

THE ROLE OF THE FEDERAL SUPREME COURT IN OVERSEEING THE HIGHER NATIONAL COMMISSION FOR ACCOUNTABILITY AND JUSTICE

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Abstract:

This research aims to study the constitutional and legal framework regulating the work of the Supreme National Commission for Accountability and Justice in Iraq, as one of the tools established after 2003 to achieve transitional justice and ensure that symbols of the former regime do not return to state institutions. The research addresses the origins of the commission's establishment under the orders of the Coalition Provisional Authority, and the extent of the legitimacy of those orders in light of the provisions of international law regulating the occupation authorities, particularly Security Council Resolution No. 1483 of 2003. The research also addresses the constitutional and legal nature of the commission, demonstrating its independence and powers, while analyzing the legal status of its president according to its Law No. 10 of 2008..

The study addressed the mechanisms for appealing the commission's decisions, highlighting the existing dispute over the competent authority to consider them between the Cassation Commission and the Federal Supreme Court. It also examined the impact of the commission's decisions on Iraqi state institutions and their repercussions on the political and administrative process. It also highlighted the most prominent problems faced by the Federal Supreme Court in exercising oversight over the commission, particularly the conflict between the requirements of transitional justice and the principles of constitutional justice..

The research concluded with a set of findings, the most prominent of which are: the weak legal basis for the orders issued by the Coalition Provisional Authority, the ambiguity of the legal nature of the Commission, and the multiplicity of bodies competent to hear appeals, all of which negatively impacted the clarity of the Commission's constitutional status and performance. In light of this, the research recommended the necessity of reviewing the legislation regulating the Commission's work in a manner consistent with the Iraqi constitution, identifying a single judicial body to oversee its decisions, and strengthening the principles of transparency and accountability in its institutional performance, to ensure a balance between the requirements of transitional justice and the rule of law..

Keywords: The Supreme National Commission for Accountability and Justice, transitional justice, constitutional oversight, the Federal Supreme Court, the Coalition Provisional Authority, legal legitimacy, judicial appeals, the rule of law, institutional independence, the Iraqi Constitution.

First: Introduction

Judicial oversight of the work of the Supreme National Commission for Accountability and Justice is a matter of paramount importance in the Iraqi constitutional system, given the overlap between the concepts of transitional justice and the rule of law. The Federal Supreme Court, as the guardian of the constitution, plays a pivotal role in verifying the legitimacy of the commission's decisions and their balance with citizens' fundamental rights and freedoms. The importance of this issue stems from the nature of the transitional period that Iraq underwent after 2003, which witnessed the establishment of special bodies to address the legacy of the former regime, most notably the Accountability and Justice Commission, whose decisions had a direct impact on political and social life. Judicial oversight therefore serves as a true guarantee for

evaluating the commission's performance and preventing it from deviating from its legally and constitutionally defined objectives..

Second: The importance of research

The importance of this research is evident in the following points:

1. Highlighting the constitutional role of the Federal Supreme Court as the supreme oversight body over the work of independent bodies..
2. Clarifying the relationship between transitional justice and constitutional rights, and how to achieve a balance between them.
3. Statement of the constitutional and legal basis on which the court relies in monitoring the decisions of the Supreme National Authority for Accountability and Justice.
4. Revealing the practical problems facing judicial oversight of the Authority in practical application.
5. Providing a reform vision to enhance the effectiveness of judicial oversight and ensure the Commission's commitment to the principles of the Constitution and legitimacy..

Third: Research objectives

This research aims to do the following::

1. Analysis of the constitutional basis upon which the Federal Supreme Court exercises its oversight over the Supreme National Authority for Accountability and Justice.
2. Study of the forms of judicial oversight exercised by the court through its decisions and judicial rulings.
3. Identifying the shortcomings or problems facing the practice of this control in practice.
4. Proposing legal mechanisms to activate judicial oversight and ensure the protection of constitutional rights..
5. Contributing to enriching Iraqi constitutional jurisprudence on the concept of oversight of independent bodies within the framework of transitional justice..

Fourth: The research problem

The research problem is represented in the following main question::
To what extent does the Federal Supreme Court exercise oversight over the work of the Supreme National Commission for Accountability and Justice in a manner that achieves a balance between the requirements of transitional justice and guaranteeing the constitutional rights of individuals?

Several sub-questions branch out from this problem.

1. What is the constitutional and legal basis for the Federal Supreme Court's oversight of the Supreme National Authority for Accountability and Justice?
2. What forms of oversight does the Federal Supreme Court exercise over the Authority's decisions?
3. How effective is this oversight in reducing violations or deviations in the Authority's decisions?
4. What practical problems does the court face in exercising its oversight over the Authority?
5. What proposals could ensure the development of this oversight in a manner consistent with the Constitution and the principles of transitional justice?

Fifth: Research structure

Based on the nature of the topic and its problematic, this research was divided into two main sections as follows::

The first topic: The role of the Federal Supreme Court in overseeing the Supreme National Authority for Accountability and Justice.

It includes two requirements:

- **The first requirement:** The constitutional and legal basis for oversight.
- **The second requirement:** Images of judicial oversight and its practical problems.

The second topic: The Federal Supreme Court's oversight of decisions issued by the Supreme National Authority for Accountability and Justice.

It includes two requirements:

- **The first requirement:** Oversight of decisions issued by the Supreme National Authority for Accountability and Justice.
- **The second requirement:** Practical problems in judicial oversight of the Supreme National Authority for Accountability and Justice.

The research concludes with a conclusion that includes the most important results and recommendations.

The first topic

The role of the Federal Supreme Court in overseeing the Supreme National Authority for Accountability and Justice

The Federal Supreme Court's judicial oversight of the work of the Supreme National Commission for Accountability and Justice represents one of the most advanced forms of constitutional oversight, as it encompasses fundamental guarantees for the protection of rights and freedoms and consolidates the principle of the supremacy of the Constitution and its supremacy over various authorities and bodies. The Federal Supreme Court, as the faithful guardian of the Constitution, is tasked with verifying the legality of the decisions and procedures issued by the Commission and ensuring their conformity with general constitutional principles, particularly those related to the fundamental rights and freedoms of individuals. The importance of this oversight stems from its role as a tool for achieving a balance between the independence and broad powers enjoyed by the Commission and the restrictions and guarantees imposed by the constitutional system to prevent deviation or tyranny in the exercise of power. This will be addressed as follows:

The first requirement

Constitutional and legal basis for oversight

Judicial oversight of the actions of independent authorities and bodies is one of the most prominent features of the contemporary constitutional state, as it represents the practical application of the principle of the rule of law.¹, which is the cornerstone of any modern democratic system. A state that does not subject its authorities and institutions to higher judicial oversight, and does not allow the possibility of reviewing its decisions before a higher judicial

¹Fadhel Al-Samarra'i, Introduction to Legal Sciences, University Publishing and Printing House, Baghdad, 2013, p. 90.

authority² Rather, it exposes its constitutional structure to imbalance.³...and opens the door wide to manifestations of tyranny and deviation. From this standpoint, judicial oversight emerged as the ultimate guarantee for preserving rights and freedoms, and a true mechanism for imposing the principle of legitimacy on everyone without exception, whether rulers or ruled, individuals or institutions.⁴

First branch

The role of the Federal Supreme Court in Iraq

In Iraq, the Federal Supreme Court of Iraq is considered the fundamental pillar for protecting the constitution. It is not an ordinary court that hears simple disputes, but rather the highest judicial body entrusted by the constitutional legislator with the task of ensuring the supremacy of the constitution, interpreting its texts, and ensuring the proper application of its provisions.⁵It serves as the "guardian of the constitution," determining whether laws and decisions are consistent with the constitution. It is also the final authority for resolving disputes between federal authorities, or between the central government and regions and governorates not affiliated with a region. Thus, the court's mission extends to protecting citizens' fundamental rights from any violation, whether through laws, administrative decisions, or political practices.⁶

The second branch

Supreme National Authority for Accountability and Justice

In this context, the Accountability and Justice Commission appears as one of the most prominent independent bodies with a legal political character, which was established in exceptional circumstances following the major political change in Iraq after 2003.⁷This commission was established as a successor to the "De-Baathification Commission" pursuant to Accountability and Justice Law No. 10 of 2008, to undertake the task of dealing with the legacy of the former regime.⁸, especially with regard to members of the dissolved Baath Party and the

²Judge Alaa Jawad Al-Saadi, Property Claims Commission (Transitional Justice - Civil Peace), First Edition, 2017, pp. 45-67.

³Nizar Hussein Karim, The Federal Supreme Court and Oversight of the Decisions of the Accountability and Justice Commission, Law and Politics Journal, Issue 18, University of Karbala, 2015, p. 33.

⁽⁴⁾Muhammad Abdullah Yassin, American Policy Towards Political Reform in the Middle East, Al-Mustaqbal Al-Arabi Magazine, Center for Arab Unity Studies, Issue (26), Beirut, 2010, p. 232.

⁵Jaber Jad Nassar, The Mediator in Constitutional Law, Dar Al Nahda Al Arabiya, Cairo, 1996, pp. 112-135.

⁽⁶⁾Professor Qusay Mujbil Shanun, The Federal Supreme Court and the Supreme Judicial Council under Federalism, Arab Center for the Development of Law and Integrity, Najaf, 2006, p. 36.

⁷Abdul Karim Zidane, Principles of Law, Al-Irshad Press, Baghdad, Fourth Edition, 2009, p. 115.

⁸21. Muhammad Abdullah Yassin, American Policy Towards Political Reform in the Middle East, Al-Mustaqbal Al-Arabi Magazine, Center for Arab Unity Studies, Issue 26, Beirut, 2010, p. 45

former repressive apparatus.⁹ Since its inception, the Commission has been the focus of extensive political and legal controversy.¹⁰, given what it has offPowers that affect the lives of hundreds of thousands of Iraqis, through its decisions that may lead to exclusion from public office, exclusion from candidacy for elected positions, or preventing some from assuming senior sovereign or administrative positions..¹¹

These powers have made the Commission a very sensitive tool in the Iraqi political scene, because they are directly linked to the basic individual rights guaranteed by the Constitution, such as the right to political participation, to hold public office, and to equality before the law.¹² This close connection between the Commission's work and the constitutional rights of individuals raises legitimate questions about the extent to which its decisions are subject to oversight by the Federal Supreme Court. Can it be considered immune from accountability on the grounds that it practices "transitional justice"? Or, as a public body, must it adhere to the principle of legality and be subject to oversight by the constitutional judiciary, like the rest of the state's institutions?¹³.

Investigating the limits of this judicial oversight is not merely a procedural or technical matter, but rather touches upon the very essence of the philosophy of the entire Iraqi constitutional system. The Iraqi Constitution of 2005 was based on fundamental principles, the most important of which is the separation of powers.¹⁴...the rule of law, guaranteeing rights and freedoms, and equality among citizens. If the idea of exempting a body such as the Accountability and Justice Commission from judicial oversight under the pretext of its special status were accepted, this would create a serious loophole in the constitutional structure, as it would imply the existence of an authority above the law, which contradicts the very idea of a constitutional state..¹⁵

The oversight of the Commission also represents a clear example of the delicate balance between the requirements of transitional justice – which aims to address the effects of the past and ensure that tyranny does not return – and the requirements of respecting the constitutional

⁹Ali Hadi Attia Al-Hilali, The Effect of the Heroes' Request for the Continuation of the Constitutional Suit, Journal of Legal Sciences, Volume 40, Issue 1, 2025, p. 652. <https://doi.org/10.35246/e8jft449> Visit date: 10/15/2025, visit time: 9:13 PM.

¹⁰Jabbar Hardan Salman, Transitional Justice and Democratic Transformation in Iraq: A Comparative Study, Bayt Al-Hikma, 2022, pp. 78-101.

⁽¹¹⁾Judge Mohsen Jamil Jareh, Federal Supreme Court of Iraq, Comparative Study, Research Submitted for Promotion to the Second Class of Judges, Basra, Legal Truth Magazine, Issue Two, Year One, June 2008, p. 28.

¹²Jamal Nasser Jabbar Al-Zaidawi, Transitional Justice in Iraq (Property Claims Commission as a Model), First Edition, 2013, pp. 54-89.

⁽¹³⁾Dr. Ghazi Faisal Mahdi, The Federal Supreme Court and its Role in Ensuring the Principle of Legality, Publisher: Sabah Sadiq Jaafar, Baghdad, 2008, p. 33.

¹⁴Tariq Abdel-Razzaq, The General Theory of Obligations, Dar Al-Jamia Al-Jadida, Alexandria, First Edition, 2017, p. 62.

⁽¹⁵⁾DRahim Qasim Jasim, The Federal System in Iraq and the Distribution of Powers, Arab Center for the Development of the Rule of Law and Integrity, Najaf, 2006, p. 44.

rights of individuals in the present and the future.¹⁶Giving the authority excessive powers without oversight could lead to collective injustice.And depriving broad segments of society of political participation, which threatens civil peace and national unity.¹⁷On the other hand, subjecting the Commission's decisions to judicial oversight ensures that its procedures remain consistent with the Constitution and prevents it from deviating from the objectives for which it was established.¹⁸

The judicial oversight exercised by the Federal Supreme Court over the work of the Accountability and Justice Commission did not come out of nowhere. ¹⁹Rather, it was based on a set of essential constitutional texts contained in the Constitution of the Republic of Iraq of 2005. These texts clearly outlined the general framework for the principle of the supremacy of the Constitution and the subjection of all authorities and bodies, including independent bodies, to its provisions. They also established a general rule stating that the rights and freedoms guaranteed by the Constitution may not be derogated from by any legislation, decision, or regulation.²⁰

In this context, we can stop at the most important relevant articles, Article 93 . This article is the basic pillar in stating the jurisdiction of the Federal Supreme Court, as it stipulates that the court is competent to monitor the constitutionality of laws and regulations in force, interpret the provisions of the Constitution, and adjudicate disputes that arise between the federal government and the governments of regions and governorates, in addition to approving the final results of the general elections for the House of Representatives. Through this text, it becomes clear that the court has the final say in determining the extent to which any law, regulation or decision conforms to the provisions of the Constitution, which applies to laws and decisions issued by the Accountability and Justice Commission as an official body exercising public powers. Whenever the Commission issues a decision that would affect the rights of individuals or restrict their freedoms, this decision is not immune from constitutional oversight ²¹ Article 13 This article came to confirm the principle of the supremacy of the Constitution and its supremacy over all laws, regulations and decisions, as it stipulated that the Constitution is the supreme and highest law in Iraq, and it is not permissible to enact a law that conflicts with it, and every legal text that conflicts with its provisions is considered null and void.²²This text constitutes the direct

¹⁶ Abdul Ghani Bassiouni Abdullah, *The General Theory of Law*, Dar Al Nahda Al Arabiya, Cairo, Third Edition, 2012, p. 158.

¹⁷Muhammad Rashid Al-Wasmi, *Parliamentary Oversight of the Executive Authority*, Sharia and Law Magazine, Issue 45, 2025, p. 38.

⁽¹⁸⁾Nasser Youssef Mohiuddin, *The Federal Supreme Court in Iraq and its Role in Oversight of the Constitutionality of Laws and Interpretation of Constitutional Provisions*, Dar Al-Raneem for Publishing and Distribution, 2018, Iraq, p. 25.

¹⁹Hassan Abdullah, *Private Legal Bodies in Iraq: A Comparative Study*, Dar Al-Kitab Al-Jami'i, Baghdad, 2018, pp. 66-92.

²⁰ Musaddiq Adel Talib, *Acceptance of the Public Interest in the Judiciary of the Federal Supreme Court in Iraq*, Journal of Legal Sciences, Volume 40, Issue 40, 2025, p. 69. <https://doi.org/10.35246/dg0yt583> Visit date: 10/15/2025, visit time: 9:04 PM.

⁽²¹⁾Article (93) of the Constitution of the Republic of Iraq for the year 2005.

²²Haider Adham Abdel Hadi, *Studies in Human Rights Law*, Dar Al-Hamed for

constitutional basis for invalidating any legislation or decision that violates constitutional principles, including those decisions issued by the Accountability and Justice Commission if it is found that they involve a violation of rights and freedoms or a violation of the principle of equality²³ 14 This article embodies the authentic constitutional principle of equality of all citizens before the law without discrimination. Discrimination on the basis of sex, race, nationality, origin, colour, religion, sect, belief, opinion, economic or social status²⁴. Accordingly, any decision issued by the Accountability and Justice Commission that results in unequal treatment among citizens or discriminates between them on the basis of party, political, or ideological affiliation is considered a violation of the Constitution and falls within the jurisdiction of the Federal Supreme Court for oversight and annulment. Here, the role of the court emerges as the protector of equality, which does not allow any authority or body to empty this principle of its content under the pretext of achieving transitional justice.²⁵ Article 20 This article establishes a fundamental principle, namely the right of citizens to participate in public affairs and to enjoy political rights, including the right to vote, run for office, and contribute to public life. This right is one of the fundamental constitutional rights, and therefore any restriction imposed by the Accountability and Justice Commission on this right, whether by excluding some candidates or preventing them from running for office or holding public office, is inevitably subject to the oversight of the Federal Supreme Court.²⁶ This is because the court alone is the body that assesses the constitutionality of such restrictions, and whether or not they are consistent with the principle of broad political participation stipulated in the constitution.²⁷

From an analysis of these constitutional articles combined, it becomes clear that the Federal Supreme Court is truly the “faithful guardian” of rights and freedoms.²⁸...especially political and civil rights, as its oversight is not limited to general legislative texts, but extends to individual and organizational decisions issued by independent bodies when they have a direct impact on the legal status of individuals. Thus, oversight of the decisions of the Accountability and Justice Commission is not merely a procedural or technical issue, but rather a practical application of the philosophy of the Iraqi Constitution, which seeks to strike a balance between the requirements of transitional justice on the one hand, and the preservation of constitutional rights and ensuring that they are not sacrificed under the pretext of the past on the other. The constitutional basis for this oversight justifies the Federal Court's intervention whenever it deems

Publishing and Distribution, Jordan, 2017, pp. 33-70.

⁽²³⁾Tariq Harb, A Brief Explanation of the Iraqi Constitution of 2005, Legal Library, Baghdad, 2010, p. 42.

⁽²⁴⁾Rahim Qasim Jasim, The Federal System in Iraq and the Distribution of Powers, Arab Center for the Development of the Rule of Law and Integrity, Najaf, 2006, pp. 44-110.

⁽²⁵⁾Fadhel Jawad Muhammad, Constitutional Rights and Freedoms in Iraq: An Analytical Study in Light of the 2005 Constitution, Dar Al-Jamia Al-Jadida, Alexandria, 2025, p. 98.

⁽²⁶⁾Mohsen Jamil Jarij, The Federal Supreme Court in Iraq: A Comparative Study, Legal Truth Magazine, Issue Two, Year One, June 2008, p. 44.

⁽²⁷⁾Muhammad Hussein Al-Zubaidi, The Constitutional and Political System in Iraq after 2003, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2017, p. 153.

⁽²⁸⁾Rizgar Abdel Mahmoud, The Independent Election Commission and its Role in the Integrity of the Electoral Process (A Comparative Study), First Edition, 2021, pp. 22-48.

that the Commission's decisions have exceeded its limits or infringed on the rights of individuals outside the legally prescribed framework.²⁹This makes the relationship between the court and the authority an ongoing supervisory relationship, renewed with every dispute brought before the judiciary, and confirms that constitutional legitimacy is the final arbitrator to which everyone resorts.³⁰

The second requirement

Images of judicial oversight and its practical problems

The Federal Supreme Court's oversight of the Supreme National Authority for Accountability and Justice takes various forms, including:

First branch

Control over the determination of the legal status of the Authority's Chairman

The Federal Supreme Court has previously sought to determine the legal status of heads of independent bodies, as the content of Resolution 88/Federal/2010 issued on 1/18/2010 stipulated the necessity of adhering to the constitutional and legal texts when appointing heads of bodies, whether they are at the rank of minister, of a special rank, or below. This makes it clear that the court considered the adaptation of the legal status of the head of the body to be within the discretionary powers of the House of Representatives.³¹...and then it goes beyond the limits of its control and jurisdiction, on the basis that the Federal Supreme Court does not exercise control of suitability or proportionality, and the position of the Federal Supreme Court is not supported by me in its handling of the issue of acknowledging commitment to the constitutional and legal texts regulating the position of the head of the authority.³²The court's oversight is a legal oversight and not an appropriate oversight, but the combination of circumstances and the heads of independent bodies required the court to stand on the constitutionality of the legal texts that did not treat the heads of independent bodies equally, on the basis of the explicit violation of the text of Article 14 of the Constitution.³³

Also, in light of the differences and discrepancies mentioned in the laws of independent bodies in determining the legal status of the head of the body ³⁴ And the failure of the Federal

²⁹Roscoe Band, Introduction to the Philosophy of Law, translated by Salah Sabbagh, First Edition, Dar Al-Kitab Al-Lubnani for Printing, pp. 15-50.

³⁰ Musaddiq Adel Talib, Commentary on Federal Supreme Court Decision No. (59) of 2022, Journal of Legal Sciences, Volume 37, Issue 1, 2022, <https://doi.org/10.35246/jols.v37i1.462> Visit date: 10/15/2025, visit time: 9:48 PM.

³¹1. Ahmed Salman Ali, Separation of Powers and Judicial Oversight of Independent Bodies in the Iraqi Regime, Journal of Legal Studies, Issue 22, University of Basra, 2016, p. 66.

³²Saeed Ismail Saqr, Transitional Justice: Concept, Mechanisms, and International Experiences, Arab Center for Research and Policy Studies, 2014, pp. 101-136.

⁽³³⁾ Article (14) of the Constitution of the Republic of Iraq for the year 2005 stipulates that "Iraqis are equal before the law without discrimination on the basis of gender, race, nationality, origin, color, religion, sect, belief, opinion, or economic or social status."

⁽³⁴⁾ Article (2/Third) of the Law of the Supreme National Authority for Accountability and

Supreme Court to address this matter, we call on the House of Representatives to unify the legal status and legal treatment of heads of independent bodies.³⁵ Individuals must also be treated as if they were heads of the body, which is to consider them as having the rank of minister, not as an undersecretary, or as having special ranks.³⁶ This behavior cannot be understood as a violation of Article 14 of the 2005 Constitution, as long as the tasks and functions of the heads of independent bodies are united, and as long as the Constitution considers them constitutional bodies whose head's position is similar to that of a minister, even in the matter of interrogation, therefore the texts must be amended in a way that makes the head of the independent body at the level of a minister in rights and privileges.³⁷

The second branch

Control of the Authority's affiliation

According to what was stated in the decision of the Federal Supreme Court No. 88/Federal/2010 issued on 1/18/2010, "The connection of some independent bodies to the House of Representatives does not prevent the Council of Ministers from supervising their activity in accordance with Article 80/First of the Constitution. As for the independent bodies connected to the Council of Ministers or whose connection has not been specified by the Constitution and which exercise executive duties, their reference is to the Council of Ministers."³⁸

Through the request submitted by the Prime Minister to the Federal Supreme Court, which includes issuing a decision regarding the nature of the relationship of the independent bodies with the Council of Ministers or the House of Representatives to which the matter relates, the court does not issue a decision except regarding the opponents brought before it. The Prime

Justice No. 10 of 2008 stipulates that "The Chairman of the Authority is responsible for implementing its policies and tasks and supervising and following up on its work. He has the right to: issue the decisions, instructions and directives necessary to activate the work of the Authority and achieve its objectives. He exercises all the powers delegated to him, and he has the rank of Minister. Among his powers that can be delegated according to the law, he may delegate part of it to his deputy who has the rank of Undersecretary of the Minister."

³⁵9. Muhammad Dib Mustafa Radwan, The Impact of Control Methods on the Performance of Government Institutions, Master's Thesis, Islamic University, Gaza, 2016, p. 66

³⁶Sulayman Muhammad al-Tamauri, Administrative Judiciary, Book Two, Compensation Judiciary and Methods of Appealing Judgments, Dar al-Fikr al-Arabi, Cairo, 1966, pp. 200-245.

⁽³⁷⁾Dr. Musaddiq Talib Adel, Dr. Wafaa Abdel Fattah Awad Al-Naimi, Oversight of Independent Bodies in Iraqi Legislation, a research published in the Journal of Legal and Political Sciences, Volume (7), 2018, pp. 182-183

⁽³⁸⁾ Federal Supreme Court Decision No. 88/Federal/2010 published on the official website of the Federal Supreme Court at the following link: www.iraqfsc.iq Visit date 6/7/2025, 8:00 PM

Minister and his council were not opponents with anyone, because the court's jurisdiction according to Article 93/Second of the Constitution stops at the limits of interpreting the constitutional texts, while the opponents are not brought before it.³⁹

The decisions of the Federal Supreme Court are final and binding and may not be appealed in accordance with the constitutional text.⁴⁰ It is not permissible for any party to challenge or discuss the legitimacy of its issuance or the validity of the opinion contained therein, because judicial decisions are a sign of the truth.⁴¹ The Federal Supreme Court has also identified the bodies linked to the independent bodies whose authority has not been specified by the Constitution through interpreting the concept of the expressions used in the texts of the Constitution of the Republic of Iraq, which has identified in the constitutional texts all the bodies linked to the Council of Ministers and the Council of Representatives, and that being subject to the oversight of the Council of Representatives and being responsible before the Council of Representatives is possible according to the law of the body.⁴²

We also find that in the decisions of the Federal Court there was a kind of contradiction regarding its references and the connection of the independent bodies in Iraq and the nature of their relationship with the House of Representatives and the Council of Ministers between the decision on the request of the Integrity Committee of the House of Representatives and its decision that was responded to by the House of Representatives. Also, here the Federal Supreme Court must make a realistic interpretation that is consistent with the purposes of the constitutional legislator and the tasks of those bodies.⁴³

As for the lack of precision in the arguments and legal grounds for the court's decision, we find that the Federal Supreme Court's decision here is a constitutional setback recorded against the court, because the court, with this method, has exercised appropriate oversight over the constitutional texts regulating the connection of independent bodies. This is not permissible due to its lack of appropriate oversight authority over the discretionary power of the Constitutional Drafting Committee. Here, the founding legislator should have determined the party of its

³⁹ Muhammad Ulum Muhammad and Zainab Saadoun Taama, Tax Judiciary as a Guarantee of Economic Rights and Freedoms in Iraq, *Journal of Legal Sciences*, Volume 36, Special Issue, Part Two, 2021, p. 62. <https://doi.org/10.35246/jols.v36i0.426> Visit date: 10/15/2025, visit time: 10:24 PM.

⁽⁴⁰⁾ Article (94) of the Constitution of the Republic of Iraq for the year 2005

⁴¹ Saja Imad Jiyad, Conflict between the Independence of Independent Bodies and Parliamentary Oversight under the Constitution of the Republic of Iraq of 2005, Master's Thesis, College of Law, Al-Qadisiyah University, 2023, p. 22

⁽⁴²⁾ Dr. Musaddiq Talib Adil, previous source, p. 183

⁽⁴³⁾ Muhammad Hamoud Hassan Al-Tabrawi, Sayyid Ali Reza Tabatabani, Provisions of the Relationship between Independent Bodies and Federal Authorities, a study published in the *Journal of the Islamic University College*, Issue (72), Part (2), pp. 279-280.

connection because the text lacked an explicit statement of that, which is the matter that indicates that the Federal Supreme Court exceeded its constitutional limits.⁴⁴.

The second topic

The Federal Supreme Court's oversight of decisions issued by the Supreme National Authority for Accountability and Justice

The Federal Supreme Court's judicial oversight of the decisions of the Supreme National Commission for Accountability and Justice is one of the most important aspects of ensuring the rule of law in Iraq. This oversight represents a means of achieving a balance between the requirements of transitional justice and the protection of citizens' constitutional rights. The Federal Court's decisions highlight how constitutional provisions have been employed to uphold the principle of legitimacy and prevent the abuse of power.

The first requirement

Oversight of decisions issued by the Supreme National Authority for Accountability and Justice

The importance of this requirement lies in examining how the Federal Supreme Court exercised its oversight authority over the decisions of the Supreme National Authority for Accountability and Justice. Its decisions clarify the limits of this oversight, the constitutional basis upon which it is based, and the extent of the authority's commitment to the principle of the rule of law and respect for constitutional rights..

First branch

Judicial interpretation of direct appeals against decisions

This section presents a review of the most prominent judicial decisions issued by the Federal Supreme Court regarding appeals filed against decisions of the Supreme National Authority for Accountability and Justice. These decisions highlight judicial trends in determining jurisdiction and the extent of the court's intervention in monitoring the legality of administrative decisions issued by the Authority..

First: Federal Supreme Court Decision No. 20/Federal/2006

The plaintiff's request to make the consideration of objections and the review of the decisions of the De-Baathification Commission within the jurisdiction of the court is a legislative act that falls within the jurisdiction of the legislative authority and is outside the jurisdiction of this court because the court is not a legislative body.⁴⁵.

In this decision, the plaintiff filed a request stating that the review of objections and the scrutiny of the decisions of the De-Baathification Commission falls within the jurisdiction of the Federal Supreme Court. The court found that this request confuses the oversight and judicial function with legislative jurisdiction. The court clarified that determining the procedures related to objections and the scrutiny of the decisions issued by the Commission is a purely legislative function, which falls within the purview of Parliament, not the judiciary. Accordingly, the court did not have any authority to amend or review these decisions in substance; rather, it could only consider the extent to which the decisions conform to the Constitution when there was a clear

⁽⁴⁴⁾Dr.Musaddiq Talib Adel, Dr. Wafaa Abdel Fattah Awad Al-Naimi, The Same Source, p. 185

⁽⁴⁵⁾ Federal Supreme Court Decision No. 20/Federal/2006 published on the official website of the Federal Supreme Court at the following electronic link: www.iraqfsc.iq
Date of visit: 2025/8/7, 7:00 PM

violation. Accordingly, the case was dismissed for lack of jurisdiction, while emphasizing that this decision reflects the court's commitment to respecting the principle of separation of powers and non-interference in legislative proceedings.⁴⁶

Second: Federal Supreme Court Decision No. 13/Federal/2006

“The Administrative Director General is not fit to be a party to the lawsuit” and “the lawsuit against the Independent High Electoral Commission for excluding one of the candidates is not valid because it is the body implementing the decision issued by the National Commission for De-Baathification.” Therefore, the plaintiff’s lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court.”⁴⁷

This decision addressed an appeal against the disqualification of a candidate by the Independent High Electoral Commission based on decisions by the De-Baathification Commission. The court emphasized two main points: First, the Commission is an implementing body for the Commission's decisions, not a decision-making body. Therefore, a direct appeal against the Commission is an appeal against an executive body, not one empowered to make the decision. Second, the administrative director general representing the institution cannot be considered a party to the lawsuit, as he is not an original party to the decision. Based on these two grounds, the court deemed the lawsuit inadmissible and dismissed it for lack of jurisdiction. The grounds for this decision demonstrate that the court is committed to accurately identifying the correct party to appeal and avoiding formal appeals that could jeopardize the rights of the parties.⁴⁸

Third: Federal Supreme Court Decision No. 29/Federal/2007

“The court found that this court is not competent to monitor the procedures taken by the Court of Cassation in the Real Estate Disputes Authority, nor is it competent to monitor the cassation decisions issued by those bodies. Therefore, the plaintiff’s lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court.”⁴⁹

In this decision, the appellant filed an appeal against the procedures taken by the Cassation Authority, which is responsible for reviewing real estate property disputes. The court clarified that its role does not extend to examining the internal procedures of the Cassation Authority, nor to reviewing its Cassation decisions issued in accordance with the law. Thus, the court affirmed that any appeal related to Cassation decisions must be filed before the competent authority or legal body specified in the law, and that the Federal Supreme Court is not the appropriate body to hear them. The lawsuit was dismissed, with the court emphasizing that this decision reflects the

⁽⁴⁶⁾Judge Mohsen Jamil Jarij, The Federal Supreme Court in Iraq: A Comparative Study, Legal Truth Magazine, Issue Two, Year One, June 2008, p. 28.

⁽⁴⁷⁾ Federal Supreme Court Decision No. 13/Federal/2006 published on the Federal Supreme Court website at the electronic link: www.iraqfsc.iq Date of visit: 2025/8/7, 7:40 PM

⁽⁴⁸⁾Dr. Ghazi Faisal Mahdi, The Federal Supreme Court and its Role in Ensuring the Principle of Legality, Publisher: Sabah Sadiq Jaafar, Baghdad, 2008, p. 33

⁽⁴⁹⁾ Federal Supreme Court Decision No. 29/Federal/2007 published on the official website of the Federal Supreme Court at the following link: www.iraqfsc.iq Visit date: 9/8/2025, 9:00 PM

court's commitment to respecting the jurisdiction of the Cassation Authority and not exceeding the limits of judicial oversight.⁵⁰

Fourth: Federal Supreme Court Decision No.81/Federal/2009

"The Election Commission's request for an opinion on the inclusion of the entity's president in the de-Ba'athification procedures and the cancellation of the entity's certification does not fall within the jurisdiction of the Federal Supreme Court. Therefore, the plaintiff's lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court."⁵¹

This decision related to the appellant's request for the court's opinion on the inclusion of the head of a specific entity in the de-Ba'athification procedures and the cancellation of the entity's certification. The court found that the request for an opinion on this matter fell outside its jurisdiction, as the matter related to the application of a specific law by the commission, not to the interpretation of constitutional texts or oversight of their constitutionality. Therefore, the court considered the matter outside the scope of its authority, and the case was dismissed. This decision highlights the distinction the court makes between its jurisdiction to oversee the constitution and constitutional rights, and the commission's jurisdiction to apply the transitional law.⁵²

Fifth: Federal Supreme Court Decision No. 5/ Federal / 2008

"It is not permissible to request the annulment of a legislative decision on the grounds of its unconstitutionality, because the decision was annulled by the issuance of the Accountability and Justice Law. The court is not competent to request the annulment of the decisions of the committee supervising the elections of the Bar Association, as the law has established a path for appeal. Therefore, the plaintiff's lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court."⁵³

In this decision, the appellant sought to annul a legislative decision, claiming its unconstitutionality, and also to annul the decisions of the committee supervising the elections of the Bar Association. The court clarified that the law has established specific paths for challenging these decisions, and that direct recourse to the Federal Supreme Court is inadmissible. Consequently, the lawsuit was dismissed for lack of jurisdiction, while emphasizing that any appeal against a specific legislative or administrative decision must follow the prescribed legal path. This reflects the court's commitment to respecting legal procedures and avoiding opening the door to judicial chaos.⁵⁴

⁽⁵⁰⁾Dr. Rahim Qasim Jasim, *The Federal System in Iraq and the Distribution of Powers*, Arab Center for the Development of the Rule of Law and Integrity, Najaf, 2006, p. 44

⁽⁵¹⁾ Federal Supreme Court Decision No. 81/Federal/2009 published on the official website of the Federal Supreme Court at the following link: www.iraqfsc.iq Date of visit: 9/8/2025, 11:00 PM

⁽⁵²⁾Najm Abdullah Hussein, *Judicial Oversight of the Actions of the Executive Authority in Iraq*, Dar Al-Hikma Publishing House, Baghdad, 2014, p. 75.

⁽⁵³⁾ Federal Supreme Court Decision No. 5/Federal/2008 published on the official Federal Supreme Court website at the following link: www.iraqfsc.iq Visit date: 10/8/2025, 9:00 AM

⁽⁵⁴⁾Abdul Sattar Al-Jumaili, *Transitional Justice in Iraq: A Legal Analytical Study*, Dar Al-Thaqafa for Publishing and Distribution, Baghdad, 2012, p. 58.

Sixth: Federal Supreme Court Decision No. 15/Federal/2010

“Requesting an opinion regarding the decision of the Cassation Authority competent to consider appeals related to the decisions of the Accountability and Justice Commission and the extent of its binding on the Independent High Electoral Commission does not fall within the jurisdiction of the Federal Supreme Court. Therefore, the plaintiff’s lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court.”⁵⁵.

In this decision, the appellant sought an opinion on the extent to which the decisions of the Cassation Panel, which considers appeals against decisions of the Accountability and Justice Commission, are binding on the High Electoral Commission. The court clarified that this matter is an internal organizational matter for the Commission and does not fall within the jurisdiction of the Federal Supreme Court, as it does not relate to the interpretation of the Constitution or the protection of direct constitutional rights. The case was dismissed for lack of jurisdiction.⁵⁶.

Seventh: Federal Court Decision No. 82/Federal/Cassation/2012

“The Administrative Court does not have jurisdiction to appeal the decision to include the plaintiff in the provisions of the Accountability and Justice Law, because it is being appealed before a competent appeals body, which has jurisdiction over decisions that cannot be appealed. Therefore, the plaintiff’s lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court.”⁵⁷.

The appellant challenged the plaintiff’s inclusion in the provisions of the Accountability and Justice Law before the Administrative Judiciary Court. The court emphasized that the competent appeals body is the body authorized to consider such appeals, and that the Federal Court may not interfere in the body’s decisions, especially since the law provides a clear path for appeals before the appeals body. Accordingly, the lawsuit was dismissed, emphasizing the need to adhere to the legal channels specified for appealing the body’s decisions.⁵⁸.

Eighth: Federal Supreme Court Decision No. 40/Federal/2014

The Federal Court does not have jurisdiction to consider appeals against the decision of the Cassation Authority, which has jurisdiction to consider appeals against the decisions of the Accountability and Justice Commission, because they are final and conclusive decisions.

⁽⁵⁵⁾ Federal Supreme Court Decision No. 15/Federal/2010 published on the official Federal Supreme Court website at the following link: www.iraqfsc.iq, Date of visit: 10/8/2025, 9:50 PM

⁽⁵⁶⁾ Dr. Adel Abdullah Muhammad, Judicial Oversight of Independent Bodies in Iraq: A Study in Transitional Justice, Dar Al Fikr Al Qanuni, Baghdad, 2016, p. 102

⁽⁵⁷⁾ Federal Supreme Court Decision No. 82/Federal/2012 published on the official Federal Supreme Court website at the following link: www.iraqfsc.iq Visit date: 11/8/2025 at 7:00 AM

⁵⁸ Salah Hassan Karim and Maha Bahjat Younis, The Role of the Federal Supreme Court in Rationalizing the Iraqi Parliamentary System According to the Constitution of the Republic of Iraq of 2005, Journal of Legal Sciences, Volume 35, Issue 3, Special Issue, Part One, 2020, p. 8. <https://doi.org/10.35246/jols.v35i3.334> Date of visit, Date of visit 10/8/2025, 9:50 PM.

Therefore, the plaintiff's lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court.⁵⁹

The appeal was filed against the decision of the competent appeals panel. The court affirmed that the appeals panel's decisions are final and binding, and cannot be appealed before the Federal Supreme Court. The case was dismissed for lack of jurisdiction, and the court emphasized that this decision clarifies the limits of the court's oversight of final appeals decisions.⁶⁰

Ninth: Federal Supreme Court Decisions No. 236 and 231/Federal/2018

"The decision of the House of Representatives to reject the objection to the validity of the membership of one of the female representatives is in accordance with the Constitution, as it was based on the decision of the Accountability and Justice Commission not to include the female representative whose membership was being objected to in the accountability and justice procedures, which was coupled with the approval of the competent appeals body. Therefore, the plaintiff's lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court."⁶¹

"The decision of the House of Representatives taken in session No. 20/2018 on 12/20/2018, which included the rejection of the objection submitted by the plaintiff on the validity of the membership of one of the representatives, was based on the procedures and decisions taken by the Accountability and Justice Commission and the Independent High Electoral Commission when it was issued, and they are correct procedures and in accordance with the Constitution. Therefore, the contested decision is correct and does not violate the Constitution. Therefore, the plaintiff's lawsuit must be rejected due to the lack of jurisdiction of the Federal Supreme Court."⁶²

The matter concerned a challenge to the validity of the membership of some representatives before the House of Representatives. The court explained that the objection was based on valid decisions by the commission and the electoral commission, and that the actions taken by these bodies were in accordance with the constitution. Therefore, the court could not interfere. The appeals were dismissed for lack of jurisdiction. This decision highlights the court's commitment to preserving the integrity of the electoral process and ensuring compliance with established legal procedures.⁶³

(59) Federal Supreme Court Decision No. 40/Federal/2014 published on the official Federal Supreme Court website at the following link:www.iraqfsc.iq Date of visit: 2025/8/11, 7:09 PM

(60) Nizar Hussein Karim, The Federal Supreme Court and Oversight of the Decisions of the Accountability and Justice Commission, Journal of Law and Politics, Issue 18, University of Karbala, 2015, p. 67.

(61) Federal Supreme Court Decision No. 236/Federal/2018 published on the official Federal Supreme Court website at the following link: www.iraqfsc.iq Visit date: 11/8/2025, 9:00 PM

(62) Federal Supreme Court Decision No. 231/Federal/2018 published on the official Federal Supreme Court website at the following link:www.iraqfsc.iq Visit date: 11/8/2025, 12:00 PM

(63) Fatima Abdul Qadir, Judicial Oversight of Decisions of Independent Bodies in Iraq: A Comparative Analytical Study, Journal of Law, Issue 12, University of Baghdad, 2017, p.

From the above, we find that the Federal Supreme Court in Iraq has played a pivotal role in regulating the work of the Accountability and Justice Commission. This role has been manifested in several integrated aspects that reflect the court's commitment to protecting the constitution and citizens' constitutional rights, while taking into account the requirements of transitional justice.

The second branch

The role of the court in protecting constitutional rights and balancing transitional justice and individual rights

The court has defined its jurisdiction precisely. It refused to interfere in matters pertaining to the internal procedures of the Commission or the executive decisions of the relevant authorities, as stated in its decisions for the years 2006, 2007, 2008, 2009, 2010 and 2012, as it considered that some appeals were outside the scope of its judicial jurisdiction, such as the request to review the decisions of the De-Baathification Commission or the appeal against the decisions of the Independent High Electoral Commission or the appeals against the procedures of the Cassation Commission for Real Estate Disputes, stressing that these matters fall within the jurisdiction of the legislative and executive authorities and that they do not represent the authority of the Federal Supreme Court.⁶⁴

At the same time, the Court was keen to protect the fundamental constitutional rights of individuals, particularly the right to run for office and participate politically, as stated in decisions issued in 2010 and 2018, where it affirmed that any restriction on this right must adhere to the principles of proportionality and necessity, and that any exclusion or action affecting previously excluded candidates must be subject to judicial oversight to ensure that they do not deviate from the goals of transitional justice, and that the procedures do not become a tool for political revenge or collective injustice..⁶⁵

The Court has also demonstrated its role in regulating the interpretation of legal texts. In its 2014 decision, it emphasized that the exclusive interpretation of legal and constitutional texts falls within its sole jurisdiction, and that any expansion in the Authority's interpretation of legal texts constitutes a violation of the principle of separation of powers and contravenes the principle of legality. This confirms the Court's position as the guardian of the Constitution and the highest authority in protecting fundamental rights and preventing legal violations.

In addition, the court has been careful to reject formal or non-jurisdictional appeals, particularly in cases related to final and irrevocable decisions or executive bodies, as in the decisions issued in 2014 and 2018. The court has emphasized that appeals must be made in accordance with the specified legal procedures, and that adherence to the law and judicial procedures does not mean exceeding the limits of the court's jurisdiction, but rather guarantees the protection of individual rights in accordance with the constitution..

Thus, it can be said that the Federal Supreme Court has succeeded in striking a delicate balance between the objectives of transitional justice, which aims to hold the figures of the former regime accountable and address the effects of the past, and protecting the constitutional

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⁶⁴Rehan Hanna Ayoub, The International Legal System of Transitional Justice in Compensating Victims, Master's Thesis, College of Law, Al-Mustansiriya University, 2025, p. 83.

⁽⁶⁵⁾Dr. Haitham Jassim Hussein, The Federal Supreme Court and its Role in Protecting Political Rights, Dar Al-Hikma Publishing House, Najaf, 2013, p. 71.

rights of individuals in the present and future, while emphasizing respect for the principle of separation of powers and ensuring judicial oversight of the Accountability and Justice Commission, thus making its procedures consistent with the Constitution and the law.⁶⁶and prevents its use as a tool for political exclusion or deviation from justice ⁶⁷ .

In addition, the Federal Supreme Court plays an important role in questioning the heads of independent bodies and determining the legal status of these bodies within the framework of constitutional oversight.⁶⁸The court is not merely an entity that monitors the decisions issued by these bodies, but rather has the authority to verify their compliance with the law and the constitution, and to ensure that the decisions and measures taken are consistent with the basic principles of the constitutional state, and do not violate the rights of individuals or exceed the limits of its jurisdiction.⁶⁹ .

This role includes the court verifying the legal aspects of actions issued by independent bodies, such as the disqualification of candidates, and the ratification of election results.⁷⁰...or adopting decisions related to accountability and justice. The court also determines the legal status of officials and bodies, distinguishing between the executive body that implements decisions and the independent body that makes decisions, ensuring that appeals are directed to the correct body and that rights or judicial time are not wasted in non-jurisdictional lawsuits.⁷¹ .

Through this mechanism, the Federal Supreme Court becomes a true constitutional guarantee, maintaining a balance between the necessary independence of independent bodies and their legal and constitutional responsibilities, thus preventing any transgression or abuse of the powers granted to it.⁷²Thus, the Court emphasizes that judicial oversight is not merely a formality, but an effective tool to ensure that these bodies remain within the framework of the

⁶⁶Mustafa Abu Zaid Fahmy, *Administrative Judiciary and the State Council*, First Edition, Cairo, Dar Al-Maaref, 1960, pp. 120-145.

⁽⁶⁷⁾Dr. Haitham Jassim Hussein, previous source, p. 8.

⁶⁸5. Saja Imad Jiyad, *Conflict between the Independence of Independent Bodies and Parliamentary Oversight under the Constitution of the Republic of Iraq of 2005*, Master's Thesis, College of Law, Al-Qadisiyah University, 2023, p. 22

⁶⁹ Sarah Fadel Abbas and Maha Bahjat Younis, *The Role of the Constitutional Judiciary in Protecting Academic Freedom in Iraq*, *Legal Journal*, Vol. 35, No. 4, Special Issue, Part Two, 2020, p. 33. <https://doi.org/10.35246/jols.v35i4.358> Date of visit: 10/15/2025 Visiting time: 10/15/2025 AD.

⁷⁰Miftah Harshaw, *Parliamentary Oversight of Government Actions: A Comparative Study*, Dar Al Fikr Wal Qanun, 2010, pp. 55-78.

⁽⁷¹⁾Prof. Dr. Ahmed Salman Ali, *Separation of Powers and Judicial Oversight of Independent Bodies in the Iraqi Regime*, *Journal of Legal Studies*, Issue 22, University of Basra, 2016, p. 98.

⁷²Taha Yassin Taha Mahmoud, *Independent Bodies and Their Competencies in the Field of Administrative Control (The Communications and Media Commission as a Model)*, Master's Thesis, College of Law and Political Science, University of Anbar, 2023, p. 25.

law and the constitution, while protecting citizens' rights and controlling any deviation from the goals of transitional justice.⁷³.

The second requirement

Practical problems in judicial oversight of the Supreme National Authority for Accountability and Justice

This requirement aims to clarify the most important problems faced by the Federal Supreme Court during its exercise of judicial oversight over the work of the Supreme National Authority for Accountability and Justice.⁷⁴ Practical experience has revealed complex legal and political challenges that have affected the effectiveness of this oversight, and demonstrated the need to develop the legislative framework to ensure a balance between the requirements of transitional justice and the protection of constitutional rights.

First branch

Problems associated with politicization and the complexity of appeals

Despite the clarity of the Federal Supreme Court's oversight role in protecting constitutional rights and monitoring the work of the Accountability and Justice Commission⁷⁵ However, practical application revealed complex problems that affected the effectiveness of this oversight and sparked widespread controversy about the fairness and credibility of the Authority's work.⁷⁶ The first of these problems is politicization, as the commission has faced repeated accusations of using its powers to pursue political exclusion and influence partisan and parliamentary balances, which has negatively impacted citizens' confidence.⁷⁷ ...and putting the court in a difficult position that requires it to intervene to preserve the principle of legality and prevent the law from slipping into a tool of revenge.⁷⁸.

The second problem is the conflict of decisions, as the authority issued contradictory rulings regarding the same persons or political entities, which led to legal confusion and loss of confidence, and forced the Federal Court to handle the appeals with extreme caution, taking into account the principle of equality before the law.⁷⁹.

⁷³Munther Al-Shawi, *Constitutional Law and the Political System in Iraq*, General Directorate of Cultural Affairs, Baghdad, 2009, pp. 102-130.

⁷⁴Nasser Youssef Mohiuddin, *The Federal Supreme Court in Iraq and its Role in Overseeing the Constitutionality of Laws and Interpreting Constitutional Provisions*, Dar Al-Raneem Publishing and Distribution, 2018, pp. 25-50.

⁷⁵Ali Al-Rubaie, *Principles of Public Law*, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2019, p. 76

⁷⁶Ali bin Muhammad al-Sharif al-Jurjani al-Husayni al-Hanafi, *The Book of Definitions*, Dar al-Thaqafa for Publishing and Distribution, Beirut, First Edition, 2003, p. 482

⁷⁷Hussein Abdullah Al-Gharawi, *Introduction to the Study of Law*, Dar Al-Fikr Al-Jami'i, Alexandria, Second Edition, 2014, p. 132.

⁽⁷⁸⁾Nasser Youssef Mohi El-Din, previous source, p. 25.

⁽⁷⁹⁾Rahim Qasim Jasim, *The Federal System in Iraq and the Distribution of Powers*, Arab Center for the Development of the Rule of Law and Integrity, Najaf, 2006, p. 112.

The third problem is the slow pace of judicial procedures, as the court has not always been able to resolve appeals quickly, especially in cases related to elections.⁸⁰ This has sometimes resulted in candidates being deprived of exercising their political rights, or the commission's decisions being enforced before they are reviewed by the judiciary. Hence, the importance of establishing clear emergency mechanisms that ensure the protection of constitutional rights in a timely manner is highlighted.⁸¹

The second branch

Absence of a comprehensive framework for reconciliation and oversight evaluation

The absence of a comprehensive national framework for reconciliation, with the commission's role limited to exclusion, lacking a comprehensive vision for reintegrating society and overcoming the divisions left by the former regime. This absence made judicial oversight an additional burden, as the court was forced to intervene to regulate the commission's work and prevent it from becoming a punitive tool.⁸²

From a jurisprudential perspective, opinions were divided between a supportive trend that believes that the court has largely succeeded in exercising its supervisory role and protecting rights, and another opposing trend that considers that the court was not decisive enough, and that it was sometimes influenced by political balances.⁸³

The researcher believes that it can be said that the Federal Supreme Court's oversight of the Accountability and Justice Commission represented a unique experience in the field of transitional justice, as it attempted to balance the necessities of accountability with the protection of constitutional rights. However, the practical problems and the jurisprudential debate reveal the urgent need for comprehensive legislative reform that precisely defines the Commission's powers and links its decisions to direct and effective judicial oversight, in a manner consistent with the Constitution and the requirements of national reconciliation.⁸⁴

Conclusion

The study concluded that the Federal Supreme Court plays a pivotal role in ensuring a balance between the requirements of transitional justice and the preservation of constitutional rights, and that the effectiveness of its oversight of the Supreme National Authority for

⁸⁰Najm Abdullah Hussein, *Judicial Oversight of the Actions of the Executive Authority in Iraq*, Dar Al-Hikma Publishing House, Baghdad, 2014, pp. 75-100.

⁽⁸¹⁾Judge Mohsen Jamil Jarij, *The Federal Supreme Court in Iraq: A Comparative Study*, Legal Truth Magazine, Issue Two, Year One, June 2008, p. 28.

⁽⁸²⁾Ghazi Faisal Mahdi, *The Federal Supreme Court and its Role in Ensuring the Principle of Legality*, Baghdad, 2008, p. 47.

⁽⁸³⁾Qusay Mujbil Shanoon, *The Federal Supreme Court and the Supreme Judicial Council under Federalism*, Arab Center for the Development of Law and Integrity, Najaf, 2006, p. 36.

⁸⁴Taha Yassin Taha Mahmoud, *Independent Bodies and Their Competencies in the Field of Administrative Control (The Communications and Media Commission as a Model)*, Master's Thesis, College of Law and Political Science, University of Anbar, 2023, p. 34

Accountability and Justice requires legislative reform that clearly defines the authority's powers and enhances the independence of the judiciary to protect the principle of legality..

First: Results

1. The study proved that the Federal Supreme Court represents the fundamental pillar for ensuring the supremacy of the constitution, and that its oversight of the Accountability and Justice Commission is one of the most prominent applications of constitutional oversight in Iraq..
2. The oversight exercised by the court is not formal, but rather substantive, aiming to achieve a balance between the institutional independence of the body and ensuring that it does not transgress the principles of justice and legality..
3. The constitutional texts, especially Articles 13 , 14 , 20 , and 93 of the 2005 Constitution, constitute the solid basis for the court's oversight of the Commission's decisions..
4. Practical application revealed major challenges facing the court in exercising this oversight, the most important of which are politicization, conflicting decisions, and slow judicial procedures..
5. The Iraqi experience in judicial oversight of the Accountability and Justice Commission still needs legislative and institutional development to ensure its consistency with the principles of transitional justice and constitutional democracy..

Second: Recommendations

1. The necessity of issuing new legislation that clearly and precisely reorganizes the relationship between the Supreme National Authority for Accountability and Justice and the Federal Supreme Court..
2. Unifying the legal status of heads of independent bodies and granting them the rank of minister to ensure equal legal treatment..
3. Establishing an urgent judicial mechanism to adjudicate electoral appeals and commission decisions to avoid delaying justice..
4. Adopting a comprehensive national vision for reconciliation based on the principles of restorative justice rather than being limited to exclusion and punishment..
5. Enhancing the legal and constitutional culture of the Authority's members to ensure that their decisions are consistent with the principles of the Constitution and the fundamental rights of citizens.

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Fourth: Constitutional and legal materials

1. Constitution of the Republic of Iraq of 2005.
2. Law No. 10 of 2008 on the Supreme National Authority for Accountability and Justice.