

# The Impact of International Legal Standards on Fair Trial in the Criminal Legal Systems of Iran and Iraq

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## Abstract

International legal standards, particularly those outlined in human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, play a significant role in ensuring fair trial rights. These standards establish fundamental principles that states must adhere to within their criminal legal systems to safeguard the rights of both defendants and victims. Among the most crucial principles are the right to an independent and impartial tribunal, the right to legal counsel, the right to be informed of charges, the right to a public and fair trial, and the prohibition of torture and ill-treatment. Compliance with these standards not only prevents human rights violations but also enhances public trust in the judiciary and strengthens the rule of law. International legal standards on fair trial have a substantial impact on the criminal legal systems of Iran and Iraq; however, the degree of influence and the challenges faced in each country differ. In Iran, the Constitution and ordinary laws recognize key principles such as the presumption of innocence, the right to legal representation, the right to be informed of charges, and the right to a public trial. Additionally, efforts have been made to reform laws and judicial practices to better align with international standards. In Iraq, the judicial system has witnessed progress following the fall of Saddam Hussein's regime; however, it continues to face challenges such as corruption, resource shortages, and inadequate training for judges and prosecutors. While the Iraqi Constitution guarantees the right to a fair trial and judicial independence, the judiciary has been criticized for lacking impartiality and independence, with allegations of government interference in judicial matters. Using a descriptive-analytical method, the researcher concludes that both countries require further efforts to ensure the independence and impartiality of the judiciary, support the role of lawyers and bar associations, and protect defendants' rights. Furthermore, the international community, including the United Nations, must play a pivotal role in promoting the rule of law and human rights in both countries.

**Keywords:** International law, fair trial, criminal legal system, Iranian law, Iraqi law.

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## 1. Introduction

International legal standards consist of a set of principles and rules that regulate relations between states and international organizations. These standards establish norms in various areas, including human rights, international humanitarian law, and international criminal law, which states must adhere to in their treatment of individuals and groups. One of the most significant areas influenced by international legal standards is the right to a fair trial in criminal legal systems. A fair trial is a fundamental pillar of the rule of law and serves as a safeguard for individual rights and freedoms. This concept encompasses a range of rights and guarantees designed to ensure that individuals are treated with fairness and dignity during criminal proceedings and can adequately defend their rights.

Key components of a fair trial include the right to an independent and impartial court, the right to legal counsel, the right to be informed of charges, the right to a public and fair hearing, and the prohibition of torture and ill-treatment. International law establishes fair trial standards through international treaties, customary international law, and general legal principles. Human rights treaties, such as the International Covenant on Civil and Political Rights, obligate states to guarantee the rights of defendants and victims in criminal proceedings. These treaties specifically emphasize rights such as access to an independent and impartial tribunal, the right to legal representation, and the right to a fair trial.

In Iran, the criminal justice system faces challenges concerning fair trial guarantees. Reports indicate that judicial independence, particularly in political and security-related cases, is not fully ensured. Access to legal counsel during the early stages of investigations is restricted, and in some cases, defendants do not receive adequate defense rights. In Iraq, since 2003, the legal system has sought to align itself with international standards, yet challenges remain. Corruption, resource shortages, and interference by armed forces in judicial matters negatively affect fair trial proceedings (Al-Tai, 2019). Reports suggest that in certain regions, courts are influenced by armed groups, and defendants' rights are not fully upheld.

Given the challenges in Iran and Iraq, adherence to international legal standards regarding fair trials is of paramount importance. States must strive to align their laws and judicial procedures with international standards and protect the rights of defendants and victims in criminal proceedings. Additionally, the international community must play a crucial role in promoting the rule of law and human rights in both countries. International organizations, human rights institutions, and other governments can contribute by providing technical and educational assistance, monitoring legal implementation, and reporting human rights violations. Supporting non-governmental organizations and human rights activists working in this field is also essential.

The impact of international legal standards on fair trial rights in the criminal legal systems of Iran and Iraq is a complex and multifaceted issue. Despite existing challenges, these standards play a significant role in advancing human rights and the rule of law in both countries. Efforts to align laws and judicial procedures with international standards, strengthen judicial independence, and increase public awareness of human rights can help improve fair trial protections in Iran and Iraq.

## 2. Theoretical Foundations

Initially, some key concepts and theoretical foundations relevant to the research topic are discussed:

### 2.1. Definition of Fair Trial

A fair trial is a fundamental concept in human rights and procedural law, ensuring that every individual interacting with the judicial system, regardless of their charges or social status, is granted equal rights and opportunities. This concept forms the core of the rule of law and acts as a safeguard against abuse of power and violations of fundamental rights. Fair trial guarantees extend beyond the mere conduct of a fair hearing; they encompass a comprehensive set of safeguards and procedures aimed at ensuring the full protection of a defendant's rights from the moment of arrest to sentencing and execution of judgment.

At the heart of a fair trial lies the principle of presumption of innocence, which asserts that every individual must be considered innocent until proven guilty in a competent court with full respect for their defense rights. This principle places the burden of proof on the prosecution and exempts the defendant from any obligation to prove their innocence (Abdulmir Al-Ubaidi, 2023). Moreover, fair trial rights include equal and unrestricted access to courts and legal representation. Individuals must have the opportunity to consult with a lawyer, attend court proceedings, present defenses and evidence, and appeal issued judgments.

Furthermore, a fair trial requires the independence and impartiality of the judiciary. Judges must adjudicate cases based solely on legal principles and available evidence, free from external pressures, threats, or interference by political entities or influential individuals. Transparency and public access to proceedings are also fundamental aspects of a fair trial. Trials should be conducted openly, allowing the public to monitor the judicial process, except in cases where the law permits exceptions for valid reasons.

Another crucial element of a fair trial is the prohibition of torture and ill-treatment of defendants. No individual should be subjected to torture, threats, or any inhumane or degrading treatment to extract confessions (Al-Kadhimi, 2014). Confessions obtained under such conditions lack legal validity and must not be admitted as evidence in court. Additionally, fair trial rights extend to crime victims, who must be granted the right to be informed about proceedings, attend court sessions, provide testimony, and receive compensation.

A fair trial is a complex and dynamic process that requires continuous attention and efforts for improvement and advancement. Legal and procedural frameworks must be designed to maximize the protection of individual rights and freedoms. Judicial training and capacity-building, the establishment of effective oversight mechanisms, and the promotion of a human rights culture are among the measures that can contribute to ensuring the effective realization of fair trial rights in practice (Al-Moussawi, 2022, p. 54). Thus, a fair trial is not only an aspirational goal but also a necessity for preserving human dignity, upholding the rule of law, and fostering a just and equitable society.

## 2.2. Foundations of International Law

The foundations of international law refer to the network of principles and rules that regulate relations between states and other international entities. These foundations derive from various sources, including international treaties, customary international law, general principles of law, and judicial decisions of international courts.

International treaties are formal, written agreements between states that are legally binding. These treaties can cover various fields such as human rights, trade, environmental protection, and international security, serving as the primary instruments of international legislation. Customary international law refers to practices consistently and universally observed by states and recognized as legally binding norms (Al-Barzanji, 2020). These customs evolve over time and, when widely accepted, acquire legal standing.

General principles of law encompass rules and doctrines that are widely recognized in domestic legal systems and are regarded as sources of law at the international level. Judicial decisions of international courts, including the International Court of Justice and the International Criminal Court, also serve as authoritative sources for interpreting and analyzing international law, playing a crucial role in its development.

Beyond these sources, international legal foundations are also shaped by ethical and humanitarian principles. Concepts such as respect for human rights, national self-determination, and the right to development are fundamental principles that contribute to the reinforcement and elaboration of international law (MirMohammadSadeghi & Rahmati, 2018). These principles also establish reciprocal obligations and responsibilities among states and are influenced by historical and social developments.

Overall, the foundations of international law provide a fundamental framework for regulating international relations and ensuring respect for human rights and the rule of law at a global level.

### 2.2.1. The Universal Declaration of Human Rights

The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in Paris on December 10, 1948, is recognized as a landmark document in the field of human rights. This declaration consists of 30 articles that acknowledge the fundamental rights and freedoms of all individuals without any form of distinction or discrimination. The primary objective of this declaration was to promote respect for human dignity and prevent human rights violations, particularly in response to the atrocities of World War II.

The declaration emphasizes the right to life, liberty, and personal security for all individuals and explicitly states that all human beings are born free and equal in dignity and rights. Article 6 of the declaration specifies that every individual has the

right to recognition as a person before the law and is entitled to equal protection under the law. These rights serve as the foundation of fundamental human rights and must be protected and upheld by states.

The Universal Declaration of Human Rights also underscores the right to freedom of expression and the right to peaceful assembly. These rights enable individuals to freely express their thoughts and opinions and to participate in social and political activities without fear of punishment. The protection of individual freedoms is regarded as a key element in fostering democracy and social justice across different societies (MirMohammadSadeghi & Rahmati, 2018).

Another significant aspect of the declaration is its emphasis on economic, social, and cultural rights. In particular, it recognizes the right to work, education, and an adequate standard of living for all individuals. These rights are essential for ensuring a dignified life and providing equal opportunities for all members of society, allowing them to achieve their full potential.

The declaration also gives special attention to the rights of vulnerable groups, including women, children, and minorities, and obliges member states to take measures to protect these groups. This emphasis represents a global commitment to ensuring equality and justice for all individuals and groups, particularly in response to systematic violations and discrimination in various societies. States are also responsible for monitoring the implementation of these rights (Al-Jubouri, 2019).

States that are parties to international human rights treaties must strive to improve human rights conditions in their countries and address the economic and social needs of their people. Furthermore, international organizations and institutions have a duty to advocate for human rights and hold governments accountable in cases of violations. The Universal Declaration of Human Rights has served as a milestone in the history of human rights and continues to function as a benchmark for evaluating the conduct of states and institutions concerning human rights (Al-Tai, 2020).

This declaration has not only established itself as a legal instrument but also as a roadmap for a better future, committed to human dignity and individual rights. It has contributed to significant developments in states' approaches to human rights and has influenced numerous legal frameworks worldwide.

### 2.2.2. *Regional Conventions*

Regional conventions on fair trial rights serve as legal frameworks to ensure judicial rights and uphold justice in the judicial systems of different countries. These conventions have been established within specific geographical regions to clarify the rights of individuals in legal proceedings, including the rights of defendants and plaintiffs (Mossadegh, 2021, p. 69). The most prominent of these conventions include the European Convention on Human Rights and the American Convention on Human Rights:

- The European Convention on Human Rights, adopted in 1950, explicitly addresses the right to a fair trial in Article 6. This convention emphasizes rights such as the right to a fair trial, the right to defense, the right to legal counsel, and the right to be informed of charges against an individual (MirMohammadSadeghi, 2023). This article forms the basis for fair trial principles in the member states of the Council of Europe, and national judicial bodies are required to uphold these rights in legal proceedings.
- The American Convention on Human Rights, established in 1969, also underscores the concept of a fair trial. Chapter II of this convention enshrines rights related to fair trial procedures, such as the right to defense, the right to a prompt and fair trial, and the right of the accused to be informed of charges. This convention aids American states in structuring their judicial systems in a manner that ensures compliance with human rights and fair trial principles.
- In Asia, efforts have been made to strengthen civil rights and fair trial protections under the Asian Human Rights Charter. However, compared to other regions, human rights conventions related to fair trials in Asia remain less developed and require greater international cooperation. For instance, the Asian Court of Human Rights addresses human rights violations and fair trial issues in the region, although its ability to enforce its decisions is limited (Omran & Zareian Chenari, 2018).

Regional conventions function not only as legal instruments but also as platforms for promoting human rights culture and fair trial protections in various countries. These conventions often incorporate monitoring and reporting mechanisms that enable

international and national bodies to oversee the implementation of human rights standards and respond to violations, such as breaches of fair trial rights.

Non-governmental organizations and human rights institutions also play an active role in this regard by monitoring human rights conditions in different countries and exerting pressure on governments to uphold their obligations concerning fair trial rights. These efforts involve gathering evidence and documentation on human rights and fair trial violations in judicial proceedings.

The importance of regional conventions in understanding and strengthening human rights in legal proceedings becomes particularly evident in specific situations such as war, political and social crises, and states of emergency. In such circumstances, these conventions serve as protective mechanisms to safeguard individual rights and compel states to adhere to fair trial guarantees.

Moreover, international cooperation and the exchange of experiences among states regarding fair trial protections within the framework of regional human rights conventions contribute to improving judicial systems across different countries (Hadadi, 2006). Such collaborations can lead to successful models in fair trial rights and human rights protections, facilitating the sharing of international resources and expertise to enhance human rights conditions in member states.

Regional conventions on fair trial rights play a vital role in promoting and implementing fundamental human rights principles. They serve as frameworks for defending individual and social rights within judicial systems and are particularly essential in establishing a reliable and trustworthy legal environment for fair trials. The primary objective of these conventions is to safeguard human rights and increase public trust in the judicial systems of states (Zakari & Dadashnejad, 2015).

### 3. Examination of Iran's Legal Framework

The legal framework of Iran concerning fair trial rights is based on multiple legal principles and guarantees, as reflected in the Constitution and statutory laws. Article 37 of the Constitution explicitly recognizes the right to a fair trial for all individuals, emphasizing that no one shall be deprived of a fair judicial process. This principle serves as the cornerstone of Iran's judicial system in ensuring citizens' rights during legal proceedings.

In addition to Article 37, other constitutional provisions, such as Article 16 (equality before the law) and Article 32 (the right to choose an occupation and profession), indirectly contribute to the realization of fair trial rights. Equal access to opportunities and the absence of discrimination are essential prerequisites for securing fair trial rights (Abangah et al., 2019).

The Code of Criminal Procedure, enacted in 2013, is the most significant legal instrument regulating fair trial procedures in criminal cases. This law establishes various guarantees to uphold fair trial rights, including the right to legal counsel, access to case files, the right to remain silent, the right to defense, and the right to appeal and petition for review. However, the precise implementation and interpretation of these guarantees in practice have encountered challenges and criticisms.

In civil proceedings, the Civil Procedure Code, adopted in 2019, sets forth the legal framework. Similar to the Code of Criminal Procedure, this law also provides fair trial guarantees, although the nature and application of these guarantees differ due to the distinct characteristics of civil and criminal cases. Key rights in civil proceedings include access to courts, the right to file lawsuits, the right to defense and evidence submission, and the right to appeal.

The Islamic Penal Code also indirectly impacts fair trial rights by establishing the principles of proportionality between crime and punishment. Ensuring a balance in sentencing is a fundamental principle of this law, which, although not explicitly addressing fair trial rights, significantly influences judicial fairness and procedural justice. Furthermore, numerous other legal provisions indirectly affect fair trial rights (Hassami, 2019). For instance, laws governing freedom of expression, press freedom, and access to information can contribute to transparency and the presentation of diverse viewpoints in judicial processes. However, legal restrictions in these areas may negatively impact the fairness of trials.

One of the fundamental challenges regarding fair trial rights in Iran is the effective implementation of legal guarantees. Shortcomings in judicial training, limited access to legal representation, and restrictions on freedom of expression are among the obstacles to achieving full procedural justice (Ahmadi Tajvid, 2016). The role of oversight institutions, such as the General Inspection Organization and the judiciary, is crucial in ensuring the proper enforcement of laws and preventing judicial

misconduct. However, deficiencies in supervisory mechanisms and the lack of transparency in the activities of these institutions have, in some cases, led to violations of citizens' rights in legal proceedings.

Additionally, judicial culture and societal beliefs play a vital role in achieving fair trial rights. Promoting a culture of respect for human rights and adherence to the rule of law can enhance procedural justice and restore public trust in the judicial system (Rezaei et al., 2020).

Ultimately, the jurisdiction and powers of the judiciary are defined within the Constitution and statutory laws. However, the balance between judicial authority and citizens' rights has been a subject of debate and controversy, and in some cases, this imbalance has led to violations of fair trial rights. Overall, Iran's legal framework regarding fair trial rights is based on strong legal foundations, yet significant challenges hinder its full implementation. Reforming laws and improving the judiciary are essential for ensuring procedural justice and increasing public confidence in the judicial system.

### 3.1. *Analysis of Iran's Legal System*

Iran's legal system, in the context of fair trial rights, is structured as a fundamental pillar for ensuring individual and social rights, emphasizing the right of individuals to a fair and transparent trial. These principles are enshrined in the Constitution of the Islamic Republic of Iran, highlighting the importance of judicial impartiality, transparency in legal proceedings, and the right to appeal.

One of the fundamental aspects of this system is the principle of judicial impartiality, which requires judges to examine cases without any bias toward the parties involved (Jafari Langroudi, 2019). Judicial impartiality ensures that judges refrain from engaging in any form of association with either party in a dispute, thereby preserving the rights of both defendants and plaintiffs. This principle plays a crucial role in enhancing public trust in the judiciary.

Another essential component of fair trial rights in Iran's legal system is the principle of public trials. The purpose of this principle is to create transparency in judicial proceedings and allow public oversight of legal processes. Trials are generally held in public, except in cases where confidentiality is required to maintain public order and security (Bahadori Jahromi & Hosseini, 2014). Such transparency contributes to strengthening public trust in the judiciary and improving its performance.

Moreover, the right to appeal is a fundamental principle of fair trial rights. This right enables parties to seek a review of lower court rulings and, if necessary, pursue modifications to unjust decisions. The appeal process enhances a sense of justice within society and ensures that individuals who receive unfair rulings can seek redress.

Iran's legal system also acknowledges the influence of international human rights standards in the enforcement of fair trial rights. However, significant challenges hinder the implementation of these principles, including inadequate access to independent legal counsel, deficiencies in judicial culture, and insufficient training for judges. These issues contribute to the partial neglect of individuals' rights despite the existence of legal protections (Hosseini, 2014).

The combination of these principles and challenges indicates that Iran's legal system continues to strive toward improving fair trial rights and making the judiciary more accountable to public demands. Addressing these issues requires fundamental judicial reforms and the promotion of a legal culture that prioritizes human rights and the rule of law. Achieving fair trial rights must not only be reflected in legislation but also realized in practice through comprehensive judicial reforms and societal awareness.

### 3.2. *Examination of Existing Enforcement Mechanisms for Fair Trial Rights in Iran's Legal Framework*

In the judicial system of the Islamic Republic of Iran, fair trial rights are recognized as a fundamental principle and are addressed in various legal provisions. Several constitutional articles, particularly Articles 19 through 34, emphasize the necessity of protecting defendants' rights and ensuring the public nature of trials. These provisions direct judicial authorities to uphold human dignity and individual rights at all stages of legal proceedings, ensuring that judicial processes are conducted fairly and transparently (Hasan Jad'an, 2024).

One of the fundamental principles of fair trial rights is judicial impartiality, which requires judges to decide cases without bias or preconceived notions and solely based on legal evidence and reasoning. Maintaining the independence of courts from

governmental institutions or private individuals is an essential condition for ensuring judicial fairness. This principle is explicitly stated in various provisions of the Civil and Criminal Procedure Codes.

The right to legal representation is another essential fair trial guarantee, allowing defendants to receive legal counsel and defend their rights in court. Iranian law explicitly states that any individual accused of a crime must have a fair opportunity to defend themselves and should not face any restrictions in accessing legal representation. This right ensures that defendants are not subjected to unfair trial procedures (Sabah Raouf, 2022).

Additionally, the principle of transparency and public hearings is another cornerstone of fair trial rights. This principle enables individuals to become familiar with judicial proceedings while allowing oversight institutions to monitor court performance. Iranian law ensures that trials are conducted publicly unless public decency or social order necessitates confidentiality. Public trials reinforce public trust in the judiciary.

Another essential safeguard for fair trial rights in Iran is the prohibition of torture and degrading treatment of defendants. According to Article 38 of the Constitution, judicial authorities are strictly prohibited from engaging in unlawful and violent practices. This provision underscores the necessity of protecting human dignity at all stages of legal proceedings and highlights the significance of human rights in the judicial process.

Furthermore, Iran's judiciary provides mechanisms for appealing verdicts, ensuring that judicial decisions are not absolute and allowing for the reconsideration of cases (Mafi & Ghamilouei, 2019). Judicial authorities in Iran are obligated to maintain judicial independence and avoid external influences from governmental or superior institutions.

In conclusion, enforcement mechanisms for fair trial rights in Iran's legal system are clearly embedded in various legal provisions. These guarantees include judicial impartiality, the prohibition of torture, the right to legal representation, trial transparency, and judicial independence (Naji Zowareh, 2022). Adhering to these principles can help establish a fair judiciary and build public confidence in the legal system.

#### 4. Examination of Iraq's Legal Framework

Iraq, due to its complex historical and cultural transformations, contains diverse elements of laws and traditions. This system is described as a mixed legal framework influenced by civil law, Islamic law, and tribal customs. Historically, Iraq has been recognized as an important legal center, with ancient legal codes such as the *Code of Hammurabi* demonstrating its deep-rooted legal traditions. During the Islamic era, particularly with the establishment of the Hanafi school of jurisprudence, Iraq became a pivotal center for the development and interpretation of *Sharia* law, with judges playing a crucial role in its implementation (Al-Khazraji, 2016).

The Iraqi Constitution, enacted in 2005, serves as the country's fundamental legal document, outlining the governmental structure and citizens' rights. This constitution emphasizes the principle of the rule of law and underscores the necessity of justice and fairness in the judicial system. However, uniformity in the application of these principles varies across different regions and is influenced by political factors. For example, in autonomous regions such as the Kurdistan Region, legal norms and procedures may differ and be shaped by local social and political conditions.

Legal institutions in Iraq play a critical role in enforcing laws and protecting citizens' legal rights, yet the judiciary faces significant challenges, including corruption, restricted access to justice, and human rights concerns. One of the most pressing issues is the independence of the judiciary, as political interference undermines legal protections. To address these challenges, initiatives such as the *Iraq Legal Education Initiative* have been introduced to enhance legal knowledge and promote a legal culture that respects the rule of law (Muftin Bani Lam, 2021).

Progress in Iraq's legal system reflects ongoing efforts to adapt to social changes and governance needs. Legal reforms and empowerment mechanisms are essential in establishing a democratic environment where the law is effectively upheld. Iraq is striving to integrate traditional legal structures with modern legal principles to create a balanced and comprehensive legal framework (Suleiman, 2020).

Challenges within this system include the need for improved legal education and the enhancement of training programs for lawyers and judges to strengthen Iraq's legal culture. Furthermore, the integration of civil law and Islamic principles forms a

central axis of Iraq's legal system, influencing various areas such as family law, commercial law, and civil law. This diversity in legal norms creates significant challenges, particularly in social and economic matters.

As a country that has recently emerged from war and multiple political upheavals, Iraq requires effective legal processes that align with both domestic and international legal environments. The ongoing judicial and institutional reforms must prioritize peaceful and fair development to ensure stability and progress (Mohammad Anwar, 2015). Consequently, the sustainability of Iraq's legal system depends on balancing traditional legal practices with contemporary societal needs. Iraq must continually overcome legal challenges and move toward positive reforms.

Ultimately, this complex legal framework, given Iraq's demographic and cultural diversity, allows the country to maintain a distinct legal identity within its judicial system, preserving its rich historical and religious traditions (Saeed Hasballah, 2019, p. 87). Therefore, balancing religion and politics, along with enhancing judicial independence, are fundamental pillars that may contribute to strengthening legal institutions and advancing human rights in Iraq.

#### 4.1. *Analysis of Iraq's Legal System*

Iraq's legal system, particularly regarding fair trial rights, faces significant challenges, partly stemming from the consequences of war and post-conflict violence. Following the emergence of the terrorist group ISIS and the resulting social and political crises, the judicial system was overwhelmed with numerous cases, many of which raised fundamental questions about compliance with fair trial standards.

International reports, including those from the United Nations Special Mission, indicate that while judicial processes were generally organized, defendants encountered severe inequities due to systemic deficiencies such as inadequate legal representation and limited opportunities to challenge incriminating evidence. One of the most concerning aspects of this system is its excessive reliance on confessions obtained under potentially coercive conditions, where allegations of torture are insufficiently scrutinized in court proceedings (Al-Mousawi, 2022). This issue has significantly affected Iraq's judicial culture, often leading to the disregard of defendants' rights. The lack of comprehensive investigations into such allegations raises questions about the legitimacy of trials and the potential for human rights violations.

Iraq's counterterrorism legal framework has also been criticized for its vague definitions, which fail to sufficiently distinguish between individuals involved in acts of violence and those who, due to difficult circumstances, were coerced into joining ISIS. This lack of distinction has led to severe penalties, including mandatory death sentences, imposing extreme punishments without adequately considering varying degrees of culpability.

These emergency judicial procedures effectively undermine the principle of equality before the law, a fundamental element of fair trial rights. Additionally, concerns persist regarding the restricted right to defense, which erodes public trust in judicial institutions. In a post-war context, such limitations pose significant obstacles to achieving justice and social reconciliation (Abdel-Barr, 2018).

While the Iraqi government is striving to deliver justice for victims of ISIS-related violence and uphold fair trial rights, comprehensive reforms are necessary to align judicial procedures with international human rights standards. Implementing essential changes to improve legal representation, defendants' rights, and the application of counterterrorism laws is critical to restoring public confidence in the judiciary.

Ultimately, establishing a legal system that prioritizes fair trial rights will not only enhance justice and accountability in Iraq but also contribute to strengthening social cohesion in a post-war environment (Kamal, 2020). Achieving this goal requires international cooperation and local efforts to build institutional judicial capacities, respect human rights, and provide equitable legal services to all individuals in society.

#### 4.2. *Examination of Existing Enforcement Mechanisms for Fair Trial Rights in Iraq's Legal System*

Iraq's legal system mandates that all individuals must be treated equally before the courts. The *Iraqi High Criminal Court Law (2005)* explicitly states that all persons shall be equal before the courts. Iraq's legal provisions ensure that all individuals are granted equal rights under the law, without discrimination. This includes the right to legal representation, the presumption of innocence, and the right to be acquitted of any charges or convictions that arise in criminal proceedings.

Judicial independence is a fundamental element of fair trial rights in Iraq. A fully independent judiciary is essential to ensuring that trials are conducted without external interference or pressure. Iraq has also adopted legal safeguards to protect the independence of judges and courts. Maintaining judicial independence minimizes the risk of politically influenced verdicts.

The right to self-defense is also a key component of Iraq's judicial enforcement mechanisms. In Iraq, defendants must be informed of the charges against them before appearing in court and must be allowed to consult with legal counsel for their defense (Al-Khafaji, 2021). This right not only enables individuals to defend themselves effectively but also enhances the overall integrity of the legal process.

Public trials are generally mandated in Iraq, reinforcing transparency and accountability within the judiciary. Iraq's legal framework ensures that courts operate independently, free from external or political pressure. This safeguard ensures that judicial rulings remain uninfluenced by political or foreign interests.

Furthermore, the right to remain silent is recognized as a fundamental component of Iraq's legal guarantees for justice. This right includes the protection against self-incrimination and the right not to provide evidence against oneself. Iraq's legal system also requires courts to base their rulings exclusively on lawfully collected evidence, explicitly rejecting the use of evidence obtained through unlawful means (Al-Saadoun, 2021). This safeguard upholds judicial independence within the legal system.

Additionally, Iraq's legal framework guarantees that fair trial rights include the right to respond to accusations. Any accused individual must have the right to freely present their defense against charges. Courts are also required to promptly notify defendants of verdicts and provide them with an opportunity to express their views on judicial rulings.

Iraq's legal system, therefore, contains several enforcement mechanisms aimed at ensuring fair trial rights, including judicial independence, the presumption of innocence, the right to legal representation, transparency in legal proceedings, and protections against coercion. By adhering to these principles, Iraq can strengthen its judicial system, enhance public confidence, and ensure compliance with fundamental human rights standards.

## 5. Comparative Analysis of the Legal Systems of Iran and Iraq

Based on the previous discussions, the concept of a fair trial in the legal systems of both countries has been examined. Now, a comparative analysis of fair trial procedures in the criminal justice systems of Iran and Iraq must be conducted.

### 5.1. Examining the Commonalities and Differences in the Legal Systems of Iran and Iraq Concerning Fair Trial Rights

Both the Iranian and Iraqi criminal justice systems are influenced by international fair trial standards and strive to incorporate global legal norms within their national frameworks. In both countries, fundamental rights such as the right to defense, access to legal counsel, and the right to a fair trial are recognized and enshrined in domestic laws. However, there are differences in the extent to which these standards are implemented in each country. In Iran, legal restrictions may impact some of the rights of defendants (Fadaei Deh Cheshmeh et al., 2021), while Iraq's historical, political, and social context, shaped by war and security crises, may contribute to inconsistencies in the observance of fair trial standards (Albo Abdullah, 2023, p. 35).

An analysis of the influence of international fair trial standards in the criminal legal systems of Iran and Iraq highlights both similarities and differences between the two countries. Both legal systems aim to achieve justice and uphold human rights in judicial processes. Fundamental principles such as the right to defense, access to legal counsel, and the right to a fair trial exist in both nations and are incorporated into domestic laws (Azmayesh, 2020). These principles are part of international norms established to ensure access to a fair trial worldwide.

#### 5.1.1. Analysis of Various Legal Opinions

Different legal perspectives have been presented regarding the impact of international fair trial standards in the criminal legal systems of Iran and Iraq. Some legal scholars argue that the implementation of these principles in Iran and Iraq varies due to the distinct legal and regulatory frameworks of each country. In Iran, the presence of specific religious and cultural institutions may significantly influence defendants' rights during legal proceedings. On the other hand, Iraq's historical, political, and social challenges resulting from war and security crises may hinder the consistent application of fair trial

standards. These factors may lead to disparities in how international legal provisions are enforced in each country (Amiri, 2013).

Some legal analysts assert that achieving fair trial rights in Iran and Iraq requires judicial independence. In other words, judges must be able to adjudicate cases without being influenced by political or economic pressures. In this regard, certain human rights experts advocate for the establishment of independent institutions to monitor the judiciary and safeguard defendants' rights. Such institutions could play a critical role in ensuring the implementation of international fair trial standards in both countries (Al-Rawi, 2019).

Additionally, some legal scholars believe that training judges and judicial personnel in Iran and Iraq could improve the quality of fair trials in both countries. Education on international legal standards and fair trial principles could equip judicial officials with the necessary knowledge to uphold procedural justice. It is crucial to recognize that achieving fair trial rights in Iran and Iraq requires collaboration between governments, international institutions, and civil society (Sadeghi, 2021). In this context, various tools such as education, professional training, and judicial oversight could be used to enhance the quality of fair trials.

Some legal scholars also emphasize that fundamental fair trial rights, such as the right to defense and access to legal counsel, must be fully implemented in both judicial systems. These scholars argue that adherence to these rights as international obligations, alongside national laws, is crucial, and failure to observe them could have negative consequences for the credibility of these legal systems. Conversely, some analysts highlight cultural challenges in Iran that may affect the implementation of international legal norms. They contend that when an Islamic legal system intersects with international fair trial principles, achieving complete justice may not always be possible. A similar issue exists in Iraq, but factors such as a history of war and political crises, particularly over the past two decades, have significantly influenced the judicial process (Salehi & Davari, 2016).

Some human rights experts emphasize that implementing international legal standards requires independent oversight institutions. Strengthening these institutions could help secure and protect defendants' rights, ensuring fair trial conditions. These bodies must function effectively and remain free from political or economic influence. Practical evidence from both countries indicates that, in many cases, defendants' rights are disregarded in practice (Basiri, 2012). Some researchers argue that the legal systems of Iran and Iraq require fundamental reforms to align more closely with international fair trial standards.

Thus, legal reforms aimed at improving fair trial procedures appear necessary. Judicial training and capacity-building for court personnel have also been identified as critical factors in this regard. According to some legal scholars, organizing training programs on international standards and fair trial principles could enhance the effectiveness of judges and contribute to the realization of fair trial rights. These efforts must be continuous to effect meaningful change in practice.

Legal scholars, particularly those analyzing Iraq, stress the influence of political and social conditions on fair trial rights. They argue that without political stability, the effective implementation of international legal standards remains unlikely. In such environments, human rights and fair trial guarantees are easily overlooked, necessitating serious attention and international intervention (Al-Tai, 2019).

Comparative studies between the two countries reveal that in some instances, Iran attempts to present a positive image of its commitment to fair trial rights on the international stage, while Iraq's judicial institutions are still working to improve their legal frameworks and judicial procedures. This analysis suggests that each country follows a unique path toward improving fair trial rights.

Overall, this discussion underscores the importance of international coordination and collaboration between governments, international institutions, and civil society (Safari & Ghapanji, 2015). Some legal scholars argue that such cooperation could facilitate fundamental changes in judicial systems and enhance the realization of fair trial rights. Consequently, to advance in these areas, both international and local partnerships must continue to focus on judicial reform and strengthening legal institutions.

### 5.1.2. Existing Challenges

Iran and Iraq, as two countries with legal systems based on distinct jurisprudential and statutory foundations, face challenges in fully adopting and implementing international fair trial standards. These challenges stem from fundamental differences between international legal approaches and the governing principles of their domestic legal systems. One of the most significant challenges is the differing interpretation of the concept of "justice." While international legal standards emphasize individual rights, judicial impartiality, and procedural transparency, the legal systems of Iran and Iraq may prioritize other considerations such as public order and national security. This difference in interpretation can result in restrictions on defendants' rights at various stages of judicial proceedings (Pourastad, 2020).

Another challenge relates to the structure and functioning of courts and judicial institutions. Judicial independence, ensuring defendants' right to defense, and access to legal counsel are among the issues that require structural and legal reforms. In many cases, non-judicial influences, a lack of specialized training for judges and lawyers, as well as financial and administrative obstacles, prevent the full realization of these rights (Al-Mousawi, 2023). Furthermore, differences in evidentiary approaches create additional challenges. International standards emphasize the submission of documented and lawful evidence, the prohibition of torture and coerced confessions, and the presumption of innocence. However, in the legal systems of Iran and Iraq, confessions, witness testimonies, and other forms of evidence may carry greater weight in judicial proceedings.

### 5.1.3. Practical Barriers to Compliance with International Standards

The alignment of Iran and Iraq's criminal justice systems with international fair trial standards is not only hindered by theoretical and interpretive challenges but also faces numerous practical barriers. These obstacles are often rooted in the social, economic, and political structures of both countries and can significantly slow down or even halt the adaptation process. One of the most critical practical barriers is the shortage of financial and human resources. Fully implementing international fair trial standards requires substantial investment in judicial training, legal aid services, court infrastructure, and the development of information systems (Mohammad Mahmoud, 2019). Given the economic and budgetary constraints both countries face, securing these resources can be challenging.

Additionally, the lack of appropriate infrastructure presents another significant barrier. Many courts and prisons in Iraq lack the necessary facilities to uphold defendants' and detainees' rights. Inadequate space, limited access to clean drinking water, insufficient healthcare services, and unsanitary conditions can prevent the full implementation of international legal standards (Al-Tai, 2019).

Moreover, administrative corruption and abuse of power pose serious challenges. Corruption within the judiciary and law enforcement agencies can lead to violations of defendants' rights, judicial interference, and the failure to enforce fair rulings. Combating corruption requires strong political will and decisive measures. In addition, political and social pressures can obstruct the full implementation of international fair trial standards. Judges and lawyers in both countries often face political, religious, and ethnic pressures that hinder independent and fair decision-making. Furthermore, public opinion may sometimes oppose certain international legal norms, such as the right to defense for defendants and the prohibition of torture.

From a comparative perspective, both countries face similar obstacles, including administrative corruption, financial resource shortages, and political pressures. However, key differences exist. For example, in Iraq, insecurity and political instability hinder the full enforcement of laws and regulations. In contrast, in Iran, legal restrictions may prevent the full adoption of certain international legal norms (Abdulmir Al-Ubaidi, 2023).

Overall, overcoming these practical barriers requires a comprehensive and coordinated approach in both Iran and Iraq. This approach should include economic reforms, the strengthening of civil institutions, anti-corruption measures, public education, and the promotion of legal awareness. Collaboration with international organizations and the adoption of best practices from other countries can also help mitigate these challenges.

## 6. Conclusion

International legal standards, particularly the *International Covenant on Civil and Political Rights* and other related instruments, have significantly influenced the concept and content of fair trial rights in various legal systems. These standards, by emphasizing fundamental principles such as the right to a fair trial, the right to legal counsel, the prohibition of torture, and the right to remain silent, provide a framework for safeguarding the rights of defendants and convicted individuals. However, the extent to which these standards are effectively implemented depends on multiple factors, which in Iran and Iraq present unique complexities.

Both countries' criminal justice systems face numerous challenges in fully complying with international fair trial standards. Cultural, political, and economic factors heavily influence the implementation of these standards. For instance, political pressures, resource shortages in the judiciary, and the lack of full judicial independence can hinder the enforcement of fair trial principles. In Iran, the impact of international sanctions on economic resources and political restrictions has exacerbated challenges in implementing international fair trial norms. In Iraq, the consequences of internal conflicts and political instability have negatively affected the functioning of the judicial system and the administration of justice. Administrative corruption and weak oversight institutions have further compounded these issues.

Despite these challenges, efforts have been made in recent years to align judicial laws and procedures more closely with international standards in both countries. The enactment of new laws and the amendment of existing legislation have been steps toward this goal. However, these reforms alone are insufficient and require more extensive and comprehensive structural and institutional changes within the judiciary.

Enhancing legal awareness and public education on human rights and fair trial standards is of particular importance. Training for judges, lawyers, and the general public on fundamental rights and freedoms, active civil society engagement, media oversight of judicial operations, and increased transparency in legal proceedings can all contribute to ensuring fair trials.

Furthermore, international cooperation and support from human rights organizations can help improve the state of human rights and fair trial rights in Iran and Iraq. Ultimately, achieving full compliance with fair trial standards in both countries requires a multi-dimensional approach, including structural reforms, legal education, greater judicial transparency, and international collaboration. A shift in societal and governmental attitudes toward the importance of human rights and fair trial rights forms the foundation for these reforms.

### **Ethical Considerations**

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

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### **Conflict of Interest**

The authors report no conflict of interest.

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