

# Impact Assessment of the Absence of Public Dissenting Opinions on Transparency in Constitutional Judgments by the Iraqi Federal Supreme Court

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**Abstract** - The research examines the lack of publicly available dissenting opinions when assessing the implications for the transparency and accountability of constitutional judgments issued by the Iraqi Federal Supreme Court (IFSC). Utilizing an impact assessment approach, the study examines the implications of not having dissenting opinions publicly available, meaning that only the majority opinions of IFSC Justices are freely available for public consumption. The study considered, primarily, how dissenting opinions facilitate transparency of justice through public engagement by the court of first impression in constitutional matters, and how a lack of dissenting views limits the public's ability to understand the rationale behind judicial decisions fully, and to understand better the implications of the lack of dissenting opinions on transparency of civil constitutional adjudication. The research considers the impact of these market inefficiencies on the independence of judges, public confidence in the judiciary, and the development of legal precedents. The article uses a combination of doctrinal research and qualitative fieldwork as retrospective legal and empirical methods to assess the effect of the absence of public documentation in the judicial process and to explore how dissenting opinions can enhance the transparency of the judiciary. This research primarily discusses various options for strengthening public reporting by reinforcing accountability and engagement within the justice system. In this data, the dissents should be added to provide transparency, pluralism, and public engagement on constitutional issues in court opinions. Overall evaluation, we get the result of impact factor as 4.7, which has public trust, and legal development has the 3.7. It is also concluded that most researchers suggest that the Iraqi judiciary should incorporate dissenting opinions into the democratic structure of governance to improve public perceptions.

**Keywords:** Dissenting Opinions, Constitutional Judgments, Iraqi Federal Supreme Court, Legislative Impact Assessment, Iraq

## I. INTRODUCTION

Judicial transparency provides the necessary information to the legal system through accessible and legitimate means, allowing the public to determine the rationale behind judicial decisions. The role of transparency in the constitutional court,

which has the power to render decisions, is crucial in its extensive involvement in national governance concerning individual rights. In Iraq, consider the example of the Federal Supreme Court, which should engage with the constitutional interpretation of the dispute settlement (Dekapolis et al., 2024). However, due to the governing implications of its ruling and the fact that records of any dissents were not publicly available, serious transparency and accountability questions arose about the court's judgment (Amit, 2016).

From time to time, there are dissenting opinions, written by judges who disagree with the overwhelming majority opinion. Dissenting opinions have long been valued because they offer an alternative legal interpretation and disagreement, encouraging healthy discussion or debate within the same court. Speaking of public officials' dissenting opinions, in democratic legal orders, judges' dissenting opinions are made publicly available so that the public, legal scholars, and judges may engage in diverse opinions on challenging constitutional legal issues (Khawam, 2005). Dissenting opinions have been essential in informing the legal rule of law and have played a significant role in creating case law, demonstrating that all opinions matter in the judicial process. But because it does not exist in Iraq, the absence of such documentation creates a public barrier to alternative legal perspectives and undermines the transparency of the constitutional adjudication process (Hasan et al., 2024). There are potential ramifications, or risks, of the absence of dissent to the independence of the judiciary, integrity of court decisions, and legal trust in the Iraqi legal system. Similarly, the lack of dissenting opinions and publicly accessible precedents makes it practically impossible to develop a cohesive body of law that allows courts to address all the legal arguments presented in tangled constitutional issues (Khoeurt et al., 2023). This paper seeks to assess the effects of the absence of dissenting opinions on the Iraqi judiciary, related explicitly to their implications for the transparency and accountability of the constitutional court. This research utilizes an impact review framework to evaluate the consequences of the absence of public dissenting opinions,

aiming to understand the effects on legal precedent, the judicial decision-making process, and public trust. It reviews what is currently taking place domestically and what is considered best practice, compared to the explored international standards. After completing this review, it offers practical recommendations for increasing the transparency of court judgments in Iraq and improving the system's transparency and accountability.

This research paper analyses the possible consequences of the lack of dissent in the Iraqi Federal Supreme Court using a nine-section format. It begins with an introduction that provides a brief description of how it is difficult for courts to be transparent when making decisions about constitutions. It then provides background information about how the Court operates within its institutional framework, an introduction to what a dissent means within a court, and how it is used. The literature review provides a synthesis of what other countries and courts have done to provide dissent and also outlines existing gaps within the Iraqi context regarding Judicial Dissent. In the methodology section, there is a description of how the qualitative and doctrinal methodologies were utilized by conducting stakeholder analysis through interviews and an analysis of cases of Judicial Dissent. In the findings section, it identifies the failures of Law No. 30 Of 2005 regarding the Law of the Courts, the secrecy that surrounds Judicial Dissent deliberations, the consequences of Judicial Dissent not being published, and how Judicial Dissent impacts the public's confidence in the judicial system, as well as a summary of how the impact of Article 76 may have created these outcomes. The discussion section provides an interpretation of the findings through the use of an impact-analysis model identifying the effects on the transparency and accountability of the decisions of the Court. The conclusion summarises the key effects of not providing dissent in the decisions made by the Iraq Federal Supreme Court, including their negative influence on Jurisprudence and the public's confidence in the judicial process. Finally, the recommendations section outlines necessary legal and institutional changes to provide greater transparency, which includes a complete reference list is provided to support the research conducted in this paper.

## II. BACKGROUND INFORMATION

The lack of dissenting judicial views contains judicial rulings based on international discussions among various researchers, followed by legal practitioners, which also suggests transparency and legitimacy among the judiciary. In the case of the federal Supreme Court, no dissenting opinions are available to the public with constitutional rulings. This raises essential questions about transparency, which are crucial for the development of constitutional law and the public's understanding of the law. Here is the contextual information suitable for the various concepts.

### 2.1 Role of The Iraqi Federal Supreme Court (FSC)

In this, it is also explained that the Iraqi federal supreme court should have various tasks assigned to sustain the

constitutional order, as well as the legal laws and regulations in Iraq. Here, both judicial and administrative actions should be considered valid. The court should have multiple powers, including the interpretation of the constitution and the review of various laws and executive actions, in line with the constitutional principle to protect democracy and safeguard human rights. Though the Court rarely has dissenting opinions in its decisions, dissenting opinions can circumscribe the entire range of legal perspectives and views that help foster a public debate regarding constitutional matters. In particular, dissenting opinions can often articulate the rationale behind a majority opinion and provide an opposite view that develops the legal thought in the specific jurisdiction.

### 2.2 Concept of Dissenting Opinion in Judicial Systems

The dissenting opinion, considered the legal opinion, contains the majority opinion about the case. A dissenting opinion, like any written opinion, will be published for public reading, where it can enhance the judicial process through transparency (Deeks & Burton, 2007). Discussing various opinions is followed by assessing legal reasoning with lower judges to interpret the different kinds of reasoning applied by the law. The transparency of the values should be understood in relation to the rationalization process (Al-Asady, 2024). Affecting Future Legal Cases, Dissents gradually influence future legal issues in litigation. Dissents are used by newer courts to represent or change legal doctrines or trend toward new forms of jurisprudence. Legal Knowledge for the Public, The dissenting opinion adds complexity to an understanding of the law or legal issues (Gorjazandariani & Ghahremanzadeh Nimgazi, 2016). Without dissenting opinions, the public will only know a potential outcome from the majority opinion (Choudhry, 2013). The attached dissenting opinions will demonstrate that legal issues are often more complicated and nuanced than what was articulated in the majority opinion. Publishing dissenting opinions serves as a check on the adjudicator's majority opinion formation process, enhancing accountability to the public (Shakir, 2024).

### 2.3 Constitutional Jurisprudence and Legal Development

Constitutional jurisprudence involves the principles and decisions of law, as well as the interpretation and application of a state's national constitution. The development of constitutional law continues to evolve through case law (Ismael, 2025). Dissents have, throughout history, played a critical role in the development of constitutional jurisprudence because they offer an alternate legal interpretation that can be advanced as precedent at a later time. In the case of the Iraqi Federal Supreme Court, a lack of dissents could have a stagnating effect on constitutional jurisprudence. In the absence of dissent, other legal interpretations are not considered or explored, making the court more likely to maintain the status quo rather than change its understanding of the nation's Constitution (Aguila et al., 2024).

## 2.4 Impact on Legal Reform and Public Discourse

The lack of dissenting opinions also stifles possible legal reforms. Legal scholars, practitioners, and lay people will not know if the prevailing interpretation of the constitution supersedes a possibly valid interpretation, especially in areas where the constitutional principles may be dated or insufficient for contemporary governance (Hamza, 2025). Indeed, legal knowledge is inhibited by a lack of dissenting opinions, which removes a significant part of legal education. One fundamental aspect of legal education that is crucial to public understanding of the law and its meaning is not only the decisions made by the majority of judges but also how the minority critiques those judgments. In a democracy, transparency in the law allows citizens to be informed and engage in discussions about the constitution and legal doctrines (Shechter, 2025).

## 2.5 Comparative Examples and Global Practice

The publication of dissenting opinions occurs in different ways depending on the judicial system. The United States and Canada, for example, routinely publish dissenting views because dissenting opinions serve a helpful purpose in legal development. Other nations may not include dissenting views for various reasons, such as wanting to present a unanimous position of the judiciary or fearing that dissent will lead to misconceptions in the public (Azhdarpour, 2015; Nasirian & Tahami, 2019; Hadi & Abd, 2025). Within the context of the Iraqi Federal Supreme Court, the practice of not providing dissenting opinions is not the case in many legal systems, as dissent has been developed into a part of legal dialogue and legal disclosure.

## 2.6 Problem Statement

This paper primarily examines the critical issue of the lack of dissenting opinions in the ruling of the Iraqi Federal Supreme Court, focusing on the consequences for judicial transparency, constitutional jurisprudence, and public awareness of law. The paper argues that dissenting opinions would reduce the opacity of the court ruling process, as minimal transparency in alternative legal reasoning influences the evolution of constitutional law. To analyze the lack of decision-making, which involves a limited public interface with the constitutional issues, followed by the public trust in the judicial system. This is used to assess the impacts of various methods. The study primarily aimed to determine the effects of legal disclosure on enhancing transparency and improving the vibrancy and inclusiveness of the Iraqi legal ecosystem.

## 2.7 Research Questions

### 2.7.1 Transparency and Accountability

- How does the absence of dissenting opinions in the judgments of the Iraqi Federal Supreme Court impact the transparency of the judiciary process?

- How does the lack of dissenting opinions in constitutional judgments affect the public and legal perception of the Iraqi Federal Supreme Court's accountability professionals?

### 2.7.2 Constitutional Jurisprudence Development

- What role does dissenting opinion play in the development of constitutional jurisprudence, and how does its absence impact legal innovation in Iraq?
- What role do the dissenting opinions play in developing legal precedents, and what would be the risks of their absence to the development of the constitutional jurisprudence in Iraq.?

### 2.7.3 Public Legal Consciousness and Appointment

- How does the lack of published dissenting opinions affect Iraqi legal awareness and understanding population?
- What are the consequences of not having dissenting opinions in Iraq's legal education, public debates, and constitutional discussions?

### 2.7.4 Impact on Trust in the Judiciary

- How does the absence of dissent opinions impact on popular trust into the Iraqi Federal Supreme Court and its constitutional decisions?
- What is the place of dissent in enhancing public confidence or undermining confidence of the legal system, and how does absence of dissent affect the legal and political environment in Iraq?

## 2.8 Research Objectives

- To analyze the Iraqi Federal Supreme Court's decision, which involves exercising power through legal oversight and interpretation, and how the law's constitutionality influences the nature of the decision for all authorities.
- The federal supreme court's authority to assess conflicts between federal and regional laws, and to modify the application of federal law within a region, does not fall solely within the federal government's exclusive powers and authorities.
- To analyze the critique of the experts in Islamic jurisprudence, along with members of the federal supreme court, focusing on monitoring the constitutionality of laws under legal supervision interpretation.
- The Federal Supreme Court regularly assesses the constitutionality of laws to prevent judges from exercising powers outside their granted authority, thereby maintaining legal oversight and interpretation...

- To suggest various enhancements in the Iraqi Federal Supreme Court's role in overseeing and interpreting constitutional laws enacted through legislative authority.

### 2.9 Significance of The Study

The importance of this study ultimately lies in investigating the lack of dissenting opinions from a different angle through the dissenting opinions of the Iraqi Federal Supreme Court. It is crucial to note that the idea of dissent and dissension is related to the broader issues of judicial transparency, the development of constitutional law doctrines, and public awareness in Iraq. To demonstrate that there are public efforts to measure the effects of the practice on the methodology. This was primarily a conversation about how a lack of dissent limits discourse, limits public engagement and participation, and therefore limits the evolution of constitutional law. More specifically, the research focused on the systemic limits of the Iraqi judicial system, outlining fundamental aspects of potential reform in the deliberative process to enhance transparency and engagement in addressing legal injustices. The findings of this study are essential in supporting the expectation that judicial openness can lead to more independent judges who can formulate reasoning processes through panels of judges. Ultimately, the purpose of this study is to contribute more broadly to the conversation about judges being held accountable. The process of dissent can assist citizens in their ability to create a deliberative and engaged process in law.

### III. LITERATURE REVIEW

The author notes that there has been a lively debate in legal scholarship about whether dissenting opinions should be removed from constitutional opinions, particularly regarding their impact on clarity in judicial reasoning and their value in the formulation of constitutional law. Dissenting opinions serve an important purpose in improving transparency in court decision-making by providing a public explanation for dissenting from majority opinions, offering a distinct view of the law to enhance transparency in analyzing how courts reason and engage with the law (Kosnác & Pala, 2021). By examining dissenting opinions of the precedents, it focuses on the development of constitutional law. Ultimately, precedent has immense significance for past precedent of dissent. Dissenting opinions may serve as a means to introduce new arguments or interpretations of the law, which can then become the majority opinion and the law over time (Sestino et al., 2025). A lack of dissent can slow the advancement and evolution of constitutional jurisprudence and lead to more stagnant law. Also, without dissenting opinions, the level of public legal cognizance is limited (Seyvanizad, 2017). When dissent is not published, the public's understanding of judicial opinions is limited, affecting their ability to discuss, evaluate, and analyze these opinions in a systemic examination of the legal system. A partial understanding can undermine public faith in the judiciary and hinder the development of a competent citizen body capable of participating in constitutional issues (Ng et

al., 2025). In other parts of the world, courts have considered or even actively practiced the idea of dissents in an effort to advance judicial transparency and cultivate a dynamic legal foundation (Dilshat, 2025). For example, many constitutional courts in Europe print separately concurring or dissenting opinions to advance transparency and accountability in the judicial process (Hajnasiri et al., 2015). This action highlights the potential benefits of the public reading a dissenting opinion. It can provide a path toward developing a policy that achieves this goal for the Iraqi Federal Supreme Court. Dissenting opinions are an important facet of legal systems, enhancing the accountability and transparency of the judicial process (Raximova, 2025). While dissenting opinions do not have the force of law, they permit judges to express disagreement with a majority opinion, even if a different interpretation of the law exists (Paulsson et al., 2025). Dissenting opinions will lead to a fuller articulation of legal issues as the dissent usually provides the reader with information that often is not contained in a majority opinion (Juillet, 2018). The fact of the dissenting opinion, naturally, increases the transparency of the judicial process through illustrating the complications of the deliberation process of the application of law to the particular cases. It provides masses, legal fraternity, and scholars an opportunity to enjoy and disapprove arguments and rationales of judicial decisions, and informally argue on matters of law. Such transparency is vital when it comes to the cases in relation to the constitution, which have the potential to change the legal and political climate. Overall, the dissenting views can be considered as one of the most significant aspects of legalism doctrines (Mao et al., 2025). They tend to come up with new, potential, and sound arguments on the interpretation of the available precedents, which can be important in forthcoming cases. Indication of possibility of alteration of the legal doctrine is to some extent represented in the dissenting opinions. Dissenting opinions can also contribute to developing and developing proactive constitutional law discourse through offering a platform of criticizing the majority opinion. There are also some dissenting views where certain weaknesses or possible shortcomings are reviewed. The critical use of precedential law is important to make sure that the principles of law are not stale under the influence of the changing values and norms in society and the significant interpretations of the constitutional law. The absence of a publicly available history of dissenting judicial opinions, especially in constitutional court situations, is concerning both to the judicial accountability process and to the constitutional law making process. Dissenting opinions form the basis of enhancing the openness of the judicial decision-making process. Disenters also give alternative legal reasoning when they express their disagreement with the majority decision in the opinion in writing. This will enable the masses to know how the opinion of the judiciary was arrived at and, together, this will enhance comprehension of the law. The significant aspect of the dissenting opinion is that it can be subject to examination by the population, legal practitioners and scholars to challenge the reasoning procedure followed by the judicial system and offer a check on the judicial procedure. In addition, the absence of

dissenting opinions can negatively impact the evolution of constitutional law. Dissenting opinions have served an important function in some legal systems around the world by contributing to the development of legal doctrine. Dissents provide new or different legal arguments or interpretations. Subsequently, one opinion has, in time, found its way into the majority opinion or opinion reasoning and was recognized as part of established case law. Without dissenting opinions, the development of jurisprudence in constitutional law could stall and weaken support for advancing jurisprudence. This can lead the legal system to stagnate. Additionally, without accessible dissents, the legal system lacks transparency. The public's legal literacy is impacted negatively. Additionally, without dissents, the public lacks a complete understanding of the judicial decision. Thus, the public is unable to constructively critique the decision and the legal system as a whole. This can decrease confidence in the legal system and the courts, and disengage the public from discussions on legally entrenched rights. (Glückler & Gutiérrez, 2025). This is in contrast to many constitutional courts, which have adopted the practice of publishing dissenting opinions and recognized the benefits of legal contempt to judicial system transparency and flexibility. To illustrate, many European courts have adopted the practice of publishing separate opinions as a measure of transparency and accountability in judicial decision-making processes. This illustrates that public dissent is a useful practice that should be leveraged and could greatly benefit the Iraqi Federal Supreme Court as well.

### 3.1 Research Gap

This research primarily focused on the dissenting opinion of the Iraqi federal supreme court, which should be considered a significant group among the underlying concepts of judicial transparency and accountability within the Iraqi legal framework. This mainly describes the potential contribution among the dissenting opinions through transparency and public trust. These types of implications are reflected in the constitutional jurisprudence. This research primarily focused on the specific impact of the dissenting opinion in Iraq. When dissenting opinions are not available to the public, it complicates individuals' engagement with our judicial reasoning and also hinders the evolution of constitutional law. This research primarily addresses these gaps, demonstrating how the absence of dissent reduces transparency in judicial opinion and contributes to the literature.

## IV. RESEARCH METHODOLOGY

This research aimed to apply a civilian legislative impact assessment framework, combining doctrinal study and qualitative research, to understand the impacts of the absence of dissenting opinions in the Iraqi Federal Supreme Court. Specifically, Its concerned about implications for beliefs around judicial transparency and constitutional adjudication. This methodology combines legal theory and normative data to provide a rich, holistic understanding of the supposition, considering both the theoretical implications of legal practices and the day-to-day impact on those living in Iraq. In

addition, the mixed methods approach allows the doctrinal study to be complemented with real-life experiences of the data. The research methodology is set out in five interrelated stages.

### 4.1 Identifying the Legal Problem

The juridical issue will be discussed with regards to the Iraqi constitutional law and the various provisions of the constitutional law that relate to the analysis of judicial decisions. This stage will also involve comparing the court systems in other states that regularly issue dissenting opinions, such as those in the United States and India. There is an abundance of jurisprudence from both jurisdictions, but one notable case is *Brown v. Board of Education*, which began to shape the interpretation of specific constitutional provisions. Of course, *Brown* would have never happened had it not been for the dissenting opinions provided in other cases. As with the Supreme Court of the United States, there is a distinct lack of dissents in the court decisions in Iraq, which may hinder the development of constitutional jurisprudence in the country.

### 4.2 Mapping Affected Stakeholders

In this phase, the study identifies important stakeholders who may be directly or indirectly affected by the absence of dissenting opinions. Such stakeholders are current and former judges, constitutional law scholars, and lawyers. The research determines how the views of these stakeholders are affected by the lack of opposing voices in their practice and the court system. These interviews will be necessary in forming a perception about the implications to the practitioners in terms of legal interpretation, legal training and social trust in the courts.

### 4.3 Conducting Semi-Structured Interviews

To collect qualitative data on the implications of dissenting opinions for judicial transparency and their contextual effects on the evolution of constitutional law more generally, semi-structured interviews with the identified stakeholders will be conducted. One way to demonstrate the importance of dissenting opinions to developing the Basic Structure Doctrine is to explore a case study from the Indian legal system, such as the *Kesavananda Bharati* case (1973). Indian judges and legal scholars have pointed to dissenting opinions as guiding the development of the law, contributing to judicial transparency, and providing valuable insight into the Iraqi context.

### 4.4 Dataset Details

A diverse and polymorphic design will allow for rich data collection. The first and most significant component will be a case study of a collection of jury decisions from the Iraqi Supreme Court, estimating that there will be a comparison of comparable international case studies in which dissenting opinions were a turning point for the case (political law, changes in human rights laws, and constitutional changes). The second part will be an extensive review of the legal

documents, including the relevant excerpts from the Iraqi Constitution. The preparations of the court decisions and scholarly writings will provide contextualization for the case study and the interviews. Finally, qualitative data will be obtained through interviews with practicing and constitutional lawyers, judges (and legal professionals), and advocates, on the gap dissenting opinions impose on judges and citizens, regarding judicial decision-making and transparent constitutional adjudication.

#### 4.5 Qualitative Data Analysis

Interviews, as well as case files, will be subjected to qualitative analysis employing thematic coding. The main concerns of this description will include, primary disgust, lack of accountability, inertia of constitutional law, and effect on the public trust in the courts. This description will also examine how the lack of dissenting opinions on constitutional issues affects practitioners' ability to engage more deeply. The comparative case studies will include dissenting views on constitutional matters, such as *Roe v. Wade*, to illuminate the significance of dissent in the evolution of constitutional law.

#### 4.6 Intensive Legal Analysis

In this phase, an in-depth examination of the constitutional provisions relevant to the Iraqi Federal Supreme Court's judicial powers and applicable case law is provided. As an example of this situation, the ICJ ruling relating to de-Baathification is examined for how it governs the development of political law case law due to the absence of dissent on that Court. The lack of dissent in the core constitutional cases from the Iraqi Federal Supreme Court may explain the absence of differing positions on constitutional law cases.

#### 4.7 Articulating Likely Effects and Proposing Alternatives

Based on this previous literature, the paper will outline potential consequences of the legal system of Iraq having no dissenting opinions, their role in fostering trust in the said system, legal education, and constitutional law. The research is based on the examples like the *Brown v. The case of Board of Education in the United States* demonstrates how the voices of dissent affected the legal status of segregation. Also, the research study takes into account the future of the Iraqi legal landscape under the absence of opposing opinions. Lastly, the study will provide possible alternative policies or procedural ways of change like institutional changes to the Iraqi Federal Supreme Court. These reforms would enable the airing of differing opinions in the justification of the decision, which would promote transparency, accountability, and legal innovation.

## V. FINDINGS

### 5.1 Federal Supreme Court Law No. 30 Of 2005 Lacks Sufficient Procedural Rules

The principal results of this study emphasize that Law No. 30 of 2005 of the Federal Supreme Court is significant, as it highlights the inadequacy of procedural rules for conducting constitutional litigation. This limitation largely derives from civil procedure, provided by the law no 83 of 1969, which was not created to apply to constitutional cases and indeed lacks the necessary accouterments for constitutional lawsuits to take place. The peculiarities of constitutional cases should allow them to proceed under rules developed for specific constitutional principles that address these rectified contextual peculiarities, in relation to the rules surrounding public policy, human rights, and the constitutional legal framework of the state. The outdated procedural laws are not closely affiliated with the complexities of constitutional adjudication and the extent of procedural tools afforded to the court. As such, they will lead to a system incapable of addressing the specific complications sought to be resolved by constitutional cases. The significant findings of this study emphasize structural reform to the procedural architecture that governs the federal supreme court's decision-making process.

### 5.2 Secrecy of Deliberations and Withholding of Dissenting Opinions

The argument based on the privilege protecting the secrecy of the deliberative process, which suggests that dissenting opinions can be omitted, is weak. The withholding of dissenting views, paradoxically, with the hope of protecting deliberative secrets, offers no protective privilege. While the deliberative process is confidential, opinions may be, and are, publicly disseminated. United States and Indian courts, for example, may be said to publicly publish dissenting opinions while maintaining confidentiality during deliberative processes. The Iraqi Federal Supreme Court's withholding of dissenting opinions limits transparency and public understanding of the judiciary's reasoning. There seems to be no doubt that, for the court, it is best to retain secrecy in the deliberative processes, while dissent can and should be disclosed.

### 5.3 Dissenting Views Are Not Publicly Documented

Research findings indicate that documented dissenting opinions are not included in published opinions. This not only conceals differences in legal reasoning that may be present in the Court, but also impairs the discoverability of the Court's reasoning. Without access to dissenting opinions, members of the legal community and the general public are provided only with the majority view, which obscures the multifaceted nature of the issues at stake in constitutional adjudication. The lack of dissent limits the ability of a judicial opinion to influence future law and restricts the dynamic exchange of its elements. Dissent enhances the value of case law for educational use because, without it in teaching materials, the

benefits of the educational experience and exposure to dissenting perspectives diminish.

#### 5.4 Dissent Has Institutional Value Beyond Procedure

Interviews with practitioners of law and scholars indicated that, in addition to their functional and behavioral purposes, dissenting opinions also serve essential institutional functions. Dissent is not a legal nicety, but it is a mechanism for doctrinal development. Dissenting opinions promote the development of legal doctrine by articulating alternative reasons for reaching the same decision and articulating a counterbalance to the majority's rationale. Dissenting opinions should provide independence because of the various expressions followed by the judge's individual legal opinion without having the inference of institutional constraints. Based on that, dissent should serve as the legal prophesy against the autistic and intuitive forms of groupthink. These types of funding should demonstrate the deeper purpose that dissent serves, emphasizing the need for cohesion and functionality through the unique judicial capacity to address various demands for change in legal, social, and political contexts.

#### 5.5 Impact of The Absence of Dissent on Public Confidence

Confidence in any judicial review, as predicted by the dissent, which highlights the judiciary's lack of dissent, may lead the public to perceive the process as lacking accountability, especially in sensitive cases. Dissent in public matters has the potential to provide an opportunity for constructive criticism, which should be at the center of public confidence. Confidence in the judiciary is an essential thing for the system itself. However, the findings of this study suggest that the incremental communication of dissent, aimed at fostering judicial collegiality, would open the door for constructive criticism without creating judicial fracture. It does assist with openness. Openness is key to public confidence. Openness is essential for enhancing public understanding of the dynamics of the judicial process and the reasons for critical constitutional decisions. Careful communication of dissent may improve public confidence in the judiciary and, by extension, in systemic openness. Systemic openness promises that the courts operate with accountability. The results also suggest serving as a structured way to offer assurance and build trust in the judiciary and, consequently, the legal system overall. Increasing the opportunity for systemic openness aids the courts in fulfilling the obligation to show accountability to the public.

#### 5.6 Data Analysis

The changes to Law No. 30 of 2005, as amended, concerning the Iraqi Federal Supreme Court, do not provide procedural guidelines. Therefore, the older Civil Procedure Law No. 83 of 1969 is still applied to constitutional litigation. This raises a significant concern about the Iraqi judiciary. This is an issue because it attempts to fit the exceptional nature of constitutional litigation into a framework that was not intended for routine civil litigation, risking legal and political

disagreements. In this also includes the formula for Impact factor calculation as,

$$\text{Impact factor} = \frac{\sum(\text{Impact level} * \text{Weight})}{\sum \text{weights}} \quad (1)$$

From the above Equation (1) describes the Impact level and weights based on the Key findings.

#### 5.7 Inadequate Framework for Constitutional Review

The nature of constitutional litigation encompasses unique challenges not found in civil law, which, at its core, involves inter-personal dispute resolution. Firstly, Sui Generi's Nature of Constitutional Cases: Constitutional review also necessitates the adoption of unique practices in relation to locus standi, i.e., the right to initiate a constitutional litigation. Also, the dimension of public interest in the adjudication of some instances, along with the binding nature of decisions made in constitutional adjudication, which is fundamentally different from civil adjudication (i.e., erga omnes vs. inter partes). Misuse of Civil Law: The 1969 Civil Procedure Law (CPL) was conceptualized and crafted to deal with classical adversarial civil litigation where a cause of action is articulated, a plaintiff is identified, a defendant is assigned, and the litigation is framed around a clearly articulated right or some form of relief such as a claim to money, property, etc. The application of such a legal framework to constitutional challenges, which, unlike civil litigation, targets a law's constitutionality, rather than addressing private rights, can result in judicial closure of constituent access to the legislature and skewed constitutional jurisdiction.

##### 5.7.1 Lack of Explicit Procedural Rules in Law No. 30 of 2005

Law No. 30 of 2005 concerned the formation, jurisdiction, and composition of the Federal Supreme Court, akin to the detailed mechanism for constitutional adjudications.

##### 5.7.2 Lack of Explicit Procedural Rules in Law No. 30 of 2005

This enactment focuses mainly on the roles, structure, and proceedings, similar to the level of detail included in constitutional decisions. The absence of law suggests that the FSC (Federated Supreme Court) directs its internal regulations directly and detrimentally to the CPS, which is not designed for constitutional proceedings. The possibility of judicial activism, given that the process gives the FSC a significant amount of discretion, could jeopardize the rule of law or misapply judicial function. This is particularly concerning since the court is, ironically, making its own procedural rules in an already emotive realm of politics.

5.8 Case Analysis: Interpretation of Article 76 of The Constitution (Largest Bloc Ruling)

5.8.1 Background and Issue

Concerning Article 76 of the Iraqi Constitution, the timeline for the formation of the Council of Ministers, as it is presented, gives the President of the Republic the ability to choose a candidate for prime minister from the "largest parliamentary bloc" but does not clarify if the "largest bloc" is the one political list that won the most seats in the election process.

5.8.2 Fsc Decision and Use of Procedural Flexibility

The FSC was tasked with interpreting this phrase. In a 2010 decision that remains highly controversial (along with its later confirmations), the Court decided that, regardless of which single list won the most seats, the "largest bloc" is the coalition formed post-elections among the various political lists.

5.8.3 Procedural Flaw and Reliance on Sui Generis Methods

The critical procedure remains the FSC's initiative in addressing, albeit in a limited manner, the ambiguities of a constitutional text. This is particularly challenging without clear procedural guidelines under Law No. 30/2005 on how and when it must provide binding interpretations or issue consultations on the formation of the government. Filling the Void: Sui Generis Interpretation. Since the law does not give detailed instructions for the kind of abstract constitutional interpretation (which, in any event, is a feature of the European-style constitutional courts) the FSC took it upon itself to exercise the power to provide a final, binding interpretation. This power, albeit constitutional in nature (the constitution allocates the power to the FSC under article 93), was exercised in a manner that, for all intents and purposes, altered the political dynamics of government formation

processes concerning questions of Locus Standi and Timing. Unlike a civil case, where the injured party brings a suit after the injury occurs, the FSC, in the absence of clear guidelines, has exercised its fundamental jurisdiction. The ambiguity in procedural rules regarding standing and the acts that constitute constitutional review led the Court to define its functions within the polity. Impact of Civil Law Analogy (The Unfit): Had the court rigidly applied the CPL's criteria for determining the "parties" and "interest" in the dispute, it could have dismissed a constitutional law dispute and a dispute regarding the formation of the executive based on the absence of a direct privately enforceable "personal right" or the difficulty in identifying a singular "defendant" in a political dispute. FSC's wading into a permissive CPL model by allowing a broad interpretation request is remarkable. Nevertheless, the lack of a bright-line constitutional procedure prevented the Court from determining a parameter, leading to a decision that is clearly contingent on the politics of the situation.

The most significant decision, as illustrated, involves a tension with Necessity, as the FSC must interpret the vague constitutional text to resolve the national political deadlock. Procedural Deficiency, which is the lack of specific procedural rules in Law No. 30 of 2005, which permitted the Court to step in and define its own procedural authority, leading to significant, non-neutral political intervention. The Sui Generis Misfit has the unique nature of the constitutional question being forced into a system (Law 30/2005 supplemented by Civil Procedure), which was fundamentally unprepared for the task. The decision was legally decisive but politically divisive. The required new law for the FSC, as per Article 92 of the 2005 Constitution, which has yet to be fully passed with the necessary constitutional majority, states that it is to address this procedural vacuum by providing a custom-fit framework for constitutional adjudication, thereby limiting the need for the Court to apply civil law analogies and ad hoc procedures.

VI. DISCUSSION

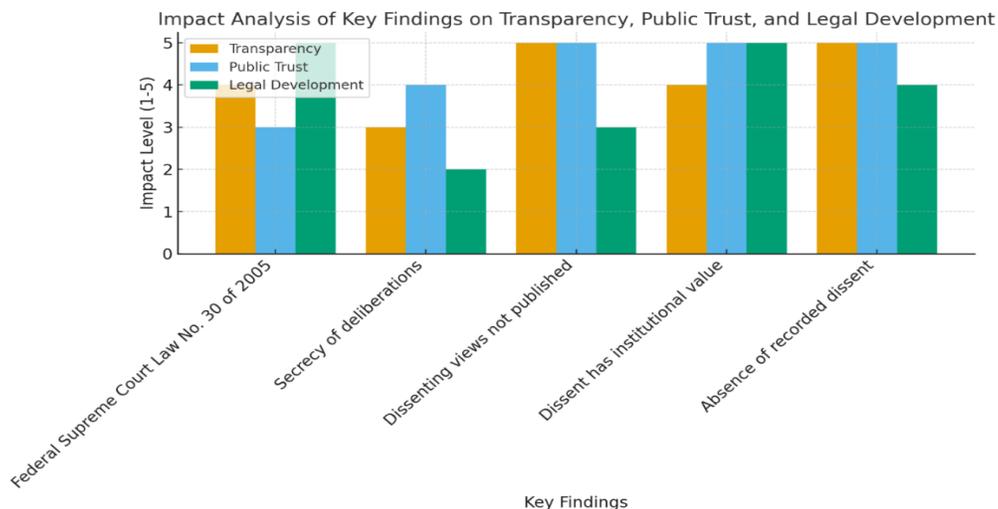


Fig. 1 Impact Analysis of Key Findings on Transparency, Public Trust and Legal Development

The above Fig 1 analysis, which describes "Impact Analysis of Key Findings on Transparency, Public Trust, and Legal Development," quantitatively demonstrates the negative ramifications of the internal and operational issues of a constitutional court (presumably the Iraqi Federal Supreme Court). These issues encompass three categories: Transparency, Public Trust, and Legal Development. High-to-severe foundational problems (impact level 4-5 is high) are demonstrative of the analysis. The first finding, "Federal Supreme Court Law No. 30 of 2005" (which still lacks sufficient rules, as previously articulated), establishes a high negative impact (level 4) on Transparency and Legal Development but a moderate impact (level 3) on Public Trust. The practice of "Secrecy of deliberations" aggravates the situation in Transparency (level 3) and significantly affects Public Trust (level 4), while it is less damaging for Legal Development (level 2). Most importantly, the non-publication of opposing views listed under "Dissenting views not published" signifies a maximum negative impact (level 5) on Transparency and Public Trust, while still moderately affecting Legal Development (level 3). The finding "Absence of recorded dissent" reflects, and perhaps exacerbates, this, and records a maximum negative impact (level 5) on Transparency and Public Trust, along with a high negative impact (level 4) on Legal Development.

On the other hand, the considerable positive value (level 5) assigned to Dissent in relation to Public Trust and Legal Development, and the considerable positive value (level 4) assigned to Transparency, signify the potential positive value "Institutional value" of dissent may yield, especially considering dissent is presently relied upon in negative institutional settings. Lastly, the absence of published dissenting opinions and dissenting legal opinions remains the single most damaging practice affecting the Court's Transparency and Public Trust, dragging Legal Development down in the process. Based on the overall key findings on transparency, public trust, and legal development, the impact factor should be 4.3, indicating the board's high impact. Legal development should have an impact value of 3.7, which is considered average, and public trust is regarded as 4.7.

Not sharing dissenting opinions openly in the Iraqi Federal Supreme Court (FSC) is a significant error that damages institutional transparency regarding constitutional decisions. This issue arose in the court due to the reference to Federal Supreme Court Law No. 30 of 2005, which does not require documentation. Although the court treats it as such, it operates based on the constitutional joint belief of older Civil Law systems. When using the Impact-Assessment Methodology, the High Severity of the error was related to the Transparency Deficit due to a final ruling that could not be stopped or otherwise agreed to be beyond rebuttal. Ultimately, the lack of documentation left competing arguments significantly elided, and judges were not held accountable in any way. This lack of documentation means that prisms of inputs are purposely hidden away in the folds of a politically charged decision. the KRG and national power

relationship and propagated the suspicion that a consensus solution, rather than or more than an adjudicative realism, was the basis for issuing the politically charged ruling. The absence of dissent also holds up the development of law and legal prediction. In developed constitutional systems, dissenting opinions are treated as "persuasive authority". They are recorded so that, at a minimum, minority opinions are considered to the extent that they could serve to overturn questionable legal precedent. Stifling dissenting opinions hinders legal evolution and prevents legal change from unfolding through political destabilization. The consequence is that the FSC, instead of welcoming internal debate as a potential source of advocacy through dissenting opinions, will suppress it, thereby collapsing the civil judicial spectrum and invoking further distrust in civics. This, of course, perpetuates the ambiguity generated by the unconstitutionally confusing, *sui generis*, and notoriously complicated constitutional questions, which are easily exacerbated by the framework for an adversary simplicity drawn from the older Civil Procedure Law No. 83 of 1969.

## VII. CONCLUSION

The lack of available dissenting opinions in the Iraqi Federal Supreme Court threatens the transparency, accountability, and evolution of constitutional law. For any system of dissenting views to work, there must be a system of transparency that details the various interpretations of the law, and the public must be able to 'see' the decision-making process. In contrast, in the case of Iraq, the lack of public access to dissenting opinions means that the public cannot appreciate the reasoning behind a decision, thereby hindering the advancement of the law. The absence of dissent stifles legal development and the public's ability to engage meaningfully with a court's reasoning, resulting in a loss of confidence in the courts. The interaction inspires this feedback with the literature related to the open and the considered closed access publishing business models. Its believe it is germane to focus on the academy, open access, and closed access, as the literature on the model of more closed, possibly more abusive publishing models is more limited. Would it be possible to recast the narrative to present IGI more as a publisher enriching the desks of academicians with more books, rather than as a provider of free services, to more accurately depict the transactional nature of the business. The challenge is to maintain the consistency of the narrative while creating a more balanced effect in positioning IGI. The interaction inspires this feedback with the literature related to the open and the considered closed access publishing business models. Its believe it is germane to focus on the academy, open access, and closed access, as the literature on more closed and possibly more abusive publishing models is more limited. Would it be possible to recast the narrative to present the publisher as enriching the desks of academicians with more books rather than as a provider of free services. The challenge is to maintain the consistency of the narrative while creating a more balanced effect in positioning IGI. Its believe it is germane to focus on

the academy, open access, and closed access, as the literature on more closed and possibly more abusive publishing models is more limited. Would it be possible to recast the narrative to present the publisher as enriching the desks of academicians with more books rather than as a provider of free services. The challenge is to maintain the consistency of the narrative while creating a more balanced effect in positioning IGI. Based on evaluation we get the high level impact factor value of 4.7 for public trust and 4.3 for legal development

### VIII. RECOMMENDATIONS

To assist Iraq with improved transparency and accountability, and to support the evolution of constitutional law, some suggestions might include the following. First, the preparation and publication of dissenting opinions, where and if applicable, might require the court's internal regulations to include an explicit statutory provision in Law No. 30 of 2005. This would improve the law and enhance transparency. Second, the formal acknowledgment of judges' rights to reason dissent should be recorded in the court's minutes as a sign of the court's confidence and healthy assertiveness in the pluralism of law. Controlled access to these opinions by scholarly dissenters could improve the doctrine. Public information campaigns would assist in the understanding of dissenting opinions as a positive tool, which could assist in the improvement of policy for legislation. For the purposes of consolidating transparency practices, Article 47 of the court's periodical, "Iraqi Constitutional Judiciary," should be used to include the content of a dissenting opinion, which should be enhanced with an academic critique and thus expanded to include the elements of a scholarly article. In the future, the following suggestions, implementing the legal framework with accountability, are crucial for public confidence in the evolution of Iraq's constitutional order. To implement the various legal frameworks and accounting mechanisms used to improve the public confidence in the evolution of Iraq's constitutional order.

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