

Analysis of the Structural Independence of the Judiciary from the Perspective of Positive Law, Jurisprudence, International Documents, and the Judicial Transformation Document: Existing Challenges and Solutions

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Abstract

Judicial independence and the independence of the judiciary are two interconnected but distinct concepts, both emphasized in the Constitution of the Islamic Republic of Iran. Judicial independence refers to the autonomy of a judge in handling cases and issuing rulings without interference or pressure from external forces. The Constitution provides multiple guarantees to ensure judicial independence, as seen in Articles 57 and 156, which discuss the concept of independence. In these articles, judges are obligated to adhere to justice and independence in their handling of cases. The Code of Criminal Procedure also includes rules and regulations to ensure the independence of judges, such as prohibiting interference in judicial matters and requiring judges to maintain impartiality. Islamic jurisprudence places a strong emphasis on the independence of judges, asserting that judges should only follow Sharia law and justice when adjudicating cases. International documents, such as the Universal Declaration of Human Rights, also stress the importance of judicial independence, considering it one of the foundational pillars of a fair legal system. The Judicial Transformation Document also outlines various programs and actions to strengthen the independence of the judiciary. Despite these guarantees and programs, several challenges exist in achieving judicial independence, including political interference, budgetary and resource shortages, administrative and judicial corruption, weaknesses in judge training and empowerment, and the absence of clear and effective laws and regulations. To overcome these challenges, multiple actions need to be taken, including strengthening the structural and functional independence of the judiciary, enhancing the social and economic status of judges, combating corruption, purifying the judicial system, developing training and empowerment programs for judges, creating transparent and effective laws and regulations, and encouraging public and civil society participation in overseeing the judiciary's performance.

Keywords :Judicial Independence, Independence of the Judiciary, Constitution, Code of Procedure

Extended Abstract

Judicial independence is a fundamental concept in any legal system that ensures impartiality, fairness, and transparency in the administration of justice. In the context of the Islamic Republic of Iran, judicial independence is not only a constitutional principle but also a necessity for ensuring a fair and just legal process. The Iranian legal framework, inspired by both Islamic jurisprudence and modern international norms, emphasizes the importance of independent judicial proceedings, but faces numerous challenges that hinder its full realization. This extended abstract discusses the concept of judicial independence in Iran, highlighting both the theoretical underpinnings and the practical obstacles, and suggests possible solutions to strengthen the independence of the judiciary.

Judicial independence refers to the ability of judges to make decisions free from external pressures, whether from the state, political entities, or other actors in society. In Iran, judicial independence is enshrined in both constitutional and legal texts. The Iranian Constitution, particularly Articles 57 and 156, stresses the importance of judicial independence as a pillar of the state's separation of powers, ensuring that the judiciary operates independently from the executive and legislative branches. This legal framework positions the judiciary as a guardian of justice, ensuring the protection of citizens' rights and the rule of law.

In the broader context, judicial independence is also a recognized principle in international human rights law. Documents like the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) emphasize that every person has the right to a fair trial before an independent and impartial tribunal. These global standards align with the principles enshrined in Iran's legal system, though there are significant challenges in practice that need to be addressed.

Islamic jurisprudence has long upheld the notion of judicial independence, particularly in the context of Islamic law (Sharia). Renowned scholars and jurists have repeatedly emphasized the importance of an unbiased and autonomous judiciary. Figures such as Sheikh Tusi, Sheikh Ansari, and Ayatollah Khomeini have advocated for judicial independence as a prerequisite for ensuring justice in Islamic governance. For example, Sheikh Tusi in his writings argued that a judge must be independent and not influenced by external pressures, ensuring that justice is carried out impartially.

Ayatollah Khomeini, in his *Tahrir al-Wasilah*, explicitly stated that judges must make decisions independently, without interference from the government or political powers. This alignment between Islamic jurisprudence and modern concepts of judicial independence has provided a strong foundation for the Iranian legal system's commitment to impartiality and fairness.

Despite the strong legal and theoretical foundation for judicial independence, several challenges continue to undermine the autonomy of Iran's judiciary. One of the most pressing challenges is political interference. The Iranian judicial system, while constitutionally independent, is often subjected to the influence of the executive and legislative branches. Political pressures can lead to the manipulation of judicial outcomes, especially in politically sensitive cases.

Another significant challenge is corruption within the judiciary. Corruption at various levels within the judicial system erodes trust in the fairness of judicial proceedings and compromises the independence of judges. This challenge is not unique to Iran but is a common issue in many legal systems worldwide. Combating corruption within the judiciary requires systemic reforms, including the implementation of robust anti-corruption measures and the establishment of independent oversight bodies.

Economic pressures also play a critical role in limiting judicial independence. Judges, like other state employees, often rely on government salaries, which can create conflicts of interest and susceptibility to external influences. If judges are financially dependent on the state, their ability to act impartially is compromised. Furthermore, a lack of financial independence may lead to a lack of resources for the judicial system, affecting the overall quality and efficiency of justice.

Finally, the lack of comprehensive legal and institutional reforms to ensure the autonomy of the judiciary remains a critical obstacle. Although the Iranian Constitution provides for judicial independence, the practical application of these principles often falls short. Inadequate training, limited access to international legal resources, and insufficient judicial oversight contribute to this problem.

International legal instruments, including the United Nations' Universal Declaration of Human Rights (Article 10) and the International Covenant on Civil and Political Rights (Article 14), underscore the importance of an independent judiciary. These international instruments not only recognize the importance of judicial independence but also provide guidelines for its implementation.

In line with these international standards, the Iranian legal system has undertaken some efforts to bolster the independence of its judiciary. The *Judicial Transformation Document*, adopted by the Iranian judiciary, lays out steps to address some of these issues, including efforts to improve the professionalism of judges, reduce political influence, and increase transparency in judicial processes. However, as highlighted earlier, there are significant challenges in fully implementing these reforms.

To address the challenges outlined above, several reforms are necessary. First, it is crucial to ensure greater financial independence for the judiciary. This includes establishing separate and independent funding mechanisms for the judiciary to reduce its reliance on the executive branch. Financial independence would also help ensure that judges can carry out their duties without fear of economic retaliation.

Second, judicial training and capacity-building must be prioritized. Judges should receive ongoing education and training in both legal and ethical matters to maintain the integrity of the judicial process. This training should focus not only on legal skills but also on strengthening the ethical standards that are essential for upholding judicial independence.

Third, it is essential to establish independent oversight bodies to monitor judicial activities and address complaints against judges. These bodies should operate without interference from other branches of government and should have the authority to investigate and take action against judicial misconduct or political influence.

Finally, combating corruption within the judiciary requires the development of transparent and accountable mechanisms for reporting and investigating corruption. Establishing a clear legal framework that ensures the accountability of judges and judicial staff is key to maintaining judicial integrity.

Judicial independence is a cornerstone of the rule of law and a key pillar of any democratic society. In Iran, despite strong legal and theoretical support for judicial independence, significant challenges persist, including political interference, corruption, and economic pressures. To strengthen judicial independence, comprehensive reforms are needed in areas such as financial autonomy, judicial training, oversight, and anti-corruption efforts. Only through these measures

can Iran ensure that its judiciary remains independent, impartial, and capable of delivering justice in accordance with both domestic law and international standards.

In conclusion, the future of judicial independence in Iran depends on a concerted effort to address these challenges and to implement reforms that protect the autonomy of the judiciary. By doing so, Iran can strengthen its legal system and uphold the principles of justice, fairness, and the rule of law for all its citizens.

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