

Practical Challenges of Separation of Powers Between the Central Government and the Kurdistan Region in the Iraqi Constitution

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1. Round 1

1.1. Reviewer 1

Reviewer:

You mention, “On February 15, 2022, the Iraqi Federal Supreme Court issued a potentially transformative ruling regarding the ownership and control of oil and gas in Kurdistan.” Please provide the case citation or formal case name for precision, as readers in law will expect exact referencing.

The phrase, “distribution of competences between federal and regional governments in domestic affairs, depending on the conditions of each union, is crucial” is too general. Specify how this applies uniquely to Iraq compared to other federations such as Germany or Spain.

The statement, “It is subject only to its own legislature, since any federal oversight over the Region would contradict the real nature of a federal system” is overstated. Please moderate the language or acknowledge that most federations (e.g., U.S., India) do permit federal oversight in certain cases.

The discussion on revenue reduction from 17% to 12.67% is highly relevant. However, the paper lacks empirical data on the economic or social consequences of this reduction. Adding figures on salary arrears, GDP contraction, or unemployment in Kurdistan would substantiate the argument.

The sentence, “This ruling has been widely criticized as politically motivated rather than purely legal” should be carefully qualified. Provide sources for the claim of political bias (academic critiques, legal commentaries, or political science analyses), rather than asserting it as fact.

The claim, “judicial interference represents a significant encroachment on regional autonomy” needs more elaboration. Discuss whether the Iraqi Constitution explicitly permits such federal intervention in elections, or whether this is extra-constitutional judicial activism.

The sentence, “Kurdish officials have repeatedly criticized the Court for bias toward centralization” should be supported with quotations from political leaders, parliamentary records, or legal petitions to make it evidence-based rather than anecdotal.

The phrase, “Recent court decisions have further undermined the Region’s ability to elect minority representatives and even to pay its employees” is very strong. Consider clarifying the causal mechanism—how exactly did court decisions block salary payments?

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The sentence, “This principle has evolved to encompass both formal institutional separation and functional checks and balances...” needs recent references (2020–2024 scholarship) to demonstrate engagement with contemporary constitutional debates, not just classical theory.

The claim, “The Iraqi case is particularly complex due to the legacy of Saddam Hussein’s authoritarian rule...” is valid, but this paragraph would benefit from concrete data or examples (e.g., constitutional design choices influenced by authoritarian legacies, such as judicial appointments).

You write, “Federal constitutions vary in how they define and allocate powers...”. This is a general constitutional law observation. Consider including a comparative table contrasting Iraq with two other federations (e.g., Nigeria and Germany) to strengthen the analytical contribution.

The phrase, “This selective enforcement undermines the rule of law and the supremacy of the Constitution” is accurate but generic. Please provide one or two illustrative examples where selective enforcement created legal uncertainty in practice (e.g., budget transfers withheld, oil contracts annulled).

The reference to “corruption, clientelism, and informal power networks” is important but underdeveloped. Suggest expanding with references to Transparency International indices or specific governance reports on Iraq to ground the argument.

The observation that “the absence of the Federal Council has deprived Iraq’s federal system of a vital mechanism” is key. Recommend moving this insight earlier in the paper (perhaps Section 3.4) so readers understand its systemic importance before later sections.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.