (Fekri, 2002). Independence is therefore functionally connected to constitutional supremacy: if the reviewing body cannot evaluate legislation independently, the constitution becomes vulnerable to the very authorities it is intended to limit. The relevant standard is accordingly not terminological but institutional and functional.

A further constitutional safeguard concerns the continuity of the reviewing institution. Constitutional adjudication develops through accumulated institutional experience, and sudden changes in composition may affect both consistency and professional capacity. The Iranian system's partial renewal mechanism is especially relevant in this regard. Half of the members in each category are replaced after defined intervals, while the Council retains institutional continuity through the service of the remaining members. Arifi and colleagues discuss the membership structure in a way that highlights the relationship between selection arrangements and continuity (Arifi et al., 2022). This mechanism avoids simultaneous replacement of the entire institution and enables new members to serve alongside experienced members. It therefore constitutes not only a tenure arrangement but also a structural safeguard against abrupt institutional transformation.

The Iraqi and Egyptian arrangements approach continuity differently. In Iraq, the absence of a conventionally short fixed term under the framework discussed in the thesis was historically capable of providing long service, although indefinite or insufficiently defined tenure also generates concerns about the clarity of membership rules. In Egypt, constitutional judges have generally served under arrangements connected to judicial service and age rather than short political terms. Al-Jamal's treatment of the Court demonstrates the importance of continuity to the development of constitutional jurisprudence (Al-Jamal, 2011). The comparative lesson is that independence does not require one universal model of tenure, but it does require protection against politically synchronized replacement and against arrangements that allow government authorities to reconstruct the constitutional review institution whenever political conditions change.

The constitutional standard of independence can therefore be summarized as requiring legal entrenchment sufficient to protect the existence, essential composition, and institutional continuity of the constitutional review body. The Iraqi framework possesses strong constitutional recognition but leaves significant organizational matters to subsequent legislation. The Egyptian model combines constitutional status with a developed statutory framework but historically retains areas in which appointment

and numerical flexibility have generated concern. The Iranian Constitution specifies the Guardian Council's composition and tenure with greater textual precision, although the concentration and distribution of appointment powers raise separate questions of substantive independence. These distinctions demonstrate that constitutional entrenchment is necessary but not sufficient. It establishes the institutional foundation upon which independence rests, while the practical degree of independence ultimately depends on the rules governing the individuals who exercise constitutional authority.

3. Appointment, Membership, and Personal Guarantees of Independence

The independence of constitutional adjudication depends substantially on the legal position of the individuals who exercise it. A constitutional institution may enjoy a formally protected status while its members remain vulnerable to appointment pressures, threats of removal, expectations of reappointment, conflicts of interest, or professional dependence on other authorities. Al-Shaikh identifies the independence of constitutional adjudication as inseparable from safeguards enabling those who exercise constitutional review to decide questions without external influence (Al-Shaikh, 2003). Personal independence must therefore be protected from the beginning of the appointment process through the end of membership. The relevant legal framework includes qualification requirements, nomination, selection and appointment, duration of membership, rules on renewal, grounds and procedures for termination, incompatibilities, and protection from arbitrary interference.

Professional qualification constitutes the first element of this framework. Constitutional review involves complex interpretation of constitutional norms, institutional relations, fundamental principles, and the boundaries of legislative authority. Members must consequently possess sufficient legal knowledge and professional capacity to evaluate issues that may have far-reaching constitutional consequences. Salman emphasizes the specialized character of systems of constitutional review and the importance of institutional competence in their operation (Salman, 2000). Qualification rules also serve an independence function. When eligibility depends on objective professional criteria, the appointment process is more resistant to arbitrary political selection. Conversely, vague or predominantly discretionary criteria allow appointing authorities to prioritize loyalty or political alignment over constitutional expertise.

The Iraqi constitutional arrangement is distinctive because it contemplates a plural composition that includes judges, experts in Islamic jurisprudence, and legal scholars. This design reflects an effort to incorporate different forms of legal and jurisprudential expertise within the Federal Supreme Court. Jafari Shah Mansouri and Hosseini's comparative analysis of constitutional institutions highlights the distinctive Iraqi combination of judicial and non-judicial expertise (Jafari Shah Mansouri & Hosseini, 2025). Such pluralism can enrich constitutional interpretation, but it also makes qualification requirements especially important. If the categories of expert membership are not governed by sufficiently precise professional criteria, selection may become vulnerable to political bargaining. The legal framework should therefore ensure that expertise is substantive rather than nominal and that membership categories do not become channels through which political authorities indirectly control constitutional adjudication.

The method of selection is equally significant. The authority empowered to nominate or appoint constitutional judges may develop an expectation that appointees will share particular institutional or political preferences. Douglas's discussion of freedom under law reflects the broader principle that judicial independence requires protection against governmental influence in the performance of legal duties (Douglas, 1964). No appointment system can entirely remove political institutions from constitutional organization, but legal design can reduce dependence by dividing roles, requiring institutional consultation, imposing professional criteria, or limiting discretion. The most serious risk arises where a single authority possesses exclusive control over nomination, selection, and appointment while members lack countervailing tenure protections.

Iraq's constitutional development demonstrates the importance of clearly identifying the authorities involved in selection. The transitional legal framework provided a process involving judicial nomination and formal appointment by the Presidency Council. Maki describes the legal formation of the Federal Supreme Court within this transitional environment (Maki, 2007). The later Constitution changed the structure of the Court but did not itself comprehensively specify the mechanism through which all categories of membership would be selected, instead leaving important details to legislation requiring a qualified majority. Al-Talib's treatment of constitutional adjudication in Iraq demonstrates the continuing significance of a comprehensive legislative framework for the Court (Al-Talib, 2015). From the standpoint of independence, leaving the

appointment mechanism incomplete or dependent upon contested legislative development may produce uncertainty concerning both the Court's composition and the proper distribution of appointment authority.

A balanced Iraqi appointment model should prevent exclusive control by any one branch while preserving professional judicial participation. The involvement of the judicial institutions in nomination can help emphasize professional competence, but exclusive self-selection by the judiciary can also produce institutional closure. Legislative participation introduces democratic legitimacy but may expose appointments to partisan bargaining. Executive participation can formalize appointment and ensure integration within the constitutional structure but becomes problematic if the executive possesses substantive power to choose members according to political preference. The appropriate standard is therefore a carefully structured distribution of functions in which nomination, evaluation, selection, and formal appointment are separated sufficiently to prevent unilateral control. Younes's analysis of the Federal Supreme Court and its jurisdiction underscores the importance of the institution's constitutional position and the need for a legal organization capable of supporting its functions (Younes, 2008).

Egypt's historical appointment arrangements provide a particularly useful illustration of the relationship between appointment authority and judicial independence. Under the legal arrangements discussed in the thesis, the President of the Republic historically exercised significant appointment authority, especially regarding the President of the Supreme Constitutional Court. Al-Jamal examines the Egyptian Court's institutional organization and the role of legal rules governing its members (Al-Jamal, 2011). The concentration of appointment power is significant because the President of a constitutional court may possess important administrative and institutional functions beyond participating in judgments. If the executive unilaterally selects the Court's chief judicial officer, questions arise concerning institutional influence even where judges remain legally obligated to act independently.

The later constitutional framework sought to strengthen internal judicial participation by providing a role for the Court's General Assembly in the selection process. This movement toward internal selection reflects an important independence principle: the executive's role may be limited to formal appointment after a candidate has been chosen according to legally prescribed judicial procedures. Al-Shuwayhdi's broader examination of constitutional adjudicatory institutions supports the proposition that the method by which judges reach office directly affects perceptions and conditions of independence (Al-Shuwayhdi, 2011). When internal judicial bodies participate meaningfully in selection, constitutional judges are less likely to owe their positions entirely to a political authority. Yet internal selection should itself operate under transparent and objective criteria in order to avoid replacing political dependence with informal institutional favoritism.

The Iranian Guardian Council presents a different distribution of appointment authority. The six Islamic jurists are selected by the Supreme Leader, while the six legal experts are elected by the Islamic Consultative Assembly from candidates nominated by the Head of the Judiciary. This arrangement constitutionally divides membership into two appointment tracks. Arifi and colleagues specifically examine the independence of the legal expert members and the significance of parliamentary majority selection (Arifi et al., 2022). On its face, the participation of different institutions prevents a single authority from directly selecting all twelve members. However, the independence analysis cannot stop at formal distribution. The relationship between the nominating and electing authorities, the degree of choice available to the legislature, and the institutional position of the authorities involved must all be considered.

The six legal experts illustrate the complexity of multi-stage appointment. Nomination by the Head of the Judiciary narrows the pool from which the legislature may choose, while parliamentary election introduces a representative element into final selection. Jafari Shah Mansouri and Hosseini identify this mixed method as an important structural feature distinguishing the Guardian Council from constitutional courts organized exclusively through judicial appointment (Jafari Shah Mansouri & Hosseini, 2025). The process can be understood as a mechanism for distributing responsibility, but it also raises questions about whether members may be perceived as institutionally connected to the authorities through which they obtained office. Independence therefore requires strong post-appointment safeguards so that participation by public authorities in selection does not create continuing influence over constitutional decision-making.

Security of tenure is among the most important of these post-appointment safeguards. A constitutional judge who may be dismissed because of disagreement with political authorities cannot meaningfully exercise constitutional control. Abdullah's analysis of constitutional protection for judicial independence places security of judicial position among the essential conditions of independent adjudication (Abdullah, 2009). Removal should therefore be permitted only on clearly defined legal grounds

and through procedures that prevent retaliation for judicial or constitutional decisions. This does not mean that constitutional judges or council members should be entirely immune from accountability. Serious incapacity, legally defined misconduct, or loss of eligibility may justify termination, but the decision should not rest on unrestricted political discretion.

Term length also influences independence. Very short terms may encourage members to consider prospects of reappointment while making decisions. Al-Shaikh observes that constitutional independence may be weakened where the continuation of a judge's position depends upon authorities affected by constitutional rulings (Al-Shaikh, 2003). Renewable terms are especially sensitive because an appointing authority can potentially reward cooperative members and decline to renew those whose decisions are politically inconvenient. At the other extreme, indefinite tenure may provide strong protection against immediate political retaliation but requires appropriate rules governing retirement, incapacity, and accountability. The central criterion is whether tenure is sufficiently secure and predictable to permit independent decision-making.

The Iranian model provides a clearly defined six-year term together with staggered partial renewal. Muhammadpour and colleagues discuss the internal rules governing Guardian Council membership and replacement (Muhammadpour et al., 2019). Half of each membership category is renewed at intervals, thereby preventing simultaneous replacement of the entire Council. This arrangement contributes to institutional continuity and allows experienced members to remain while new members enter. It may also limit the ability of a temporary political configuration to reshape the entire body at once. However, term security alone does not establish complete independence if the process of renewal or replacement remains strongly connected to the same authorities responsible for original selection.

Egypt adopts a substantially different model. Rather than exposing constitutional judges to very short political terms, the legal framework discussed in the thesis has historically linked service to the judicial career and applicable age limits. Khaleel's treatment of Egyptian constitutional law provides context for the institutional position of judicial bodies within the Egyptian constitutional system (Khaleel, 1996). Long service can support independence by reducing the frequency with which judges must seek appointment or renewal. It also allows constitutional jurisprudence to develop through sustained professional experience. The safeguard is particularly important for a constitutional court because consistency and institutional memory contribute to the authority of constitutional interpretation.

Iraq's arrangements have historically provided continuing service without a conventionally fixed short term under the framework examined in the source. Such continuity can insulate judges from frequent political reappointment, but clear legal rules remain necessary concerning retirement, resignation, incapacity, and termination. Al-Talib's account of constitutional adjudication in Iraq reflects the need for a coherent legal structure governing the Federal Supreme Court (Al-Talib, 2015). Indefinite or poorly specified membership may create legal uncertainty even when it protects against short-term political pressure. Independence is best served when members know that they cannot be removed arbitrarily while the law also defines transparent circumstances in which membership ends.

Personal independence also requires regulation of conflicts of interest and professional incompatibilities. Constitutional adjudication depends not only on freedom from institutional coercion but also on impartiality. A member who simultaneously occupies a politically dependent position or maintains interests directly affected by constitutional decisions may undermine confidence in the institution even in the absence of explicit external pressure. Mansouri emphasizes the broader connection between institutional organization and the credibility of constitutional adjudication (Mansouri, 2014). Clear recusal standards, restrictions on incompatible offices, and ethical obligations therefore complement appointment and tenure safeguards.

The comparative analysis reveals that the strongest system is not necessarily the one that most completely excludes political institutions from appointment. Constitutional review bodies are themselves constitutional institutions, and some involvement by representative or executive authorities may be consistent with constitutional legitimacy. The decisive issue is whether appointment participation is balanced by objective qualifications, divided authority, secure tenure, restrictions on removal, and institutional autonomy after appointment. Egypt's experience demonstrates the value of strengthening internal judicial participation in selection; Iran's model demonstrates the potential advantages and limitations of constitutionally distributed appointment powers; and Iraq illustrates the risks arising when essential details of selection remain dependent upon incomplete or contested legislative arrangements. Independence thus requires the transformation of appointment from a relationship of political patronage into a constitutionally regulated procedure after which the member is legally detached from the preferences of the appointing authority.

4. Functional, Administrative, and Financial Independence

The independence of constitutional adjudication cannot be secured solely through rules concerning composition and membership. Even a constitutionally established institution staffed by professionally qualified and secure members may be unable to perform its functions independently if another authority controls its internal administration, resources, procedures, or practical capacity to operate. Institutional independence therefore possesses a functional dimension that concerns the freedom to exercise constitutional jurisdiction without instructions, obstruction, retaliation, or indirect interference. Al-Shaikh's treatment of constitutional judicial independence reflects the principle that the reviewing body must be capable of exercising constitutional control independently of those whose actions are subject to review (Al-Shaikh, 2003). Functional independence completes personal independence by ensuring that the institution within which members act is itself capable of autonomous constitutional decision-making.

The most basic expression of functional independence is the freedom to decide constitutional questions according to constitutional and legal standards rather than political direction. Constitutional adjudication loses its meaning if a legislative or executive authority can instruct the reviewing institution how to interpret the constitution. Al-Shaer places constitutional law within a structure in which the constitution regulates and limits the exercise of governmental authority (Al-Shaer, 1972). Constitutional review must therefore remain autonomous precisely because it may produce decisions contrary to the preferences of governing institutions. This autonomy applies to the substance of judgments as well as to the institutional procedures through which cases are considered.

The binding force of constitutional decisions strengthens functional independence because a constitutional review body whose decisions can be disregarded by other institutions possesses only nominal authority. Younes emphasizes the significance of the Federal Supreme Court's constitutional jurisdiction within Iraq's legal framework (Younes, 2008). The effectiveness of review depends upon the capacity of constitutional decisions to produce legal consequences for other public authorities. Where decisions bind the organs of the state, the reviewing institution functions as a genuine constitutional authority rather than an advisory body. At the same time, binding force increases the political sensitivity of constitutional adjudication and therefore reinforces the need for structural safeguards against retaliation.

The Iraqi Federal Supreme Court occupies an especially important position in this respect because its constitutional functions involve matters capable of directly affecting the legislative and political order. Maki identifies the Court as a central constitutional institution within the Iraqi federal system (Maki, 2007). The independence of the Court consequently requires more than judicial impartiality in individual cases. It must also possess sufficient institutional protection to perform constitutionally assigned functions even when its decisions conflict with the interests of powerful political actors. The constitutional recognition of the Court's independent position contributes to this objective, but the effectiveness of the guarantee depends upon the legislation governing its organization and the practical arrangements supporting its work.

A particular difficulty in Iraq arises from the relationship between constitutional provisions and the legislative framework governing the Court. The Constitution envisages detailed legislation concerning composition and operation, and the need for such legislation has been a recurring element of scholarly discussion. Al-Talib analyzes constitutional adjudication in Iraq against this background of evolving legal regulation (Al-Talib, 2015). When the constitutional framework requires implementing legislation for essential institutional details, delays or inconsistencies can affect legal certainty. An independent constitutional court should operate under a stable legal framework rather than under arrangements that remain vulnerable to prolonged political disagreement over the Court's organization.

Administrative independence is closely related to functional autonomy. A constitutional review body must be able to manage the internal conditions necessary for the exercise of its jurisdiction. This includes matters such as internal organization, allocation of work, support personnel, documentation, institutional procedures, and other administrative requirements. Abdullah's account of judicial independence indicates that institutional independence requires protection from administrative subordination as well as from direct interference with judgments (Abdullah, 2009). If another branch controls the court's personnel or day-to-day internal operations, influence may be exerted without issuing any explicit instruction concerning a case.

The Egyptian Supreme Constitutional Court provides a comparatively developed example of institutional organization. Al-Jamal portrays the Court as a specialized constitutional jurisdiction with a distinct legal structure (Al-Jamal, 2011). The Court's autonomy in managing its judicial affairs contributes to the separation between constitutional decision-making and ordinary executive administration. Internal judicial bodies, particularly the Court's General Assembly, can play an important role in preserving this autonomy by participating in matters affecting membership and institutional administration. Such internal governance reduces the capacity of external authorities to influence constitutional adjudication through administrative channels.

Administrative independence should not, however, be understood as exemption from law. A constitutional court remains a public institution and must operate according to constitutional and legislative requirements. The distinction lies between lawful regulation and hierarchical control. Fekri's discussion of constitutional principles reflects the broader idea that all public authorities operate within a legal framework (Fekri, 2002). Legal provisions may define procedures, organizational responsibilities, and accountability requirements without compromising independence, provided they do not permit political institutions to direct constitutional outcomes or punish the reviewing body for particular decisions. The appropriate model is therefore legally regulated self-administration rather than either executive control or institutional lawlessness.

The Guardian Council likewise possesses an internal organizational dimension relevant to independence. Muhammadpour, Ghotbi, and Karami discuss rules governing the Council and its members, including arrangements affecting membership continuity and internal operation (Muhammadpour et al., 2019). Because the Council performs constitutional functions beyond the review of legislation, its administrative organization must support several areas of constitutional responsibility. Internal rules adopted for the conduct of its work can contribute to organizational autonomy by reducing dependence on external institutions for routine administration. However, administrative autonomy must be considered together with the Council's constitutional relationships with the authorities participating in its composition.

The Iranian experience illustrates particularly clearly the difference between organizational autonomy and appointment independence. A body may possess substantial authority over its internal procedures while its members are selected through processes involving powerful constitutional actors. Gholami and colleagues' examination of structural judicial independence in light of Guardian Council opinions highlights the broader significance of institutional structure within the Iranian constitutional order (Gholami et al., 2025). Administrative independence can mitigate some forms of external influence, but it cannot completely neutralize dependence produced by appointment rules if members remain responsive to appointing authorities. Conversely, concerns about appointment do not mean that internal autonomy has no value. The independence of constitutional review must be assessed cumulatively.

Financial independence constitutes another essential element. Public institutions require resources, and control over those resources can become a means of indirect institutional influence. A constitutional court whose budget can be arbitrarily reduced after issuing politically controversial decisions may be formally independent but practically vulnerable. Mansouri's broader analysis of constitutional adjudication supports the understanding that effective review requires an institutional framework capable of sustaining the work of the constitutional body (Mansouri, 2014). Financial guarantees should therefore ensure that the reviewing institution possesses the resources necessary to perform its functions without making its operational capacity dependent upon the goodwill of authorities subject to its review.

An independent budget is one possible mechanism for achieving this objective. It does not mean that constitutional courts are exempt from general public-finance requirements or legislative budgeting processes. Rather, financial independence requires procedures that reduce the possibility of punitive or discriminatory manipulation. In Egypt, the legal recognition of the Supreme Constitutional Court's independent institutional position has been accompanied by financial guarantees intended to reinforce its autonomy. Al-Jamal's analysis of the Egyptian system demonstrates the importance of the Court's distinctive position within constitutional adjudication (Al-Jamal, 2011). The existence of a separate or protected financial framework strengthens institutional independence because the Court is less dependent upon ordinary executive administration for the resources necessary to perform constitutional functions.

The Iraqi system similarly requires clear financial safeguards corresponding to the constitutional significance of the Federal Supreme Court. Maki's study of the Court demonstrates that its functions place it among the most consequential institutions of the Iraqi constitutional order (Maki, 2007). A court charged with constitutional review cannot exercise such functions effectively if financial and administrative dependence exposes it to pressure. The development of Iraqi legislation governing

the Court should therefore address institutional resources as an element of independence rather than treating budgeting as an issue wholly separate from constitutional design.

Financial independence is also connected to personal independence. The remuneration and professional conditions of constitutional judges or council members should not be manipulated in response to their decisions. Abdullah associates the security of judicial office with broader constitutional guarantees protecting judicial independence (Abdullah, 2009). If compensation can be selectively reduced or professional benefits withdrawn by another authority, personal security of tenure may provide incomplete protection. Financial safeguards should consequently extend to both institutional resources and the legal status of members.

The interaction between functional, administrative, and financial autonomy can be seen most clearly when considering indirect forms of interference. Direct instructions to constitutional judges are usually easy to identify as incompatible with independence. Indirect pressure is more difficult to detect. It may operate through control of appointments, delays in replacing vacancies, manipulation of budgets, restrictions on staffing, alteration of institutional size, or administrative decisions affecting the ability of the body to function. Al-Shuwayhdi's analysis of constitutional adjudicatory institutions emphasizes the significance of institutional procedures and organization in determining the effectiveness of constitutional justice (Al-Shuwayhdi, 2011). A sophisticated legal framework for independence must therefore address both overt and indirect mechanisms of control.

The comparative experience of the three states demonstrates different combinations of strengths and vulnerabilities. Egypt possesses a mature specialized constitutional court structure and important institutional safeguards, but its historical experience illustrates the risks associated with significant executive participation in appointment. Iraq constitutionally recognizes the Federal Supreme Court and its fundamental role, yet the legal framework has faced difficulties concerning the complete regulation of composition and selection. Iran provides detailed constitutional rules concerning the Guardian Council's composition and membership terms, as well as institutional continuity through staggered renewal, but the structure of appointment and the Council's relationship with several constitutional authorities require careful consideration when assessing substantive independence. Arifi and colleagues' analysis of Guardian Council membership confirms that formal constitutional regulation does not eliminate the need to examine the practical implications of selection mechanisms (Arifi et al., 2022).

An additional comparative issue concerns the relationship between independence and accountability. Independence cannot mean that constitutional review bodies exercise unlimited authority without legal constraints. Al-Tabtabai's treatment of constitutional systems reflects the broader constitutional principle that institutional powers remain subject to legal organization (Al-Tabtabai, 2001). Constitutional judges and council members should remain bound by rules concerning competence, procedure, professional conduct, incompatibility, and recusal. The challenge is to design accountability mechanisms that address misconduct without allowing political authorities to use disciplinary processes as a means of controlling constitutional interpretation.

The distinction between accountability and dependence is particularly important regarding removal. A member who seriously violates legal duties cannot be immunized merely in the name of judicial independence, but removal should occur only under predetermined legal standards and appropriate procedures. Al-Shaikh's treatment of constitutional judicial independence demonstrates that legal guarantees must protect constitutional adjudicators from arbitrary interference while remaining compatible with lawful institutional responsibility (Al-Shaikh, 2003). The authority responsible for determining misconduct should therefore be structured in a way that minimizes political retaliation, and grounds of removal should not include disagreement with constitutional judgments.

The same principle applies to internal governance. Self-administration is valuable because it insulates the institution from external control, but internal powers should operate under transparent legal rules. The Court's president, internal general assembly, or council leadership should not possess unrestricted authority capable of undermining the independence of individual members. Al-Jamal's analysis of the Egyptian Court reveals the significance of the position of the court president within the institution (Al-Jamal, 2011). Institutional independence from the executive must therefore be accompanied by appropriate internal arrangements preserving collegiality and individual judicial independence.

Ultimately, functional independence is the point at which all other safeguards become practically meaningful. Constitutional entrenchment protects the existence of the institution; appointment rules influence who becomes a member; tenure protects

members against retaliation; administrative autonomy enables the institution to organize its work; and financial safeguards provide the material capacity necessary to perform that work. These components reinforce one another. Weakness in one dimension may compromise the effectiveness of the others. A constitutionally entrenched court without financial autonomy may be constrained administratively; a financially independent body whose members can be dismissed politically remains vulnerable; a secure judiciary whose membership can be arbitrarily expanded may be institutionally reshaped without formal removal. The appropriate legal standard is therefore integrated independence rather than isolated guarantees.

In comparative terms, the Egyptian experience provides useful safeguards relating to institutional judicial autonomy and illustrates the advantages of limiting external appointment discretion through greater internal judicial participation. The Iranian experience demonstrates the value of constitutionally fixed composition, defined terms, and staggered renewal while simultaneously showing that distributed appointment authority must be assessed in light of the substantive relationships among participating institutions. The Iraqi framework demonstrates the importance of constitutional recognition but also the need for comprehensive and precise legislation translating constitutional independence into enforceable rules concerning membership, administration, finance, and institutional continuity. The three systems therefore provide different components of an independence framework, but none supports the proposition that independence can be established through one formal guarantee alone.

5. Comparative Evaluation of Independence Standards in Iraqi, Egyptian, and Iranian Legislation

The comparative evaluation of Iraq, Egypt, and Iran reveals that constitutional independence is best understood as a composite legal standard rather than a binary condition. An institution is not simply independent or dependent because the constitution uses one particular formula. Degrees and forms of independence result from the interaction of constitutional establishment, composition, appointment, tenure, functional autonomy, administrative self-government, and financial security. Mansouri's general theory of constitutional adjudication supports the view that the effectiveness of constitutional justice is inseparable from its institutional organization (Mansouri, 2014). Comparison should therefore identify both the protective function and potential weakness of each institutional arrangement rather than searching for a single model capable of being mechanically transferred from one legal system to another.

At the level of constitutional entrenchment, Iran provides the most detailed regulation among the three models considered here with respect to the composition of its constitutional review body. The Constitution itself fixes the twelve-member structure of the Guardian Council, distinguishes between Islamic jurists and legal experts, identifies the authorities participating in their selection, and establishes a six-year membership framework with partial renewal. Jafari Shah Mansouri and Hosseini describe this structural specificity as central to understanding the Iranian institution (Jafari Shah Mansouri & Hosseini, 2025). Such precision protects the Council from ordinary legislative attempts to alter its basic composition. The legislature cannot simply change the number of members or substitute a different institutional model through ordinary legislation.

Iraq provides strong constitutional recognition of the Federal Supreme Court but delegates significant aspects of composition and selection to legislation. Al-Talib's analysis of Iraqi constitutional adjudication demonstrates the importance of the legislative framework in completing the constitutional organization of the Court (Al-Talib, 2015). The requirement of a qualified parliamentary majority for relevant legislation can itself operate as a safeguard by preventing ordinary transient majorities from controlling the Court's structure. At the same time, legislative dependence creates a vulnerability when political disagreement delays, complicates, or politicizes the adoption of the required legal rules. The Iraqi model therefore illustrates a broader constitutional-design tension between rigidity and flexibility. Excessive constitutional detail may make necessary institutional reform difficult, while excessive delegation can expose the constitutional court to political negotiation.

Egypt occupies an intermediate position. The Supreme Constitutional Court possesses an established constitutional and legislative identity as a specialized judicial institution. Al-Jamal presents the Court as a distinctive component of the Egyptian judicial and constitutional order (Al-Jamal, 2011). The constitutional framework protects its existence and judicial character, while detailed statutory rules govern significant elements of its organization. However, flexibility regarding the precise number of judges historically creates a possible route for institutional influence if membership expansion were ever used for political purposes. The lesson is that a stable constitutional court requires not merely recognition of the institution but legal protection of the integrity of its decision-making composition.

The appointment structures produce a different comparative ranking depending on the dimension considered. Iran distributes participation across several constitutional authorities, but the Supreme Leader directly selects the six Islamic jurists, while the Head of the Judiciary and the Islamic Consultative Assembly participate sequentially in selecting the legal experts. Arifi and colleagues demonstrate that the parliamentary majority model applicable to legal experts raises significant questions concerning the relationship between selection and independence (Arifi et al., 2022). The involvement of several authorities may reduce monopoly, yet multiple participation is not equivalent to institutional balance when one authority enjoys greater constitutional influence or when participating authorities are interconnected.

Egypt's historical experience presents a clearer example of concern over executive appointment power. The direct role of the President of the Republic in appointing the President of the Supreme Constitutional Court created an especially sensitive relationship because the head of the Court occupies an influential institutional position. Al-Jamal discusses the legal organization of appointment within the Egyptian constitutional judiciary (Al-Jamal, 2011). Reforms emphasizing selection by the Court's own General Assembly before formal presidential appointment strengthen judicial autonomy because they reduce the discretionary component of executive involvement. This approach illustrates a broader principle: formal appointment by the head of state is less problematic when the substantive choice has already been made through an independent professional process.

Iraq's challenge is less the concentration of appointment authority under a single clearly defined mechanism than the need for a complete and stable legal mechanism consistent with the constitutional framework. Maki examines the earlier organization of the Federal Supreme Court and the role played by judicial nomination and formal appointment (Maki, 2007). A future-oriented independence standard should preserve meaningful judicial participation while avoiding exclusive control by either judicial or political bodies. Because constitutional adjudication is simultaneously legal and constitutionally consequential, plural participation may be justified, but it should be accompanied by transparent qualification rules and procedures resistant to partisan bargaining.

Professional qualifications constitute another comparative dimension. Iran constitutionally distinguishes the expertise required for Islamic jurists and legal experts, thereby embedding substantive categories of professional competence into the composition of the Guardian Council. Muhammadpour and colleagues' examination of the Council and its members demonstrates the legal significance of membership requirements within the institution (Muhammadpour et al., 2019). Iraq likewise constitutionally identifies judges, experts in Islamic jurisprudence, and legal scholars, but the effectiveness of this plural structure depends on legislation precisely defining eligibility and professional standards. Egypt's judicial model places greater emphasis on professional judicial qualifications and experience. Each approach seeks competence through a different institutional route.

From the standpoint of independence, objective qualifications should perform two functions. They should ensure competence, and they should limit discretion in appointment. Al-Shuwayhdi's analysis of constitutional adjudication underscores the specialized professional character of constitutional decision-making (Al-Shuwayhdi, 2011). A requirement that appointees possess substantial judicial or constitutional experience narrows the range of politically motivated appointments. However, qualification requirements lose much of their protective force when drafted in terms sufficiently vague to permit almost any preferred candidate. Independence therefore requires criteria that are meaningful, verifiable, and connected to the constitutional functions of the institution.

Tenure arrangements reveal further differences. Iran's six-year terms and staggered partial renewal provide a clear temporal structure. This has the advantage of predictability and continuity. Arifi and colleagues' study indicates the relevance of these membership structures to the independence of Guardian Council members (Arifi et al., 2022). Staggered replacement helps prevent an immediate comprehensive change in membership and promotes the preservation of institutional knowledge. Nevertheless, a fixed term creates its own independence concerns if members seek or depend upon renewed appointment. The strongest fixed-term model would therefore regulate renewal in a manner that minimizes incentives to accommodate the appointing authority.

Egyptian constitutional judges have historically enjoyed a model more closely associated with continuing judicial service than with short political terms. Khaleel's discussion of Egyptian constitutional arrangements provides context for the importance of judicial status within the country's constitutional order (Khaleel, 1996). Long and professionally structured

service tends to reduce dependence on recurring political selection and may therefore provide stronger personal independence. It also contributes to stable constitutional jurisprudence because judges can develop expertise over extended periods.

Iraq's historical arrangements similarly avoided very short terms, but the clarity and completeness of termination and retirement rules remain important. Younes's examination of the Federal Supreme Court illustrates the significance of institutional stability for the performance of its jurisdiction (Younes, 2008). A member should neither serve at the pleasure of another authority nor occupy office under uncertain rules. Clear tenure arrangements simultaneously protect the member and provide legal certainty concerning institutional succession.

The Iranian model has a comparative advantage in the constitutional specification of partial renewal. Institutional continuity is often neglected in discussions of judicial independence, but it is closely related to resilience against political change. If an incoming political majority can replace every member of a constitutional body simultaneously, even lawful appointments may produce a sudden transformation in constitutional interpretation. Muhammadpour and colleagues' discussion of replacement rules within the Guardian Council demonstrates the importance of mechanisms preserving continuity when vacancies occur (Muhammadpour et al., 2019). Staggered membership mitigates this risk and facilitates the transmission of institutional experience.

Administrative autonomy presents another point of comparison. Egypt's Supreme Constitutional Court has the clearest conventional judicial model of internal administrative autonomy among the three institutions. Al-Jamal's analysis demonstrates the relevance of internal Court institutions to its functioning (Al-Jamal, 2011). Judicial participation in the management of institutional affairs helps prevent executive agencies from obtaining leverage over constitutional decision-making. Iraq similarly requires robust self-administration appropriate to the Federal Supreme Court's status, although the completeness of its governing legislative framework remains central to achieving that objective. Iran's Guardian Council exercises organizational functions within its own constitutional framework and adopts internal arrangements governing aspects of its operation, but its institutional relationships differ from those of a specialized constitutional judiciary.

Financial autonomy is difficult to separate from administrative independence. The three systems recognize, to varying degrees, that the effectiveness of constitutional review requires an institutional capacity independent of routine political pressure. Al-Shaikh's conception of constitutional judicial independence supports the broader proposition that constitutional review cannot function effectively where institutional conditions expose adjudication to external control (Al-Shaikh, 2003). Egypt's framework provides a comparatively strong example of budgetary and institutional protection. Iraq's constitutional development would benefit from similarly clear guarantees ensuring that the Federal Supreme Court can manage the resources necessary for constitutional adjudication. For Iran, financial and administrative evaluation must take account of the Guardian Council's distinctive constitutional character and internal institutional organization rather than simply applying the conventional court model.

Functional independence may ultimately be more important than formal institutional terminology. The Iraqi and Egyptian bodies are courts, while Iran's institution is a council. Yet constitutional review requires impartial application of superior constitutional norms in all three systems. Jafari Shah Mansouri and Hosseini's comparative work demonstrates that constitutional institutions with different structural forms may nonetheless perform comparable constitutional-review functions (Jafari Shah Mansouri & Hosseini, 2025). A meaningful comparative standard should therefore ask whether the reviewing body can make and implement constitutional determinations without instructions from authorities affected by those determinations.

This analysis also reveals the importance of the distinction between independence and isolation. Constitutional review institutions remain components of the state, and their members must be selected through legally authorized processes. Al-Hilu's treatment of constitutional institutions places each public body within an organized constitutional structure (Al-Hilu, 1993). Complete institutional separation from the legislature, executive, and judiciary would therefore be neither possible nor necessarily desirable. Independence instead requires that constitutional relationships be designed so that participation in establishment or appointment does not become control over decision-making.

A well-designed appointment process may thus involve multiple authorities while ensuring that their roles end once appointment is completed. Similarly, the legislature may lawfully enact the governing legislation of a constitutional court without retaining authority to alter its structure opportunistically. The executive may participate in formal appointment without

possessing discretion to dismiss members. Public budgeting mechanisms may apply to constitutional institutions without allowing retaliatory reductions. This distinction between constitutional interaction and unconstitutional influence provides the most useful conceptual basis for comparing the three systems.

Iraq appears to have the greatest need for legislative consolidation. Its constitutional framework recognizes the Federal Supreme Court and provides the foundation for its authority, but the independence standards governing composition, selection, membership, administration, and financial organization should operate as a coherent system. Al-Talib's study of Iraqi constitutional adjudication illustrates the importance of systematic legal organization of the institution (Al-Talib, 2015). The Iraqi legislature should therefore avoid addressing independence through isolated provisions and instead treat structural, personal, and functional safeguards as interdependent.

Egypt provides valuable lessons concerning institutional judicial autonomy but also demonstrates how historical executive appointment authority can become a source of concern even within a strong specialized constitutional judiciary. Al-Jamal's analysis shows that the Supreme Constitutional Court's legal standing does not eliminate the importance of appointment design (Al-Jamal, 2011). The Egyptian experience supports mechanisms that give the Court itself a substantive role in selecting its members and leadership while limiting the executive to constitutionally prescribed formal functions.

Iran demonstrates the advantages of detailed constitutional regulation but also shows that entrenchment does not answer every question of independence. The Guardian Council's fixed membership, qualification categories, six-year terms, and staggered renewal provide stability, while its appointment structure creates a continuing need to evaluate relationships between members and appointing institutions. Gholami and colleagues' work on structural independence in the Iranian constitutional context reinforces the significance of these institutional relationships (Gholami et al., 2025). The Iranian model therefore confirms that formal constitutional detail must be supplemented by substantive guarantees capable of insulating the exercise of constitutional review from institutional influence.

The overarching comparative standard should accordingly combine constitutional entrenchment, balanced appointment, objective professional qualifications, secure and predictable tenure, narrowly regulated removal, institutional continuity, administrative self-government, financial protection, conflict-of-interest rules, and functional freedom in constitutional interpretation. Each element addresses a different potential avenue of influence. The absence of one safeguard may weaken the effectiveness of others. Constitutional independence should therefore be evaluated holistically rather than through any single institutional indicator.

6. Conclusion

The comparative examination of Iraq, Egypt, and Iran demonstrates that the independence of constitutional review bodies is a multidimensional constitutional requirement whose effectiveness depends on the interaction of several legal and institutional safeguards. Constitutional independence cannot be achieved merely by declaring a court or council independent, nor can it be measured exclusively by the formal designation given to the institution responsible for constitutional review. Genuine independence emerges when constitutional establishment, institutional composition, appointment mechanisms, professional qualifications, security of tenure, protection against arbitrary removal, administrative autonomy, financial safeguards, and functional freedom collectively enable the reviewing body to exercise its constitutional responsibilities without improper external influence.

The comparison also demonstrates that constitutional entrenchment constitutes the first layer of independence. A constitutional review body that owes its basic existence to the constitution enjoys greater protection against abolition or fundamental restructuring through ordinary political processes. However, constitutional establishment alone is insufficient when the constitution leaves essential matters concerning composition or selection open to discretionary legislative or executive control. A balanced constitutional design should therefore protect the core institutional identity of the reviewing body while allowing only the degree of legislative flexibility necessary for the practical organization of its work.

The three systems have adopted different solutions to this problem. Iraq constitutionally recognizes the Federal Supreme Court and assigns it an essential role in constitutional adjudication. This recognition provides a strong normative foundation, but the Iraqi framework demonstrates the difficulties that arise when important details of composition, selection, and institutional operation require further legislative regulation. The central challenge for Iraq is therefore to translate constitutional

recognition into a complete and coherent independence framework. Rules concerning membership should be sufficiently precise to prevent institutional manipulation, while appointment procedures should prevent any single branch of government from exercising decisive control over the composition of the Court.

Egypt's Supreme Constitutional Court presents a more established judicial model. Its specialized character, institutional standing, and developed legal organization provide significant foundations for constitutional independence. At the same time, the historical role of executive authority in the appointment of the Court's president and members illustrates how appointment mechanisms can affect the perception and substance of judicial independence even where the court itself possesses strong constitutional status. The movement toward greater participation by the Court's internal judicial institutions in selection provides an important lesson: formal appointment by a political authority is less threatening to independence when the substantive selection process is controlled by objective and professionally based procedures.

Iran presents a different constitutional arrangement because constitutional review is entrusted to the Guardian Council rather than to a specialized constitutional court. The Constitution provides detailed rules concerning the Council's twelve-member composition, professional categories, appointing authorities, membership terms, and partial renewal. These provisions provide institutional stability and reduce the ability of the ordinary legislature to restructure the constitutional review body. The staggered renewal mechanism is particularly significant because it preserves institutional continuity and prevents the entire Council from being replaced at one time. Nevertheless, the participation of the Supreme Leader, the Head of the Judiciary, and the Islamic Consultative Assembly in the selection of members demonstrates that constitutionally distributed appointment authority must still be examined in terms of its substantive effect on independence.

The comparison confirms that no particular appointment model automatically guarantees independence. Exclusive appointment by one political authority creates an obvious risk of domination, but merely distributing appointment powers among several institutions does not necessarily eliminate influence. What matters is the relationship among the participating authorities, the objectivity of qualification requirements, the transparency of the selection process, and the legal position of the member after appointment. Once selected, members should be institutionally detached from the preferences of those who participated in their appointment and should owe their professional duties exclusively to the constitution and the legal responsibilities of their office.

Security of tenure constitutes a second major requirement. Constitutional judges and members of constitutional review bodies must be able to decide politically sensitive questions without fear that an unfavorable decision will result in dismissal, premature termination of membership, or denial of continuation in office. The grounds for termination should therefore be clearly defined, exceptional, and based on objective legal circumstances. Procedures for removal should likewise prevent political authorities from transforming disciplinary responsibility into a mechanism of institutional control. Independence does not require immunity from accountability, but accountability must itself be governed by law and separated from disagreement over constitutional interpretation.

The comparison of membership terms also shows that no universal duration can be identified as the only appropriate model. Long judicial service may protect members from repeated political appointment processes, while fixed terms can provide clarity and institutional renewal. Staggered fixed terms have the additional advantage of preventing wholesale replacement. The decisive requirement is that the duration and renewal of membership should not create incentives for members to accommodate appointing authorities in anticipation of reappointment. Tenure arrangements must therefore be evaluated in connection with appointment, renewal, and removal rather than in isolation.

Professional competence is equally important to independence. Constitutional review requires specialized knowledge and the capacity to interpret constitutional provisions in cases involving complex institutional and legal disputes. Objective qualifications strengthen independence because they restrict the ability of appointing authorities to choose candidates solely for political reasons. Iraq's inclusion of judges, Islamic jurisprudence experts, and legal scholars, Iran's distinction between Islamic jurists and legal experts, and Egypt's predominantly professional judicial model represent different approaches to competence. Each can support independence if qualification standards are genuine, precise, and consistently applied.

Administrative autonomy provides the institutional environment within which these personal guarantees can operate effectively. A constitutional review body should be capable of managing its internal judicial and organizational affairs without dependence on another authority for routine decisions affecting its work. This does not place constitutional institutions outside

the law. Rather, self-administration should operate within clear constitutional and legislative rules. The objective is to prevent political institutions from using administrative mechanisms to achieve indirectly what they are prohibited from doing directly.

Financial independence serves the same protective function. Constitutional adjudication requires sufficient and stable institutional resources. A body whose operations depend entirely on discretionary allocations controlled by an authority subject to constitutional review may become vulnerable even if its judges enjoy formal security of tenure. Financial independence therefore requires safeguards against retaliatory or discriminatory interference with institutional resources. An appropriate framework should combine public financial accountability with protection against political manipulation of the constitutional review body's operational capacity.

Functional independence represents the ultimate purpose of all these safeguards. The reason for protecting composition, tenure, administration, and finance is to ensure that constitutional questions are decided according to constitutional standards rather than political instructions or institutional pressure. Constitutional review is effective only when public authorities accept that the reviewing institution may reach conclusions contrary to their preferences and when the legal system ensures that such decisions remain authoritative. Independence is therefore inseparable from the supremacy of the constitution itself.

For Iraq, the comparative analysis supports the development of a more comprehensive statutory framework governing the Federal Supreme Court. Such legislation should clearly regulate the number and categories of members, professional qualifications, nomination and selection procedures, tenure, grounds and procedures for termination, conflicts of interest, administrative management, and financial safeguards. The appointment mechanism should distribute participation in a manner that prevents exclusive domination by one branch while preserving a strong role for professional legal and judicial evaluation. The rules should be sufficiently stable to prevent alteration of the Court's structure in response to particular constitutional decisions.

The Egyptian experience demonstrates the value of a specialized constitutional judiciary supported by internal judicial autonomy. Its principal lesson for comparative purposes is that institutional independence is strengthened when substantive selection functions are placed within professional judicial structures and political authorities exercise only limited formal appointment roles. Egypt also demonstrates the importance of protecting the institutional composition of a constitutional court from arbitrary expansion or alteration.

The Iranian experience demonstrates the value of constitutional specificity, defined membership categories, predetermined terms, and staggered institutional renewal. At the same time, it illustrates why the participation of multiple constitutional authorities in appointment cannot itself be regarded as sufficient evidence of independence. Appointment rules must be considered together with the institutional relationships among the participating authorities and with the guarantees protecting members after they assume office.

The most appropriate general standard emerging from the comparison is therefore one of integrated independence. Institutional independence requires constitutional entrenchment and organizational autonomy. Personal independence requires professional qualifications, secure tenure, protection against arbitrary removal, and safeguards against conflicts of interest. Functional independence requires freedom from instructions and political retaliation in the exercise of constitutional review. Administrative independence requires meaningful authority over internal affairs, while financial independence requires adequate resources protected against improper manipulation. None of these components is fully effective when isolated from the others.

The comparative study ultimately demonstrates that constitutional review cannot safeguard constitutional supremacy unless the institution exercising it is itself protected by the constitutional order. The independence of constitutional adjudication is not a privilege granted to judges or council members for their personal benefit. It is an institutional guarantee for the constitution, the separation and balance of powers, the rule of law, and the rights protected by the constitutional system. The legal framework governing constitutional review should therefore be evaluated according to whether it creates conditions in which constitutional judgment can be exercised competently, impartially, continuously, and free from improper influence. Iraq, Egypt, and Iran offer different institutional responses to this challenge, and their comparison shows that the strongest framework is one that treats independence not as a single formal declaration but as a coherent system of mutually reinforcing constitutional safeguards.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

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