The Role of Judicial Review in Safeguarding Women's Rights in Iran and Iraq

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Abstract

Women's rights are formally recognized within the constitutional systems of both Iran and Iraq, yet the practical realization of these rights depends substantially on the effectiveness of judicial review and other institutional enforcement mechanisms. This article comparatively examines the role of judicial supervision in safeguarding women's constitutional rights in the two countries, with particular attention to equality, political and social participation, economic autonomy, family-related rights, and access to effective remedies. The study adopts a descriptive-analytical and comparative legal method and focuses on the relationship between constitutional guarantees, ordinary legislation, judicial interpretation, and institutional practice. The findings indicate that the Iranian and Iraqi systems employ different models of constitutional supervision. In Iran, preventive legislative review by the Guardian Council, administrative review by the Administrative Justice Court, and adjudication by ordinary courts collectively shape the enforcement of women's rights. However, the absence of a general individual constitutional complaint and the constitutional role of Islamic criteria limit the direct judicial challenge of certain statutory restrictions. In Iraq, the Constitution provides more explicit guarantees of gender equality and establishes the Federal Supreme Court as a central institution of constitutional review. Nevertheless, the effectiveness of these guarantees is weakened by tensions involving personal-status law, political structures, implementation, and the practical independence of supervisory institutions. The comparative analysis shows that neither extensive constitutional recognition nor the formal existence of judicial review is sufficient to guarantee women's rights. Effective protection requires judicial independence, accessible remedies, consistency between ordinary legislation and constitutional guarantees, coherent constitutional interpretation, and reliable enforcement of judicial decisions. The article concludes that strengthening these institutional conditions is essential for narrowing the gap between constitutional recognition and the practical enjoyment of women's rights in both Iran and Iraq.

Keywords: Judicial Review; Women's Rights; Constitutional Rights; Gender Equality; Iran; Iraq; Judicial Protection; Constitutional Law

Received: 06 May 2026
Revised: 21 October 2026
Accepted: 28 October 2026
Initial Publication: 29 October 2026
Final Publication: 01 March 2027

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Citation: Ali Abulabbas, D., Raei, M., & Ansari Mahyari, A. (2027). The Role of Judicial Review in Safeguarding Women's Rights in Iran and Iraq. *Legal Studies in Digital Age,* 6(3), 1-17.

1. Introduction

The recognition of women's rights in constitutional texts represents only the first stage in the legal protection of those rights. Constitutional declarations of equality, dignity, political participation, social protection, economic freedom, and access to public life acquire practical significance only when the legal system provides institutions capable of preventing violations, reviewing restrictive legislation, controlling administrative action, and providing effective remedies when recognized rights are infringed. This distinction between the formal recognition of rights and their practical enforceability is particularly important in comparative constitutional analysis because two states may adopt apparently similar constitutional guarantees while producing significantly different outcomes depending on the structure of judicial review, the degree of judicial independence, the relationship between constitutional and ordinary legislation, and the accessibility of judicial remedies. Iran and Iraq provide an important comparative setting in this regard. Both legal systems operate within constitutional frameworks strongly influenced by Islamic legal principles, both recognize a range of rights relating to women, and both contain institutional mechanisms for reviewing at least some forms of legislative or governmental action. Nevertheless, the constitutional architecture of the two countries, the formulation of equality guarantees, the position of Islamic norms, and the structure of judicial or quasi-judicial supervision differ substantially. A comparative study of women's rights in the constitutions of Iran and Iraq demonstrates that constitutional recognition in itself does not eliminate the distance between abstract legal guarantees and lived legal protection (Saleh, 2023). The central issue is therefore not merely whether women possess constitutional rights in formal terms, but whether the legal order contains effective mechanisms through which those rights can be defended against legislative, administrative, institutional, and private restrictions.

The Iranian Constitution recognizes a broad conception of equality while simultaneously placing the enjoyment of many rights within an Islamic normative framework. Article 19 establishes equality among the people of Iran and rejects distinctions based on specified characteristics, while Article 20 declares that men and women are equally protected by law and enjoy human, political, economic, social, and cultural rights in conformity with Islamic criteria. Article 21 further imposes affirmative obligations on the state regarding women, including the protection of their material and spiritual rights, the creation of conditions conducive to the development of their personality, and the protection of mothers and vulnerable women. Comparative scholarship on the political and social rights of women in Iran and Iraq recognizes these constitutional guarantees as important elements of the Iranian framework while also emphasizing that their practical scope depends on the broader legal and institutional environment in which they operate (Arjmandinia & Ranjbarzadeh, 2024). The legal position of Iranian women cannot therefore be assessed solely by reading Articles 19, 20, and 21 in isolation. Their legal effect is influenced by constitutional interpretation, ordinary legislation, administrative regulation, judicial practice, and the institutional authority assigned to bodies responsible for ensuring compatibility between legislation, constitutional norms, and Islamic standards.

This institutional dimension is particularly significant because the Iranian constitutional system does not reproduce a single centralized model of constitutional adjudication comparable to constitutional courts found in some other jurisdictions. The Guardian Council exercises an essential role in reviewing legislation adopted by the Islamic Consultative Assembly for conformity with the Constitution and Islamic criteria. The Islamic dimension of this review is especially relevant to women's rights because constitutional guarantees concerning women repeatedly employ the qualification that rights must be exercised in accordance with Islamic criteria. The practical meaning of equality therefore depends partly on interpretation of those criteria by constitutionally competent institutions. At the same time, the Administrative Justice Court provides an avenue for challenging unlawful administrative regulations, decisions, and actions, thereby contributing to the judicial protection of individual and social rights. Research comparing enforcement guarantees for individual and social rights in Iran and Iraq identifies the existence of supervisory and judicial institutions as a necessary but insufficient condition for effective protection, because institutional competence must be accompanied by meaningful accessibility, independence, and enforceability (Khabouri Gol Ashkani et al., 2025). The protection of women's rights consequently requires attention not only to the text of constitutional provisions but also to the legal mechanisms that translate those provisions into enforceable standards.

Iraq presents a different constitutional model. The Constitution of 2005 contains express guarantees of equality and equal opportunity that are formulated in comparatively broad terms. Article 14 provides that Iraqis are equal before the law without discrimination on grounds including sex, while Article 16 guarantees equality of opportunity. Article 20 recognizes the right of Iraqi citizens, men and women, to participate in public affairs and enjoy political rights, including voting and candidacy.

Article 49 further requires electoral legislation to achieve representation of women amounting to at least one quarter of the members of the Council of Representatives. Scholarship examining Iraqi women's rights has treated constitutional recognition as an important development in the formal legal status of women, particularly in comparison with earlier periods in which political and institutional structures offered more limited avenues for rights-based constitutional claims (Al-Sakban, 2006). Yet the existence of comparatively explicit constitutional language does not guarantee that ordinary legislation, administrative practice, personal-status rules, and political institutions will consistently reflect the constitutional commitment to equality.

The Iraqi experience demonstrates particularly clearly the difference between descriptive representation and effective legal empowerment. The constitutional quota has ensured a significant numerical presence of women in parliament, but numerical presence cannot automatically be equated with independent political influence or effective protection of women's rights. Analysis of the Iraqi quota system has emphasized that representation may remain predominantly formal where female representatives lack sufficient institutional autonomy, independent electoral support, or meaningful influence over legislative priorities (Al-Asadi, 2025). This problem is relevant to judicial review because legislative representation and judicial supervision perform different constitutional functions. Political representation may facilitate the enactment of rights-protective legislation, whereas judicial review concerns the ability of constitutional institutions to test legislation and governmental action against higher legal norms. Where political mechanisms fail to prevent the adoption or preservation of rules inconsistent with constitutional equality, the role of judicial review becomes correspondingly more important.

The Iraqi Federal Supreme Court occupies a central position in this constitutional structure. Its constitutional jurisdiction includes the interpretation of constitutional provisions and review of the constitutionality of laws and regulations. In principle, this creates an institutional pathway through which conflicts between constitutional guarantees of equality and ordinary legislation can be addressed. Nevertheless, the effectiveness of such review depends on a series of factors extending beyond formal jurisdiction. These include access to constitutional adjudication, the willingness of courts to employ equality provisions substantively, the relationship between constitutional norms and Islamic principles, the political environment surrounding constitutional litigation, and the capacity of judicial decisions to generate broader legislative or administrative change. The comparative literature suggests that the legal systems of Iran and Iraq share a recurring difficulty: the recognition of rights is often more developed than the institutional mechanisms available for converting those rights into consistently enforceable guarantees (Khabouri Gol Ashkani et al., 2025). The comparative inquiry must therefore examine the institutional conditions under which judicial supervision can operate as a genuine safeguard rather than merely a formal component of constitutional design.

The relationship between constitutional equality and family law further illustrates the importance of judicial oversight. Women's rights are affected not only by explicit constitutional provisions but also by rules concerning marriage, divorce, maintenance, custody, inheritance, employment, mobility, and financial autonomy. In Iran, studies of women's economic and property rights indicate that social transformations have intensified the need to reconsider traditional legal arrangements in light of women's growing economic participation and expectations of financial independence (Zeineddini & Gharachemani, 2024). Research on maintenance rights similarly demonstrates that the financial dimensions of family law continue to shape the practical legal position of women and can create substantial dependence even where constitutional texts affirm general equality (Ranjbarzadeh & Naseripour, 2024). Such areas reveal the limitations of treating constitutional equality as a self-executing guarantee. Judicial institutions must determine how general constitutional norms interact with detailed statutory rules and whether restrictions can be justified within the constitutional order.

The same tension appears in Iraq, although through a different constitutional configuration. Constitutional equality coexists with the constitutional recognition of Islam as a foundational source of legislation and with a pluralistic social structure in which religious and sectarian approaches strongly influence personal-status law. The resulting relationship between constitutional equality, religious norms, and ordinary legislation makes judicial interpretation especially consequential. A constitutional court may theoretically serve as an institution capable of mediating competing normative claims, yet its ability to protect women depends on the interpretive methodology it adopts and the institutional independence with which it exercises its authority. The fact that Iraqi constitutional provisions appear more explicit in prohibiting sex discrimination does not necessarily mean that judicial protection is automatically stronger. Comparative research has accordingly emphasized that the

Iraqi constitutional framework may articulate broader formal guarantees than the Iranian framework while still confronting serious difficulties at the level of implementation (Saleh, 2023).

The objective of this article is to examine the position of judicial review in safeguarding women's rights in Iran and Iraq by moving beyond a descriptive comparison of constitutional provisions and focusing on the mechanisms through which those provisions may be enforced. The analysis seeks to determine how the constitutional systems of the two countries conceptualize women's rights, which institutions are entrusted with reviewing legislation or administrative action affecting those rights, how the interaction between constitutional norms and Islamic principles influences judicial protection, and what structural limitations weaken the effectiveness of judicial supervision. The central argument is that neither extensive constitutional language nor the formal existence of judicial review is sufficient to protect women's rights. Effective protection requires a coherent relationship between constitutional guarantees, ordinary legislation, judicial interpretation, institutional independence, accessibility of remedies, and the practical implementation of judicial decisions.

The study adopts a descriptive-analytical and comparative legal method. It examines the constitutional frameworks of Iran and Iraq and analyzes the place of judicial and supervisory institutions within those frameworks. The comparison does not assume that the two legal systems are structurally identical or that women's rights should be measured solely through one external normative model. Instead, it examines each system on its own constitutional terms while identifying points of convergence and divergence. Particular attention is given to equality, political and social participation, economic autonomy, family-related rights, legislative review, administrative supervision, and the capacity of women to invoke constitutional principles against restrictive legal rules. The comparative method makes it possible to distinguish between differences arising from constitutional text and those resulting from institutional design. It also permits a more precise assessment of whether the principal problem lies in the absence of rights, the restriction of rights through ordinary legislation, the interpretation of constitutional limitations, or the weakness of mechanisms responsible for enforcement.

The importance of this inquiry extends beyond women's rights as a specific field. Judicial protection of women is a test of the wider capacity of constitutional institutions to transform constitutional principles into practical limitations on public power. Where constitutional equality cannot be effectively invoked by a group that constitutes a substantial part of society, the credibility of constitutional rights protection more broadly is weakened. Conversely, effective judicial review can strengthen constitutionalism by requiring legislators and administrative authorities to justify restrictions, by clarifying the relationship between general constitutional norms and detailed statutes, and by creating institutional pathways for challenging unequal treatment. The comparison between Iran and Iraq therefore provides a broader perspective on constitutional enforcement in legal systems in which religious principles, democratic institutions, legislative authority, and judicial supervision interact in complex ways.

2. Constitutional Foundations of Women's Rights and Judicial Protection in Iran and Iraq

The constitutional foundation of women's rights in Iran begins with the broader principles governing equality, citizenship, family, and the relationship between state authority and Islamic norms. The Iranian Constitution does not formulate gender equality through a single comprehensive anti-discrimination clause comparable to some contemporary constitutions. Instead, the protection of women emerges from several interconnected principles. Article 19 states that the people of Iran enjoy equal rights and that characteristics such as color, race, and language do not confer privilege. Article 20 gives the principle a more direct gender dimension by providing that all citizens, both men and women, are equally protected by law and enjoy human, political, economic, social, and cultural rights in accordance with Islamic criteria. Article 21 then moves from equality to affirmative state responsibility by requiring the government to guarantee women's rights in all respects in conformity with Islamic criteria and to undertake measures concerning personality development, maternal protection, family security, and support for women in vulnerable circumstances. Comparative analysis of the Iranian and Iraqi frameworks has identified these provisions as the core constitutional basis of women's rights in Iran (Saleh, 2023). Their legal significance, however, depends on how the phrase "in accordance with Islamic criteria" is institutionally interpreted and applied.

This qualification is not peripheral to the constitutional status of women. Article 4 of the Constitution declares that all civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria and assigns determination of this matter to the jurists of the Guardian Council. The scope of women's constitutional

rights is therefore embedded within a constitutional structure in which Islamic normativity possesses general application. The consequence is that equality in Iran is not formulated as an entirely autonomous principle capable of invalidating every gender distinction simply because differential treatment exists. Instead, the constitutionality of a distinction may depend on whether it is considered compatible with the Islamic framework governing legislation. Comparative studies of women's political and social rights have noted that Iranian law recognizes important spheres of participation while subjecting them to legal and doctrinal qualifications that distinguish the Iranian model from the Iraqi constitutional approach (Arjmandinia & Ranjbarzadeh, 2024). From the perspective of judicial protection, the central question is therefore how constitutional institutions reconcile general guarantees of equality with rules that differentiate between women and men in specific legal contexts.

The Guardian Council plays a decisive role in this process because legislation enacted by parliament must be reviewed for conformity with both the Constitution and Islamic criteria. Although the Council is not a constitutional court in the conventional judicial sense, its review performs a constitutional supervisory function with direct implications for women. Legislation concerning family relations, employment, criminal law, political participation, economic activity, social regulation, and personal freedoms may all be affected by the Council's interpretation of Islamic and constitutional requirements. This form of preventive review differs from adjudication initiated by an individual woman claiming that a particular rule has violated her constitutional rights. The Council's institutional position therefore creates a distinctive model in which constitutional supervision occurs primarily at the legislative stage rather than through a broad system of individual constitutional complaint. The effectiveness of this system in safeguarding women depends heavily on whether rights-protective constitutional principles are treated as substantive constraints during the review process.

The distinction between preventive legislative supervision and remedial judicial protection is important. Preventive review can stop constitutionally problematic legislation before it becomes enforceable, but it does not necessarily provide an accessible remedy for individuals affected by existing statutes or administrative decisions. This limitation becomes significant where women encounter restrictions deriving from long-standing provisions of civil, family, or administrative law. Research on enforcement guarantees in Iranian and Iraqi law emphasizes that the practical realization of rights requires mechanisms through which individuals can challenge violations and obtain an effective institutional response (Khabouri Gol Ashkani et al., 2025). A constitutional system may therefore possess strong ex ante review of new legislation while remaining less developed in relation to ex post rights-based challenges by individuals.

The Administrative Justice Court partly addresses this issue within the Iranian legal system. It provides judicial supervision over administrative decisions, regulations, and conduct and may invalidate governmental measures that exceed authority or conflict with law. This jurisdiction is particularly relevant to women where discrimination or restriction results from administrative rules rather than directly from parliamentary legislation. Access to education, public employment, professional opportunities, social benefits, licensing, and other forms of administrative decision-making can all implicate constitutional and statutory rights. The possibility of challenging unlawful administrative action gives women an institutional avenue that differs from legislative supervision by the Guardian Council. The comparative study of enforcement guarantees identifies administrative judicial control as one of the mechanisms through which individual and social rights may receive practical protection in the Iranian system (Khabouri Gol Ashkani et al., 2025). Yet the effectiveness of such review depends on the legal basis available for challenging a measure and on whether constitutional equality principles can meaningfully influence administrative adjudication.

The constitutional structure of Iraq begins from a more explicit formulation of equality. Article 14 of the 2005 Constitution declares that Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief, opinion, or economic or social status. This formulation provides a direct constitutional basis for challenging gender discrimination. Article 16 complements equality before the law by guaranteeing equal opportunities to all Iraqis and imposing responsibility on the state to take measures necessary to achieve such equality. Article 20 expressly recognizes the right of citizens, men and women, to participate in public affairs and enjoy political rights. The Iraqi Constitution therefore articulates women's equality through a combination of non-discrimination, equal opportunity, and political participation. The comparative literature has accordingly characterized the Iraqi constitutional text as comparatively explicit in its recognition of gender equality (Saleh, 2023).

Political representation provides an additional constitutional guarantee through Article 49, which requires electoral law to aim at women constituting at least one quarter of the Council of Representatives. This provision is important because it moves beyond formal equality and establishes a mechanism intended to address structural underrepresentation. Its operation has led to a significant female presence in parliament, but the legal meaning of this achievement must be distinguished from substantive empowerment. Research on women's quotas in Iraq argues that numerical representation may become formal rather than transformative if female representatives remain dependent on dominant political structures or lack the institutional capacity to influence policy independently (Al-Asadi, 2025). This distinction is relevant to judicial protection because constitutional democracy requires multiple safeguards. Legislative representation may improve the probability that women's interests are reflected in legislation, but it cannot substitute for judicial mechanisms capable of reviewing legislation that conflicts with constitutional rights.

Iraqi women's rights are also shaped by the interaction between constitutional equality and Islamic principles. Article 2 identifies Islam as the official religion of the state and a foundational source of legislation, while prohibiting legislation that contradicts established provisions of Islam, the principles of democracy, or rights and basic freedoms stipulated in the Constitution. This creates a plural constitutional formula in which Islamic norms, democratic principles, and constitutional rights coexist as limitations on legislative authority. The constitutional protection of women must therefore operate within an interpretive system that seeks to reconcile these normative elements. Earlier analysis of Iraqi women's rights recognized that the post-2003 constitutional order opened important opportunities for women while simultaneously creating debates about the relationship between religious norms, personal-status regulation, and equality (Al-Sakban, 2006). The interpretive role of the judiciary is crucial because conflicts between these elements cannot always be resolved through constitutional text alone.

The Federal Supreme Court occupies the central position in constitutional interpretation and constitutional review in Iraq. Its authority over the constitutionality of legislation provides a potentially stronger judicialized model of constitutional supervision than the Iranian structure, at least in institutional form. The Court may interpret constitutional provisions and determine the compatibility of laws and regulations with the Constitution. Because gender equality is expressly recognized, constitutional review could theoretically provide an avenue for testing discriminatory legislation against Articles 14 and 16. The potential breadth of this jurisdiction distinguishes the Iraqi model from systems in which constitutional review is primarily preventive or concentrated in a non-judicial supervisory body. Nevertheless, the existence of jurisdiction does not establish that courts will consistently interpret equality expansively or provide remedies capable of transforming the legal status of women.

This limitation is visible in personal-status law, where constitutional equality interacts with family law, religious norms, and legislative policy. Family relations are among the areas in which gender differentiation is most deeply embedded and where judicial review may face its most difficult interpretive questions. Iraqi women's legal status has historically been shaped by personal-status legislation governing marriage, divorce, maintenance, custody, and inheritance. The constitutional commitment to equality therefore operates alongside a body of detailed rules reflecting religious, historical, and social considerations. The central constitutional question is not whether all differentiation necessarily violates equality, but whether restrictions affecting women can be justified consistently with the constitutional guarantees of equal protection, equal opportunity, and basic rights.

Iran confronts a comparable problem, although its constitutional structure approaches the issue differently. Women possess distinct economic and financial rights under private law, including property ownership and control over their own assets, but family law also establishes differentiated rights and obligations. Contemporary analysis of women's financial and economic rights in Iran demonstrates that changes in women's social and economic participation have increased pressure on traditional legal arrangements and generated new debates about financial independence within the family (Zeineddini & Gharachemani, 2024). The constitutional relevance of these debates lies in the interaction between Article 20's protection of economic rights and the specific statutory rules governing marital relations. Judicial supervision becomes essential where statutory interpretation can either reinforce or mitigate the impact of restrictive rules.

Maintenance provides an example of how formal legal protection may coexist with structural dependence. Comparative scholarship on women's maintenance rights shows that financial support mechanisms are deeply connected to the organization of marital rights and obligations and cannot be understood solely as economic benefits (Ranjbarzadeh & Naseripour, 2024). In constitutional terms, such rules raise broader questions concerning equality, autonomy, and the distribution of authority within family relationships. Judicial protection in this field cannot necessarily eliminate every differentiated rule, but courts

influence the practical consequences of those rules through interpretation, evidentiary standards, procedural accessibility, and remedies. The constitutional status of women therefore emerges partly from ordinary judicial practice rather than solely from constitutional adjudication.

Another important distinction between the two systems concerns the relationship between constitutional rights and institutional access. In Iraq, the Federal Supreme Court's constitutional authority suggests the possibility of direct judicial engagement with constitutional disputes. In Iran, constitutional review of legislation is more strongly mediated through institutional supervision, while administrative and ordinary courts perform other forms of rights protection. This distinction influences the type of claim that women can pursue. A constitutional right that cannot readily be invoked through individual litigation may function primarily as an interpretive or legislative principle, whereas a right that can form the basis of judicial review may operate more directly as an enforceable norm. The comparative analysis of enforcement guarantees therefore correctly directs attention from textual recognition to institutional mechanisms (Khabouri Gol Ashkani et al., 2025).

The constitutional foundations of women's rights in Iran and Iraq thus reveal a paradox. Iran provides extensive state duties concerning women but embeds rights within an explicit Islamic qualification whose authoritative interpretation lies with constitutionally designated institutions. Iraq provides a more direct textual prohibition of gender discrimination and establishes a constitutional court structure capable of reviewing legislation, yet the operation of equality remains constrained by political, legislative, and personal-status complexities. Neither model can be evaluated exclusively through textual comparison. The effectiveness of constitutional rights depends on the ability of supervisory and judicial institutions to identify conflicts between higher and lower norms, to provide remedies when violations occur, and to ensure that constitutional principles influence legislative and administrative conduct.

Judicial protection must consequently be understood as part of the constitutional architecture rather than as a secondary procedural question. Equality becomes meaningful when courts or supervisory institutions can require public authorities to comply with it. Positive constitutional obligations become meaningful when governmental failure can generate legal consequences. Political rights become meaningful when discriminatory restrictions can be challenged. Economic rights become meaningful when administrative or private-law rules are interpreted in a manner consistent with constitutional guarantees. The constitutional comparison between Iran and Iraq therefore leads directly to an examination of the institutions responsible for supervision and review. The decisive question is not simply which constitution contains broader language, but which system creates more effective channels through which women can transform constitutional recognition into enforceable protection.

3. Judicial Review and the Institutional Protection of Women's Rights in Iran

The Iranian system of constitutional supervision is characterized by the distribution of rights-protective functions among several institutions rather than their concentration in a single constitutional court. This institutional configuration has major implications for women's rights. The Guardian Council reviews parliamentary legislation for conformity with the Constitution and Islamic criteria; the Administrative Justice Court reviews administrative regulations and decisions within its jurisdiction; ordinary courts apply statutory and constitutional principles in disputes; and other supervisory mechanisms can address complaints concerning governmental conduct. The central challenge is that these mechanisms do not collectively create an unrestricted system of individual constitutional complaint through which a woman can directly seek annulment of a statute merely by alleging inconsistency with constitutional equality. The effectiveness of judicial protection must therefore be assessed through the actual channels available for preventing, correcting, or mitigating violations.

The Guardian Council occupies a distinctive position because Article 4 gives Islamic criteria overarching normative significance, while Articles 91 to 99 establish the Council's constitutional responsibilities. Every parliamentary enactment must undergo review before becoming law. In principle, this mechanism creates a strong form of preventive constitutional supervision because legislation incompatible with the Constitution cannot enter into force without correction. For women, however, the operation of this mechanism is inseparable from the Council's simultaneous responsibility to evaluate legislation according to Islamic standards. Article 20 itself conditions equal enjoyment of human, political, economic, social, and cultural rights on conformity with Islamic criteria, while Article 21 employs the same normative qualification in relation to the state's duty to secure women's rights. The Council is consequently not merely comparing legislation with an abstract equality norm; it is interpreting equality within a constitutional framework in which Islamic requirements possess independent and superior

legal significance. Comparative research on women's rights in the Iranian and Iraqi constitutions identifies this feature as one of the major differences between the two constitutional systems (Saleh, 2023).

This design has both protective and restrictive potential. Preventive review may protect women where legislation would violate an established constitutional guarantee or an Islamic rule understood as securing a particular right. At the same time, where gender differentiation is considered consistent with Islamic criteria, Article 20 may not operate as an autonomous basis for invalidating the differentiation. Judicial and constitutional protection is therefore shaped by the interpretive understanding of equality rather than by a simple formal requirement of identical treatment. This explains why the Iranian constitutional system can recognize women's equal legal protection while maintaining differentiated statutory rules in areas such as family relations, travel, and certain forms of public or professional activity. The constitutional question is framed not only in terms of whether women and men are treated differently but whether that difference is accepted within the combined structure of constitutional rights and Islamic norms.

The practical significance of this structure is apparent in employment. Women's economic participation falls within the broad protections of Articles 20 and 21, and the Constitution does not establish a general prohibition on female employment. Nevertheless, ordinary law contains rules through which marital and family interests may restrict a woman's occupational freedom in particular circumstances. Article 1117 of the Civil Code allows a husband, subject to legal conditions, to prevent his wife from engaging in an occupation regarded as incompatible with family interests or the dignity of either spouse. The provision illustrates how a general constitutional economic right may coexist with a statutory limitation derived from the legal structure of marriage. Contemporary scholarship on women's economic rights in Iran increasingly emphasizes the tension between traditional family arrangements and the growing importance of women's independent economic identity (Zeineddini & Gharachemani, 2024). From the perspective of judicial review, the critical issue is how courts interpret the statutory conditions for restriction and whether they approach interference with employment narrowly or broadly.

Ordinary judicial interpretation can substantially determine the intensity of a statutory restriction even where courts do not possess authority to invalidate the provision itself. Requirements concerning proof, family interest, dignity, proportionality, and the circumstances of the parties can affect whether the statutory power becomes exceptional or routine. Judicial protection therefore operates partly through interpretation. Courts that insist on concrete evidence of incompatibility between employment and family interests can limit the discriminatory impact of the rule, whereas deferential interpretation may enlarge the power of restriction. This illustrates an important point about judicial safeguards in Iran: protection of constitutional rights does not depend exclusively on formal constitutional review. It also depends on whether ordinary courts interpret legislation in a manner compatible with the constitutional recognition of women's dignity, legal protection, and economic participation.

The economic dimension is linked to broader questions of financial independence. Iranian law recognizes women's separate property and legal capacity, and women may generally own, acquire, and dispose of property independently. Social transformation, increased education, professional participation, and changes in family economic structures have made these rights increasingly significant. Analysis of women's financial and economic rights argues that contemporary developments require legal approaches capable of acknowledging both established family structures and the practical reality of women's economic independence (Zeineddini & Gharachemani, 2024). Judicial institutions influence this field through adjudication of property disputes, marital financial claims, contractual issues, and the consequences of family dissolution. The role of courts is especially important because financial autonomy can determine whether constitutional equality is practically meaningful or merely declaratory.

Maintenance law further demonstrates the relationship between judicial enforcement and women's substantive position. The right to maintenance can provide essential economic protection, particularly where the legal structure of marriage assigns different financial obligations to spouses. Comparative examination of maintenance rights illustrates that such rights operate within a broader system of marital duties and may become central to women's economic security (Ranjbarzadeh & Naseripour, 2024). Judicial enforcement determines whether the right is practically accessible, how obligations are calculated, how evidence is evaluated, and whether judgments can be effectively executed. Consequently, even a statutory right expressly designed to protect women may fail to provide meaningful security if judicial procedures are slow, costly, inaccessible, or difficult to enforce.

Restrictions on mobility provide another example of the gap between constitutional principles and ordinary law. Rules concerning married women's ability to obtain travel documents or leave the country in particular circumstances have long generated debate over the relationship between family authority and individual freedom. The constitutional framework recognizes human and social rights but does not contain a specific comprehensive provision on women's independent international mobility. The legal issue therefore depends heavily on statutory arrangements and their interpretation. Comparative studies of women's political and social rights have identified such areas as evidence that formal constitutional recognition does not automatically eliminate gender-specific restrictions from ordinary legislation (Arjmandinia & Ranjbarzadeh, 2024). Judicial protection is constrained where the limitation itself has a clear statutory basis, because ordinary courts are generally required to apply legislation unless a constitutionally authorized mechanism provides otherwise.

This limitation demonstrates the importance of the structure of constitutional review. In legal systems providing individual constitutional complaint, a claimant may seek direct constitutional scrutiny of a statute alleged to violate fundamental rights. Iran does not provide a broadly equivalent avenue through which every individual may directly petition a constitutional court to annul parliamentary legislation. The Guardian Council's review primarily occurs during the legislative process. Once a statute has passed through the constitutionally required review and entered into force, an ordinary court cannot simply disregard it on the basis that the judge independently considers it inconsistent with Article 20. This reduces the capacity of litigation initiated by women to produce direct constitutional invalidation of restrictive legislation.

The Administrative Justice Court nevertheless provides an important remedy where the disputed restriction originates from administrative regulation rather than legislation. Government ministries, public bodies, municipalities, universities, professional organizations, and other administrative institutions may adopt regulations or decisions affecting women's employment, education, social benefits, access to services, and professional participation. Where such measures exceed statutory authority or violate superior law, administrative judicial review can provide a mechanism for annulment or correction. Research comparing enforcement mechanisms in Iran and Iraq recognizes the importance of administrative review for the practical protection of individual and social freedoms (Khabouri Gol Ashkani et al., 2025). Its significance lies in the fact that many limitations experienced in everyday life arise not from constitutional text or parliamentary statutes but from administrative implementation.

Administrative review can also indirectly constitutionalize ordinary governance. Even where the court formally bases its judgment on statutory legality, constitutional principles may inform interpretation of administrative authority. A regulation imposing a restriction on women without a clear legislative basis may be vulnerable because administrative bodies cannot create limitations beyond their lawful competence. Similarly, discriminatory implementation of a generally applicable law may be challengeable as unlawful administrative action. The practical strength of this mechanism depends on access to proceedings, judicial willingness to scrutinize public bodies, and compliance with judgments. A right to challenge administrative action is meaningful only if claimants can reasonably use it and if annulment decisions produce actual institutional change.

Another dimension concerns political and social participation. Iranian women possess voting rights and have participated extensively in elections, parliamentary activity, local councils, public administration, universities, and professional life. Comparative analysis confirms that Iranian law recognizes significant political and social rights even though access to some positions or forms of authority has remained controversial (Arjmandinia & Ranjbarzadeh, 2024). Judicial review is relevant where eligibility rules, administrative decisions, or institutional practices affect access to political participation. Yet the fragmented structure of supervision means that different bodies may exercise authority over different aspects of participation, and not every exclusion is subject to the same form of judicial challenge. This dispersal can create uncertainty regarding the appropriate forum and the applicable standard of review.

The institutional problem is therefore not the complete absence of supervisory mechanisms but the absence of a unified route through which constitutional equality claims can consistently be adjudicated. Khabouri Gol Ashkani and colleagues' analysis of enforcement guarantees emphasizes that rights become effective through institutional safeguards rather than through constitutional proclamation alone (Khabouri Gol Ashkani et al., 2025). Applied to women's rights, this means that constitutional commitments require a coherent chain of protection extending from legislative review to administrative legality, ordinary adjudication, remedies, and enforcement. Weakness at any point in that chain can widen the gap between constitutional text and practical experience.

The Islamic dimension of constitutional interpretation also requires careful analysis. It would be inaccurate to characterize Islamic criteria solely as a restriction because the constitutional system itself treats Islamic norms as a source of legal legitimacy and rights. Protective rules relating to financial entitlement, family support, maternal protection, and human dignity may also be justified through Islamic principles. The constitutional challenge arises when competing interpretations of Islamic requirements produce different consequences for equality. Because the Guardian Council's jurists possess authoritative responsibility for reviewing legislation in this respect, their interpretive role directly affects the legislative boundaries of women's rights. The issue is therefore institutional as much as doctrinal: constitutional outcomes depend on who possesses interpretive authority and what procedures exist for reconsidering the consequences of established interpretations.

Article 21 creates an additional dimension by imposing positive duties on the state. Unlike purely negative rights that prohibit interference, the provision requires governmental action to support women's development, protect motherhood, establish competent courts for preserving the family, and assist women in vulnerable situations. The fulfillment of positive obligations poses particular difficulties for judicial supervision because courts are generally more accustomed to reviewing unlawful action than compelling complex social policy. Nevertheless, failure to implement constitutional duties can undermine the substantive meaning of the provision. The protection of women therefore requires not merely abstention from discrimination but institutional measures capable of ensuring access to justice, economic security, family protection, and effective remedies.

The question of judicial independence is central to all these mechanisms. Even broad legal jurisdiction cannot safeguard rights if institutions are unable to review governmental conduct impartially or if constitutional supervision becomes subordinate to political considerations. Comparative analysis of enforcement guarantees in Iran and Iraq emphasizes the significance of institutional independence for the practical realization of constitutional freedoms (Khabouri Gol Ashkani et al., 2025). In the Iranian context, independence must be assessed together with the distinctive constitutional distribution of authority. The issue is not confined to direct executive pressure on judges; it also concerns whether the institutional design permits rights claims to be heard by bodies possessing sufficient competence to grant meaningful relief.

Access to justice is equally important. Women affected by discriminatory administrative action or family-law restrictions may encounter financial, procedural, social, or informational barriers to litigation. Judicial protection cannot be measured simply by the existence of a court with theoretical jurisdiction. It must also be evaluated in terms of the ability of individuals to identify a legal violation, obtain representation where necessary, present claims, receive timely decisions, and secure enforcement. This is particularly important in disputes involving economic dependence or family relationships because the claimant may lack the resources necessary for prolonged litigation. Effective constitutional protection consequently requires procedural conditions that make remedies genuinely available.

The overall position of judicial review in Iran is therefore complex. The legal system contains meaningful supervisory institutions, constitutional guarantees, administrative judicial remedies, ordinary courts, and preventive legislative review. These mechanisms can protect women against unlawful governmental action and can influence the interpretation and application of legal restrictions. At the same time, the absence of a general individual constitutional complaint, the dependence of equality on Islamic constitutional criteria, the persistence of differentiated statutory rules, and the fragmented distribution of supervisory authority limit the capacity of judicial review to operate as a comprehensive mechanism for gender equality. The principal challenge is not simply to expand rights language but to strengthen the institutional pathways through which constitutional principles can influence ordinary legislation and everyday administrative practice.

4. Judicial Review and the Institutional Protection of Women's Rights in Iraq: A Comparative Assessment

The Iraqi constitutional system provides a particularly significant setting for examining the relationship between explicit equality guarantees and judicial protection. The Constitution of 2005 was adopted in a period of political reconstruction and constitutional transformation and includes an extensive catalogue of rights alongside institutional mechanisms for constitutional review. Women are expressly included within guarantees of equality, political participation, and representation. Article 14 prohibits discrimination on the basis of sex, Article 16 recognizes equality of opportunity, Article 20 guarantees political participation to men and women, and Article 49 establishes a minimum parliamentary representation requirement. These provisions create a comparatively strong textual foundation for constitutional claims concerning women. Saleh's comparative examination of the constitutions of Iraq and Iran concludes that the Iraqi constitutional framework articulates women's rights

more explicitly in several respects (Saleh, 2023). The decisive question, however, is whether judicial review has the institutional capacity to transform those textual guarantees into substantive constraints on legislation and governmental conduct.

The Federal Supreme Court is the principal institution responsible for constitutional adjudication. Its authority to review the constitutionality of laws and regulations gives it a central role in maintaining constitutional supremacy. Where ordinary legislation conflicts with Article 14 or another constitutional right, constitutional review provides a legal mechanism through which that conflict may theoretically be resolved. The significance of this structure is particularly apparent when compared with Iran. Whereas the Iranian Guardian Council primarily performs preventive review of parliamentary legislation before promulgation, Iraq's constitutional court model is more recognizably judicial and can address constitutional controversies after legislation has entered the legal system. This creates greater formal potential for rights-based adjudication arising from concrete constitutional disputes.

Nevertheless, the existence of a constitutional court does not ensure that every violation of women's rights reaches constitutional adjudication. Access depends on procedural rules governing standing, referral, institutional competence, and the nature of the disputed measure. Women may experience discrimination through administrative practice, personal-status adjudication, social institutions, or private relationships without necessarily obtaining a direct constitutional ruling. For this reason, the effectiveness of judicial review should be evaluated as part of a wider enforcement system. Comparative research on individual and social rights in Iran and Iraq emphasizes that enforcement guarantees require the interaction of constitutional institutions, ordinary courts, and administrative mechanisms rather than reliance on constitutional provisions alone (Khabouri Gol Ashkani et al., 2025).

One of the most important areas in which the effectiveness of constitutional equality is tested is personal-status law. Family law directly determines rights relating to marriage, divorce, custody, maintenance, inheritance, and family authority. Iraq has historically possessed a codified personal-status framework, but debates concerning religious and sectarian regulation have repeatedly raised questions about the relationship between uniform citizenship, constitutional equality, and differentiated religious norms. The difficulty arises because the Constitution itself contains multiple normative commitments. Article 2 recognizes Islam as the official religion and a foundational source of legislation while also protecting democracy and constitutional rights. Article 41 addresses freedom concerning personal-status matters in accordance with religion, sect, belief, or choice, subject to legislative regulation. These provisions can generate interpretive tension when a religiously grounded personal-status rule produces different legal consequences for women and men.

Judicial review becomes especially important in this context because constitutional adjudication must determine how competing provisions are reconciled. A purely formal approach could treat each constitutional provision as independent and permit substantial gender differentiation whenever personal-status autonomy is invoked. A rights-oriented approach could instead require that legislation implementing religious or sectarian rules remain compatible with the core guarantees of equality and dignity. The constitutional text does not automatically dictate the balance. The judiciary's interpretive methodology therefore influences whether Article 14 functions as a robust anti-discrimination guarantee or a general principle subject to extensive exceptions.

Early scholarship on Iraqi women's rights already identified the post-2003 constitutional transition as simultaneously promising and uncertain for women (Al-Sakban, 2006). Formal political inclusion expanded, yet the reconfiguration of religious and political power created new disputes over personal status and family law. This duality remains central to understanding contemporary judicial review. The Iraqi Constitution can support a strong conception of gender equality, but it also accommodates normative pluralism that may produce differentiated rules. The judiciary is consequently required to mediate not merely between constitution and statute, but among competing constitutional commitments.

Political representation provides another instructive example. Article 49's quota has ensured that women occupy at least a quarter of parliamentary seats. This is a significant constitutional achievement because it prevents the complete political marginalization of women within the legislature. Yet Al-Asadi argues that women's quota mechanisms may produce formal empowerment without necessarily creating genuine representation (Al-Asadi, 2025). Political parties and dominant parliamentary blocs can shape candidate selection, legislative priorities, committee leadership, and voting behavior in ways

that limit the independent influence of women representatives. Numerical representation is therefore not synonymous with institutional power.

The judicial significance of this problem lies in the distinction between democratic and constitutional safeguards. Parliament is responsible for legislation, but legislative majorities may enact or retain laws that affect women unequally. Female parliamentary presence may reduce this possibility, but it cannot eliminate it. Judicial review provides a different form of protection because it evaluates legislation according to constitutional standards rather than electoral majorities. An effective constitutional judiciary can therefore protect rights even where legislative representation fails to produce sufficient political influence. Conversely, weak judicial review leaves women more dependent on political bargaining within institutions in which numerical presence may not correspond to decision-making power.

The relationship between Iraqi law and international women's-rights commitments further illustrates the importance of domestic judicial interpretation. Iraq's participation in international human-rights frameworks creates an external normative context for evaluating domestic law, but international commitments do not automatically override constitutional or statutory rules in everyday adjudication. Domestic courts determine the extent to which treaties and international standards influence legal interpretation. The effectiveness of international norms therefore depends heavily on their status within the domestic legal order and on judicial willingness to use them as interpretive resources. Where constitutional equality and international commitments point in the same direction, judicial interpretation can reinforce rights protection; where domestic legislation remains inconsistent with those commitments, the absence of strong judicial engagement can preserve the gap between formal obligation and practical law.

This gap is especially significant because constitutional equality operates through ordinary legislation. Women rarely experience constitutional law directly. They encounter legal rights through statutes governing employment, education, elections, family relations, social welfare, property, criminal justice, and administration. If ordinary legislation conflicts with constitutional guarantees, the value of constitutional supremacy depends on whether an institution can identify the conflict and provide an effective remedy. Khabouri Gol Ashkani and colleagues' discussion of enforcement guarantees underscores precisely this point: rights are dependent upon enforceable mechanisms capable of constraining lower-level legal norms (Khabouri Gol Ashkani et al., 2025). Iraq's Federal Supreme Court therefore occupies a strategically important position because its review can determine whether constitutional equality remains superior to ordinary law in practice as well as theory.

Administrative conduct provides another dimension. A law may be facially neutral while its implementation produces unequal effects. Public employment, education, social assistance, identity documentation, local administration, and access to governmental services may all be influenced by discretionary administrative decisions. Constitutional review of legislation cannot by itself correct every discriminatory administrative practice. Ordinary and administrative judicial mechanisms must therefore complement constitutional adjudication. The effectiveness of women's rights requires a legal environment in which discriminatory implementation can be challenged and public institutions can be required to act consistently with law.

The Iraqi system faces additional difficulties arising from political fragmentation and institutional instability. Constitutional courts do not operate in isolation from the political environment in which appointments, jurisdictional disputes, enforcement, and public legitimacy occur. Where constitutional controversies overlap with sectarian, partisan, or institutional conflicts, adjudication may be affected by broader political pressures. Judicial independence is therefore essential not only in a formal sense but in the practical ability of courts to decide politically sensitive disputes according to constitutional standards. Women's rights can become particularly vulnerable when they intersect with religious identity, family law, or political representation because these matters frequently involve organized constituencies and strong ideological positions.

A comparison with Iran reveals both advantages and limitations in each system. Iraq possesses a constitutionally entrenched judiciary with explicit constitutional review authority and a broad anti-discrimination clause. Iran possesses a powerful preventive supervisory mechanism capable of reviewing every parliamentary enactment before it becomes law. The Iraqi model appears more conducive to judicialized constitutional claims, whereas the Iranian model provides a more systematic legislative screening process. Neither mechanism is inherently sufficient. Preventive review may fail to provide remedies for individuals affected by existing laws, while judicial review after enactment may remain ineffective if access is restricted, proceedings are politically constrained, or constitutional decisions are not fully implemented.

The substantive standards employed in review also differ. In Iran, women's constitutional equality is expressly conditioned by Islamic criteria, and the Guardian Council exercises authoritative supervision over Islamic conformity. In Iraq, Article 14's

equality guarantee contains no equivalent express gender qualification, but Article 2 prohibits laws contradicting established provisions of Islam. Both systems therefore integrate Islamic norms into constitutional legality, although they do so through different institutional and textual structures. The difference is significant. Iran's constitutional text directly links women's enjoyment of rights to Islamic criteria, whereas Iraq presents Islamic principles, democracy, and constitutional rights as parallel constitutional constraints. This may provide Iraqi judges with a different interpretive framework for balancing equality and religious norms.

The political dimension also differs substantially. Iraq's constitutional quota represents an explicit affirmative mechanism designed to secure women's legislative participation. Iran does not constitutionally reserve a minimum percentage of parliamentary seats for women. Comparative research on political and social rights demonstrates that both systems recognize women's political participation but employ different structural mechanisms and limitations (Arjmandinia & Ranjbarzadeh, 2024). Iraq's quota can strengthen descriptive representation, yet Al-Asadi's analysis warns that institutional dependence can prevent representation from becoming genuine influence (Al-Asadi, 2025). Judicial review remains necessary because even a legislature containing a constitutionally guaranteed number of women may enact laws inconsistent with substantive equality.

Economic rights provide another useful comparative axis. Iranian scholarship has increasingly examined women's financial autonomy against the background of changing social relations (Zeineddini & Gharachemani, 2024). Although the Iraqi legal context differs, the same constitutional principle applies: economic participation depends on ordinary legal rules concerning property, employment, family obligations, and access to public institutions. Judicial protection is strongest where constitutional equality informs interpretation across these different legal fields rather than remaining confined to explicitly constitutional litigation. A court system that treats constitutional rights as relevant to statutory interpretation can gradually influence the broader legal order even when formal invalidation of legislation is rare.

The comparison also demonstrates the importance of remedies. A judicial declaration that a law or regulation violates constitutional rights must produce a legal consequence. Effective remedies may include invalidation, non-application, annulment of administrative action, compensation where legally available, reconsideration of a decision, or legislative correction. Without effective implementation, constitutional adjudication becomes symbolic. This is especially significant for women because many rights violations are recurring rather than isolated. A restrictive rule affecting employment, travel, family status, or access to public office may affect thousands of women. Judicial remedies should therefore be capable, where constitutionally appropriate, of addressing structural legal problems rather than only resolving an individual dispute.

Access to justice similarly determines whether judicial review protects women in practice. Formal jurisdiction cannot assist claimants who cannot reach the relevant institution. Procedural complexity, financial cost, geographical distance, lack of legal information, social pressure, or dependence within family relationships may discourage litigation. These factors are not unique to Iran or Iraq, but they have particular significance where women's rights disputes arise from family or social relationships. The design of judicial institutions should therefore be assessed partly according to the practical accessibility of complaints and the capacity of women to obtain timely remedies.

The comparative evidence ultimately suggests that Iraq's broader constitutional equality language does not automatically produce stronger protection than Iran's more qualified constitutional formulation. Iraq has significant textual and institutional resources, including an explicit prohibition of sex discrimination, a constitutional court, and a parliamentary quota. Yet ordinary legislation, political dependence, personal-status controversies, and the practical limits of judicial enforcement can weaken those guarantees. Iran, by contrast, has a more institutionally distinctive system in which preventive constitutional supervision is strong but individualized constitutional litigation is limited. The result in both systems is a persistent gap between constitutional rights and their complete realization.

The central comparative lesson is that judicial review should not be evaluated exclusively by asking whether a constitutional court exists. Effective judicial protection depends on several interconnected factors: the constitutional status of equality, the scope of review, the ability of individuals to initiate or benefit from review, the independence of supervisory bodies, the interpretive treatment of Islamic norms, the relationship between constitutional and ordinary legislation, and the enforceability of judgments. A system may perform strongly in one dimension and weakly in another. Iraq may provide broader access to constitutional adjudication in institutional terms, while Iran may possess more comprehensive preventive scrutiny of

parliamentary enactments. The protection of women requires that these institutional strengths be accompanied by substantive commitment to constitutional rights.

A further lesson concerns the relationship between legal reform and judicial review. Courts cannot by themselves solve every structural inequality affecting women. Legislative change remains essential where discriminatory rules are embedded in statutes, while administrative reform is necessary where implementation creates unequal outcomes. Political participation is required to ensure that women influence the formulation of policy, and social changes affect the ability of formal legal rights to operate effectively. Judicial review nevertheless occupies a unique position because it can act as a constitutional boundary on the other branches. Its purpose is not to substitute for democratic legislation but to ensure that legislative and executive power remains within constitutional limits.

The Iranian and Iraqi experiences also demonstrate that constitutional rights require institutional continuity. Women's rights can be weakened not only by explicit repeal but by inconsistent interpretation, administrative non-compliance, restrictive implementing rules, or political decisions that gradually narrow access to rights. Judicial supervision provides a mechanism for preserving constitutional commitments across changing political circumstances. For this reason, judicial independence, transparent reasoning, consistent doctrine, and public accessibility of judgments are essential components of effective rights protection.

Ultimately, the comparative analysis reveals that the principal weakness in both legal systems lies less in the complete absence of constitutional recognition than in the incomplete translation of constitutional recognition into consistent legal practice. Iraq has a broader textual equality model and a more conventional constitutional judiciary, yet its legal and political structures can limit the substantive effect of those guarantees. Iran provides constitutional protection for women and multiple supervisory institutions, yet the interpretive structure surrounding Islamic criteria and the absence of a comprehensive individual constitutional complaint constrain direct rights-based review. Strengthening judicial protection in both countries therefore requires attention to institutional design, statutory consistency, access to justice, and the capacity of constitutional principles to influence ordinary adjudication.

5. Conclusion

The comparative examination of Iran and Iraq demonstrates that the legal protection of women cannot be measured simply by the number or breadth of constitutional provisions devoted to equality and women's rights. Constitutional recognition is indispensable, but it constitutes only the normative starting point. The decisive issue is whether constitutional guarantees can control legislation, constrain administrative power, influence judicial interpretation, and provide women with effective remedies when their rights are violated. The comparison reveals that both Iran and Iraq possess meaningful constitutional commitments and institutional mechanisms for supervision, yet neither system has completely resolved the gap between formal constitutional rights and their practical realization.

The Iranian constitutional framework recognizes women as holders of human, political, economic, social, and cultural rights and places affirmative responsibilities on the state to protect their material and spiritual interests. At the same time, the scope of these rights is constitutionally connected to Islamic criteria. This produces a distinctive legal structure in which the interpretation of religious norms is inseparable from constitutional review. The Guardian Council therefore occupies a particularly powerful position. Its review of parliamentary legislation provides a systematic mechanism for preventing the enactment of laws deemed inconsistent with the Constitution or Islamic standards. This preventive system can function as a strong form of constitutional supervision, but it does not provide the same type of individualized constitutional remedy associated with constitutional complaint procedures in other systems.

The absence of a general individual constitutional complaint constitutes one of the principal structural limitations affecting the protection of women in Iran. A woman whose rights are restricted by an existing statute does not ordinarily possess a direct route through which she can ask a constitutional court to annul that statute solely on the ground that it is incompatible with constitutional equality. Her legal protection may instead depend on ordinary judicial interpretation, administrative judicial review, or legislative reform. This means that the practical strength of constitutional rights varies according to the source of the restriction. Administrative measures may be subject to meaningful judicial scrutiny, whereas restrictions expressly established by parliamentary legislation may be more difficult to challenge through individual litigation.

The Administrative Justice Court therefore performs an important complementary function. Its ability to review administrative decisions and regulations can protect women where unlawful restrictions are created or intensified by public authorities. Many practical limitations on rights arise through implementation rather than through the constitutional text itself. Employment policies, educational rules, professional regulations, social benefits, licensing requirements, and other administrative practices can significantly affect women's participation in public life. Effective administrative review can ensure that governmental institutions remain within their legal competence and can prevent authorities from imposing restrictions unsupported by legislation.

Ordinary courts are equally important. The practical consequences of family, employment, financial, and social legislation depend greatly on judicial interpretation. Courts may interpret statutory conditions narrowly or broadly, require substantial evidence before permitting restrictions, and choose among competing interpretations in ways that either protect or diminish individual autonomy. Constitutional rights therefore influence women's status not only through formal constitutional litigation but through the everyday process of adjudication. Strengthening rights protection requires greater integration of constitutional principles into ordinary legal reasoning.

Iraq presents a different configuration. Its Constitution contains a direct prohibition on sex discrimination and expressly guarantees equal opportunities and political participation. It also establishes a constitutional judiciary capable of reviewing legislation. In structural terms, this creates considerable potential for rights-based constitutional adjudication. Women can rely on constitutional equality as a higher legal principle against which legislation and governmental conduct may be assessed. The constitutional requirement of parliamentary representation further ensures that women cannot be entirely excluded from the legislative institution.

Yet Iraq illustrates the limitations of relying on constitutional text alone. The existence of an anti-discrimination clause does not ensure that all ordinary legislation is consistent with substantive equality. Family law, religious pluralism, political structures, and administrative practice continue to shape the actual legal position of women. The Federal Supreme Court therefore occupies a critical position in defining the relationship between equality, Islamic principles, democratic values, and personal-status regulation. Its interpretive approach can determine whether constitutional equality operates as an effective limitation on legislation or remains a general principle with limited transformative power.

The Iraqi parliamentary quota likewise demonstrates the distinction between institutional presence and substantive influence. Ensuring that women occupy a significant proportion of legislative seats is constitutionally important, but numerical representation does not automatically guarantee independent political power. Female representatives may still operate within party structures dominated by broader political interests. For this reason, political representation cannot replace judicial protection. The two mechanisms should be understood as complementary. Representation gives women an institutional voice in creating legislation, while judicial review provides protection when legislation itself conflicts with constitutional guarantees.

The comparison between the two countries therefore reveals different strengths and weaknesses. Iran possesses a powerful preventive mechanism for reviewing legislation but provides more limited opportunities for individualized constitutional challenge. Iraq possesses a more conventional constitutional court model and more explicit textual equality, but political fragmentation, disputes concerning personal-status law, and institutional implementation can weaken the effectiveness of judicial protection. Neither model should therefore be characterized simply as stronger or weaker in the abstract. Their effectiveness varies according to the type of dispute, the institution involved, and the source of the legal restriction.

A central finding of this study is that judicial independence is indispensable to the protection of women's rights. Constitutional rights cannot effectively constrain public power if the institutions responsible for their interpretation are vulnerable to political pressure or lack sufficient authority to enforce their decisions. Independence must be understood broadly. It includes protection from direct political interference, institutional stability, clear jurisdiction, professional judicial reasoning, and the ability to issue decisions that public authorities are required to respect. Courts must be capable of reviewing politically sensitive issues without treating constitutional rights as subordinate to short-term governmental interests.

Access to justice is equally essential. Rights that can be enforced only through expensive, complex, or inaccessible procedures provide weak protection to those most likely to need judicial intervention. Women experiencing economic dependency, family conflict, employment discrimination, or administrative exclusion may face particular difficulties in initiating legal proceedings. Effective judicial protection therefore requires procedures that are understandable, affordable,

timely, and geographically accessible. Legal aid, procedural simplification, transparent publication of judicial decisions, and effective enforcement mechanisms can significantly increase the practical value of constitutional rights.

The comparison also demonstrates that judicial review should be connected more closely to ordinary legislation. Constitutional guarantees are weakened when statutes continue to contain provisions that generate systematic inequality or when administrative authorities apply legislation in ways that conflict with constitutional values. Both countries would benefit from stronger procedures for reviewing the compatibility of existing legislation with constitutional rights rather than limiting constitutional scrutiny predominantly to new enactments or exceptional disputes. Periodic legislative review could identify areas in which older legal rules no longer correspond to constitutional guarantees or contemporary social realities.

In Iran, stronger coordination between constitutional supervision, administrative judicial review, and ordinary adjudication could reduce fragmentation in rights protection. Constitutional principles concerning women should play a clearer role in the interpretation of statutes and administrative regulations. Where a legal rule permits more than one reasonable interpretation, the interpretation most consistent with constitutional rights should generally be preferred unless a contrary constitutional requirement exists. Such an approach would not require abandonment of the Islamic framework of the Constitution. Rather, it would require more systematic reconciliation of Islamic principles with constitutional commitments to dignity, legal protection, social participation, and the material and spiritual rights of women.

The Iranian legal system would also benefit from mechanisms allowing more effective reconsideration of existing legislation when serious constitutional concerns emerge after enactment. Preventive review is valuable, but social conditions and understandings of constitutional rights can evolve. A provision that appeared unproblematic at the time of enactment may later produce consequences inconsistent with constitutional objectives. An institutional mechanism capable of reconsidering such rules could strengthen constitutional responsiveness without undermining legislative authority.

In Iraq, the priority should be to strengthen the practical authority and independence of constitutional adjudication while ensuring that equality provisions receive substantive interpretation. Article 14 should function as an operative constitutional guarantee capable of influencing legislation across family law, public employment, political participation, and administrative governance. Constitutional pluralism should not result in a situation in which equality becomes ineffective whenever a disputed issue is associated with religious or sectarian regulation. Judicial interpretation should instead seek coherence among the Constitution's commitments to Islam, democracy, rights, and equality.

The Iraqi system should also distinguish clearly between respect for religious diversity and the constitutional obligation to protect individuals against discrimination. Personal-status pluralism may accommodate different religious traditions, but constitutional supervision remains necessary where the legal consequences of such arrangements substantially impair equality, dignity, or access to justice. Courts should ensure that legislative choices made in the name of pluralism remain within constitutional boundaries.

Another major conclusion is that judicial review should not be treated as a substitute for legislative reform. Courts can interpret, review, and invalidate legal rules within their constitutional competence, but sustainable protection of women requires legislative bodies to harmonize ordinary law with constitutional principles. Laws affecting employment, mobility, family relationships, political participation, financial rights, and access to public institutions should be periodically assessed in light of constitutional guarantees. Parliament remains responsible for designing clear legal protections rather than expecting courts to repair every defect through interpretation.

Similarly, political empowerment and judicial protection should be mutually reinforcing. Greater participation of women in legislative and governmental institutions can improve the responsiveness of lawmaking, while independent judicial review can protect women when political mechanisms fail. The Iraqi quota illustrates the value of institutional inclusion but also the danger of confusing representation with substantive authority. Political systems should therefore promote not merely the presence of women but their independent participation in committees, leadership positions, legislative initiatives, and oversight functions.

The protection of economic autonomy should receive particular attention in both countries. Economic dependency can transform formally available rights into practically inaccessible ones. Women who lack independent financial resources may find it difficult to litigate, leave abusive relationships, pursue employment opportunities, or challenge administrative restrictions. Constitutional equality therefore has an economic dimension that extends beyond formal property rights. Judicial and legislative institutions should recognize that effective access to rights frequently depends on practical financial capacity.

Judicial transparency can also contribute substantially to the development of women's rights. Publication of reasoned decisions allows lawyers, scholars, legislators, and citizens to understand how constitutional principles are interpreted. Consistent and accessible jurisprudence reduces uncertainty and enables lower courts and administrative authorities to adjust their practices. In politically or socially sensitive fields, reasoned judgments can also demonstrate that judicial intervention is grounded in legal principles rather than ideological preference.

The ultimate comparative conclusion is that constitutional protection of women depends on the interaction of norms and institutions. Iran and Iraq both possess constitutional provisions capable of supporting meaningful protection, but their institutional pathways differ. Iran relies heavily on preventive legislative supervision and a combination of administrative and ordinary judicial mechanisms, whereas Iraq provides a more centralized form of constitutional adjudication alongside explicit equality guarantees. Each system contains elements that could be strengthened without abandoning its constitutional identity.

The future development of women's rights in both countries therefore depends less on producing additional symbolic declarations and more on increasing the enforceability of existing constitutional commitments. Stronger judicial independence, improved access to remedies, systematic review of ordinary legislation, clearer constitutional reasoning, more effective administrative supervision, and reliable implementation of judicial decisions are necessary for narrowing the distance between constitutional text and social reality. Judicial review is not the sole mechanism through which women's rights can be realized, but it is an indispensable safeguard because it provides a legal means of ensuring that constitutional promises bind the institutions exercising public power.

The central proposition emerging from this study is consequently straightforward: women's constitutional rights become genuine legal rights only when institutions possess both the authority and the practical capacity to enforce them. Iran and Iraq have established different models of constitutional supervision, yet both demonstrate that rights without effective enforcement remain vulnerable to statutory restriction, administrative practice, institutional weakness, and political pressure. A more effective system of judicial protection must therefore connect constitutional guarantees with accessible procedures, independent adjudication, coherent statutory interpretation, and meaningful remedies. Only through this institutional connection can constitutional recognition be transformed from a declaration of principle into a durable guarantee of women's legal status and equal citizenship.

Ethical Considerations

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

Acknowledgments

Authors thank all who helped us through this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

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

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