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Review Article

The Role of the Federal Supreme Court in Ensuring the Supremacy of Moral Custom and Islamic Law in Iraq

Adnan Ali Majid Aljber[1*], Mohammad Javaheri Tehrani[2], Seyyed Mojtaba Vaezi[2], Nader Mardani[2]

1. Ph.D. Student, Department of Law, Faculty of law and Political Science, Shiraz University, Shiraz, Iran.
2. Department of Law, Faculty of law and Political Science, Shiraz University, Shiraz, Iran.

Corresponding Author: Adnan Ali Majid Aljber, Ph.D. Student, Department of Law, Faculty of law and Political Science, Shiraz University, Shiraz, Iran. E-mail: adnan_ali@alsafwa.edu.iq

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Abstract

Introduction: The Federal Supreme Court in Iraq plays an important role in ensuring the superiority of moral custom and Islamic Sharia through annulment lawsuits due to objections against the constitution. Because this lawsuit leads to the annulment of the text of the law whose constitution is challenged and all the authorities are obliged not to implement it.
Material and Methods: This article is a descriptive review and the research method is historical, analytical, applied and inductive, which is based on the review of laws, books and legal articles published in ISC, Science direct, Elsevier and ProQuest databases between 2005 and 2023. The purpose of the research, which is to examine the role of the Federal Supreme Court in guaranteeing the superiority of moral customs and Islamic laws in Iraq, was investigated.
Conclusion: The results of the research obtained by examining some of the judgments of the Federal Supreme Court in Iraq regarding municipal income from alcohol transactions and the issue of polygamy show that the Federal Supreme Court in Iraq plays an important role in guaranteeing the superiority of moral custom and Islamic Sharia through the annulment of objections against the constitution, because this lawsuit leads to the annulment of the text of the law whose constitution is challenged, and all the authorities accept In case the court issues a verdict that the law is illegal based on moral custom and Sharia law, it is obligatory to not implement this law contrary to the constitution and to take necessary measures to replace or amend it.
Keywords: *Federal Court of Iraq, Moral custom, Sharia law, Constitution*

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INTRODUCTION

The Federal Supreme Court has the most important and prominent role in ensuring the supremacy of moral custom and Islamic Sharia. Because the issue of implementing the limits of the 2005 Constitution and monitoring the implementation of these texts is the responsibility of the Federal Supreme Court and this responsibility has been given to this institution by the Iraqi Constitution. Since the Federal Supreme Court in Iraq is the competent authority to supervise the constitutionality of the current laws and regulations and the interpretation of the constitutional texts, according to paragraphs one and two of Article (93) of the 2005 Constitution, the formation of the Federal Supreme Court and the jurisdiction of the Federal Supreme Court have been discussed.

After the fall of the Iraqi Ba'ath regime on April 9, 2003, new institutions were established due to the changes that occurred in the form of the government and the nature of the regime. The temporary authority of the coalition issued the law of government administration for the

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transitional period on 8/3/2004 [1]. And after the approval of this law, the federal system considered provisions to establish a federal supreme court as an independent and autonomous judicial body and to give a set of powers and competencies to be able to do its work in a completely professional and impartial manner. Based on the constitution contained in the Transitional Government Administration Act, Act No. 30 of 2005 on the Federal Supreme Court was issued.

The Federal Supreme Court Law No. 30 of 2005 includes the formation of the Federal Supreme Court in its third article. This court is composed of 9 members including the president. The president and its members are appointed by the Presidential Council, which selects them from among the candidates nominated by the Judicial Council, provided that the number of candidates nominated to the Presidential Council is at least seventeen names and at most twenty-seven names. In this court, there are a number of scholars of Islamic jurisprudence and ethics, whose most important responsibility is to examine the contradiction or non-contradiction of the laws with customary moral issues and Islamic Sharia. Regarding the type of functioning of the Federal Supreme Court of Iraq, it is important to pay attention to the judgments that this institution has given in matters related to customary ethics and Islamic Sharia. In this regard, two issues of municipal income due to transactions related to alcoholic beverages and also the issue of polygamy, which is a discussion related to moral custom, are examined. Therefore, in this article, the goal is to examine the role of the Federal Supreme Court in guaranteeing the superiority of moral customs and Islamic laws in Iraq.

MATERIAL AND METHODS

This article is a descriptive review and the research method is historical, analytical, applied and inductive. By examining the laws, books and legal articles that have been published between 2005 and 2023 in ISC, Science direct, Elsevier and ProQuest databases, the purpose of the research was investigated.

DISCUSSION

The role of the Federal Supreme Court in ensuring the supremacy of moral custom and Islamic Sharia

The Federal Supreme Court has the most important and prominent role in guaranteeing the superiority of common morality and Islamic Sharia, because the texts of the Constitution alone are not enough to guarantee the supremacy of Islamic Sharia, and there must be an institution that supervises the implementation of those texts and their non-contradiction [2]. This body is represented by the Constitutional Court, which oversees the legitimacy of laws, or what is called the Federal Supreme Court in Iraq. The Federal Supreme Court in Iraq is the authority that has the authority to monitor the legitimacy of current laws and regulations and the interpretation of constitutional texts in accordance with paragraphs one and two of article (93) of the 2005 Constitution [3]. This article is divided into two paragraphs:

- In the first paragraph, the interpretation jurisdiction of the Federal Supreme Court is examined.

In the second paragraph, the jurisdiction of the Federal Supreme Court in monitoring the legitimacy and morality of laws is examined.

Paragraph 1: Interpretive jurisdiction of the Federal Supreme Court.

It has already been stated that the Federal Supreme Court was established under the Transitional Government Administration Act of 2004 (Transitional Constitution), from which Federal Supreme Court Special Act No. 30 of 2005 was derived. The Transitional Act of 2004

included the following text: "The powers of the Federal Supreme Court are:

1- Exclusive and main jurisdiction in lawsuits between the transitional government of Iraq and regional governments, provincial administrations and municipalities and local administrations.

2- Exclusive and inherent jurisdiction, based on the claim of the plaintiff or based on a referral from another court in claims that a law, regulations or instructions issued by the federal government or regional governments, or provincial offices, municipalities and local offices are not compatible with this law.

3- The appellate jurisdiction of the Federal Supreme Court is determined by a federal law.

Federal Supreme Court Act No. 30 of 2005 states the following: "The Federal Supreme Court shall have the following duties:

First - Resolving disputes that occur between the (federal government) and regional governments, governorates, municipalities and local administrations.

Second - Resolving disputes related to the legitimacy of laws, decisions, regulations, instructions and orders issued by each of the parties that has the right to issue them and canceling them that are contrary to the provisions of the Iraqi State Administration Law for the transitional period. This work should be based on the request of the court, official authority or interested plaintiff.

Third - Dealing with protest complaints against the decisions and orders issued by the Administrative Court of Justice.

Fourth - Examining the cases presented in the appellate authority and regulating its jurisdiction by the federal law.

From the above texts, it is clear that the interpretation jurisdiction was not part of the jurisdiction of the Federal Supreme Court. But the Permanent Constitution of the Republic of Iraq, which was issued in 2005, added this area to the jurisdiction of the Federal Supreme Court because it included the following text: "The Federal Supreme Court has jurisdiction over the following matters: II: - Interpretation of constitutional texts".

As a result, the Constitution has assigned the task of interpreting the provisions of the Constitution exclusively to the Federal Supreme Court without any other court, and this means unifying the Constitution and protecting it from conflict if there are many parties who have the right to interpret [4]. The purpose of interpreting the provisions of the Constitution is to clarify the ambiguity or remove the complexity that may be in the text, so that by removing the ambiguity, the intention of the Constitution is realized in ensuring the unity of implementation and stability of the Constitution and non-contradiction with what is stated in it [5]. The Constitution of the Republic of Iraq approved in 2005 did not clarify the meaning of the standards of Islamic Sharia, because the Islamic schools themselves disagreed about the sources of Islamic Sharia from which they took those standards. Because the obligation of consensus among the Shiites of Imamia is different from other Islamic sects, and therefore, the Federal Supreme Court is the competent authority to clarify the ambiguity in the issue of balances, based on its competence to interpret the texts of the Constitution.

Regarding the effect of the interpretation issued by the Federal Supreme Court, it appears that the Constitution of the Republic of Iraq approved in 2005 includes the text that "decisions of the Federal Supreme Court are final and enforceable for all officials"[6]. Therefore, the decisions of the Federal Supreme Court are final and binding for all authorities, whether on the interpretation of constitutional texts or on challenges to the unconstitutionality of a legal text.

Interpretive jurisdiction is one of the most important features of the Iraqi constitutional system in light of the 2005 Constitution of the

Republic of Iraq. This constitution - with the exception of the Iraqi constitution in 1925 - was determined by approving the presence of a specialized judicial branch of the constitution on behalf of the Federal Supreme Court for the implementation of some jurisdictions, including the interpretation jurisdiction, which is one of the most important specialties [7]. Paragraph 2: The jurisdiction of the Federal Supreme Court to monitor whether laws are inconsistent with the Constitution.

The constitution is the supreme law and this principle has emerged with the principle of plurality of powers. In order to ensure the supremacy of the constitution and not to issue laws that conflict or conflict with the provisions of the constitution, countries must ensure that the constitution includes laws based on which institutions are established to monitor the legitimacy of laws. And they prevent conflict or violation of the constitution. And monitoring the legitimacy of laws is different depending on the constitution; But often, supervision is exercised either by an independent political body or by the judiciary.

Judicial supervision of the legitimacy of laws is one of the supervisory departments that guarantees the supremacy of the Constitution, and governments resort to it since the judiciary is independent in terms of origin, unlike political supervision [8]. Judicial supervision has different methods; these methods are either with a direct lawsuit for its annulment or a request for unconstitutionality (subsidiary lawsuit) [9].

Expertise in Islamic jurisprudence and ethics in the composition of members of the Federal Supreme Court

Although there was a provision in the government administration law for the transitional period of 2004, prohibiting the enactment of laws contrary to morals and Shariah standards, the condition of the presence of Islamic jurisprudence and ethics experts in the composition of the Federal Supreme Court was not included. Therefore, the law of the Federal Supreme Court paid attention to not referring to experts in jurisprudence and Islamic ethics in the composition of the court. Therefore, the members of the Federal Supreme Court may not have enough experience in examining legal texts and detecting violations of Sharia and customary ethics. The legislator of the Iraqi constitution noticed this defect and addressed this issue in the permanent constitution of the Republic of Iraq in 2005.

Therefore, the text of Article (92/second) includes the formation of a court in compliance with the following: "The Federal Supreme Court consists of a number of judges and specialists in Islamic jurisprudence and legal scholars, whose number and method of selection, as well as the work of the court, are regulated by a law that is approved by a two-thirds majority of parliamentarians [10, 11].

The Constitution of the Republic of Iraq in 2005, as is clear from the text of the above-mentioned Article (92/second), left the details of the formation of the Federal Supreme Court to the next law, which was approved by a two-thirds vote. because he did not specify the number of members of the court, contrary to the law abolishing the administration of government affairs, which had appointed nine people. This is considered a constitutional defect, because it is a constitutional body that has important functions and is characterized by intermediate arbitration between the rest of the government authorities. Therefore, leaving the determination of the number of its members to a normal law is not correct. Because this means allowing the legislature to interfere in this important institution [12].

It is also observed that Article (92/second) above specifies certain characteristics for the members of the Federal Supreme Court, which include:

(judges, experts in Islamic jurisprudence and legal scholars). The author believes that the inclusion of a text in the Iraqi Constitution of 2005, which specifies the characteristics of the members of the Federal Court, including Islamic jurisprudence experts, is merely to strengthen the principle of non-violation of Sharia principles. Therefore, if the members of the Federal Supreme Court are experts in Islamic jurisprudence, it will be one of the most effective mechanisms in ensuring the supremacy of Islamic Sharia, because they are more knowledgeable and familiar with the principles of Islamic Sharia than judges.

Examining the judgments of the Federal Supreme Court in the confirmation of customary ethics and Islamic Sharia

Finally, it is stated that the Federal Supreme Court in Iraq has issued many judicial decisions that contain unconstitutional laws [13, 14]. For example, some rulings related to the role of the Federal Supreme Court in guaranteeing the sovereignty and superiority of customary ethics and Islamic Sharia are mentioned:

1- The decision of the Federal Supreme Court No. 35/Federal/2023 for the appeal to Article 14 of the Municipal Revenue Law No. 1 approved in 2023, which includes the prohibition of the import and sale of liquor.

The court has stated that: "Regarding the claim that the necessary formalities in the legislation of the laws contained in the regulations of the House of Representatives have not been observed. This court recognizes that Article 14 of the law has had the necessary formalities for this law, so that the competent committee proposed its addition to the law and it was read for the second time and voted based on the priorities attached to the lawsuit. And the court also believes that the procedures cited in determining the contradiction of a legal text with the constitution are the legal procedures necessary for the legislation of the law from the time of its issuance by the competent authority. And it was said that this law contradicts the text of Article 3 of the Constitution, which states that Iraq is a country with multiple nationalities, religions and sects, and is one of the founding and effective members of the League of Arab States, committed to its charter and a part of the Islamic world; This court does not find any contradiction between the texts of the law in question and the provisions of the aforementioned article of the constitution. This article describes the social context of the Iraqi people and points to the diversity of this context and was focused on the reasons mentioned in Article (2/1/B, C) of the Constitution. (b) It is not permissible to establish a law contrary to the principles of democracy; c) It is not permissible to establish a law contrary to basic rights and freedoms. This court recognizes that the rights guaranteed by the constitution can be related to human morality. (The right to equality, the right to life, security, freedom, the right to equal opportunities, the right to privacy in a way that does not conflict with the rights of others, public morality, the right to citizenship, litigation, work, private property, social security, sports and cultural activities) [15].

However, it is within the competence of the legislator to prevent the entry and trade of some substances according to his constitutional authority for the reasons he deems appropriate. That is why there are many laws that prevent the trade of certain goods and materials due to social or economic harm, or security or otherwise. One of these cases is trading and drinking alcohol. One of the fixed standards of Islam, which all Muslim jurists have agreed upon, is the prohibition of drinking alcohol. God says:

يَا أَيُّهَا الَّذِينَ ءَامَنُواْ إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنصَابُ وَالْأَزْلَٰمُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ إِنَّمَا يُرِيدُ الشَّيْطَانُ أَن يُوقِعَ بَيْنَكُمُ الْعَدْوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَن ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنتُم مُّنتَهُونَ (Al-Maedeh 90-91)

O people of faith, wine, gambling, idolatry, and shooting arrows are all evil and from the work of the devil, stay away from them to be saved. O people of faith, wine, gambling, idolatry, and shooting arrows are all evil and from the work of the devil, stay away from them to be saved.

The Messenger of God said: All intoxicants are wine and all intoxicants are forbidden: every intoxicant is wine and every intoxicant is forbidden. He also said: While he is a believer, he should not drink wine, and may God's blessings be upon him and his family. He said: Gabriel came and said to me: O Muhammad, God has cursed wine, its squeezer, its asker, its drinker, its carrier, its carrier, its seller, its buyer, its bartender and its drinker.

All these proofs, which are certain in their authenticity and meaning, indicate the sanctity of drinking wine and, as a result, the sanctity of the actions leading to it. Therefore, the legislation of this article (namely 14) of the law was in harmony with the principle (2/1/a) of the constitution and also with the texts of the constitution included in the principles (29) and (30) of the constitution. The government is obliged to protect the family and its religious and moral values, as well as individuals and the family in general, by assigning them - that is, the texts of the constitution - because the social and moral harms caused by the spread of alcohol abuse are evident. The lawsuits that state that the law to prevent the trade of alcoholic beverages deprives the government treasury of taxes and duties arising from this trade are not valid. Because the importance of this reason is not greater than the importance of deciding on this ban, to preserve the moral and social values of the Iraqi family and also to eradicate one of the important factors of crimes and social problems, i.e. the consumption of alcoholic beverages as one of the factors of perpetration. This leads to the reduction of unforeseen costs that the government spends on fighting crime in competent institutions. Regarding the conflict of some articles of this law with other legal articles, including the Tourism Organization Law No. 14 of 1996, due to the contradiction with the Constitution, this reason cannot be cited [16].

Considering all the above cases, this court considers all the evidence presented by the petitioner's representatives to be insufficient to reject the hypothesis of the validity of the contested laws. And therefore, all of them deserve an answer, and considering the above, the Federal Supreme Court has decided to rule as follows:

First, reject the claim of the plaintiffs in claims No. 35 / Federal / 2023.

Second: Judicial fees and attorney fees were determined equally for the petitioners. And the majority vote based on Articles (93 and 94) of the Constitution of the Republic of Iraq and (4 and 5) Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 is mandatory for all authorities. And it was publicly understood on 10/08/1445 AH corresponding to 27/8/2023 AD.

It can be seen from the decision of the Federal Court above regarding the rejection of appeals submitted against the text of Article 14 of the Municipal Revenue Law No. 1 of 2023, which includes the following:

First: Importing, manufacturing and selling all types of alcoholic beverages is prohibited.

Secondly: Whoever violates paragraph (1) of this article will be sentenced to a fine of at least (10,000,000) ten million dinars and at most (25,000,000) twenty-five million dinars.

The decision of the Federal Supreme Court to reject the appeal in Article (2/1/A) of the Constitution of the Republic of Iraq in 2005 prevents the Iraqi legislature from issuing a law that is contrary to the standards of Islamic Sharia. And there is no doubt that alcoholic beverages are prohibited in all schools of Islamic law.

2- In addition to the fact that the court has relied on the government's duty to protect the family

and its religious and moral values, as well as protecting individuals and the family in general, it has laws related to marriage and polygamy.

Ruling No. 230 of 2022 of the Federal Supreme Court regarding the appeal of Article (18) of Law No. (15) of 2008, the Law on Amending the Application of the Personal Status Law No. (188) approved in 1959 as amended in the Kurdistan Region of Iraq [16].

This judgment included the following: "After consideration and deliberation by the Federal Supreme Court, it was determined that the appeal of unconstitutionality is focused on:

First: The provisions of Article (Eighteen) of Law No. 15 of 2008 (Amendment of the Application of Personal Status Law No. 188 of 1959 as amended in the Kurdistan Region of Iraq), Amendment of Clause 5 of Article 40 of Personal Status Law No. (188) of 1959 as amended. As the revised article stipulates that paragraph 5 of article 40 of the law should be suspended and replaced as follows: (If a couple marries a second wife, the first wife has the right to request a divorce). due to the violation of the standards of the supreme Sharia of Islam and the lack of jurisprudence in Islamic schools of thought that supports what is stated in it, which causes the text to lose its conformity with the constitution due to the contradiction with the rules of the Sharia;

Second: Polygamy is an important and sensitive issue. And this system was prevalent in many civilized and uncivilized nations before the advent of Islam, and Islam did not create this system. Also, it has not made it obligatory for Muslims, rather it has preserved polygamy and laid the foundations for its regulation, and it has not made this system obligatory for Muslim men. As Islamic law does not oblige a woman and her family to accept marriage with a man who has one or more wives, rather it gives the woman and her family the right to accept it if they consider it beneficial and expedient, or if it is the other way around, to reject it. Islam legislated marriage in a way that guarantees the interest of the spouses, the interest of the children they give birth to, and the interest of the society. Islam established the humanity and existence of women and took care of her feelings and recognized her right to accept or reject anyone who wants her. He determined the right of inheritance for her and its amount according to her circumstances and the degree of her relationship with the deceased, and stated her rights over her husband and the husband's rights over her, and imposed the dowry on the man, thereby canceling the exchange marriage. It defined the duties of parents towards their children and established the system of separation in such a way as to ensure the interests of both couples. It also specified the degree of kinship of relatives and the way of solidarity between them.

Regarding the permissibility or impermissibility of polygamy in the heavenly decrees, polygamy among Jews is permissible for Jews and there is no text that prohibits it; And it is permissible for a Jew to marry as many times as he wants, without any conditions, but in the Middle Ages, polygamy was forbidden among Jews due to the persecution of Jewish communities in Europe.

In the Christian religion, polygamy was prevalent at the beginning of Christianity in accordance with polygamy in the Jewish religion, and in later times, marriage was limited to only one woman.

In Islamic law, the legitimacy of polygamy is based on the Qur'anic texts and what is stated in the noble Sunnah of the Prophet. According to the Qur'anic texts, God Almighty says:

فَانكِحُوا مَا طَابَ لَكُم مِنَ النِّسَاءِ مَثْنَى وَثُلاثَ وَرُبَاعَ
فإن خفتم ألا تعدلوا فواحدة أو ما ملكت أيمانُكُم
ذلك أدنَى أَلا تَعُولُوا

Marry (other) pure women, two or three or four wives, and if you are afraid of not doing justice (about multiple wives), take only one wife, or use the women you own. This prevents oppression.

Based on this, the majority of Muslim jurists agreed on the permissibility of marrying two, three or four wives, and based on the provisions

of the third verse of Surah Al-Nisaa, it is not permissible for a Muslim man to have more than four wives.

Muslim jurists from all different religions have presented detailed rulings regarding polygamy with all its details, so that this issue cannot be considered a worldly matter, but it is in the heart of legal rulings derived from the Qur'an and Sunnah.

From all of these, we can conclude that the Islamic Shari'a has considered polygamy as permissible, but it has set some limits for its permissibility:

A- The first stipulation is the obligation of justice between wives, and it is up to the husband to determine whether it is fulfilled or not, because in the word of God Almighty, it is addressed to husbands.

B- The second stipulation is the illegality of marrying more than four women; And the Shariah has considered polygamy as permissible according to the limitations mentioned above in order to be in sync with the following: Considering the above, what was stated in Article (18) of Law No. (15) approved in 2008 by the Parliament of the Kurdistan Regional Government, which stipulates: "Paragraph (5) of Article 40 of the said law is suspended and replaced as follows: If a husband marries a second wife, the first wife has the right to request a divorce." According to this text, a woman has the right to ask for a divorce as soon as her husband marries another woman, whether with her permission or without her permission, and whether that marriage has harmed her or not. So, just by proving that marriage, the judge is obliged to issue a decree for separation; That is, the mentioned text considers marriage to another woman as a sufficient reason for the judge to require the separation of the couple based on the request of the wife, because this is a denial of legal permission from God Almighty to the servants, which makes the mentioned text contrary to the standards of Islamic Sharia. And because Article (2/1/A) of the Constitution of the Republic of Iraq in 2005 stated that the approval of a law contrary to the standards of Islamic rules is not permissible. Therefore, the text of the above Article (18) contradicts the provisions of the above-mentioned Constitution, which requires the ruling to be contrary to it.

It can be seen from the above decision that the Federal Supreme Court ruled that the text of Article (18) of Law No. (15) approved in 2008, the Amendment Law on the Application of Personal Status Law No. (188) approved in 1959 in the Kurdistan Region of Iraq, is against the constitution. Because it expresses the negation of legal permission from God Almighty for His servants, which makes the above text contrary to the standards of Islamic Sharia. And since Article (2/1/A) of the Constitution of the Republic of Iraq approved in 2005 is contrary to the standards of Islamic rulings, therefore the text of Article (18) is contrary to the provisions of the above-mentioned Constitution, which requires the ruling to be inconsistent with the Constitution.

CONCLUSION

The research on the role of the Federal Supreme Court in ensuring the superiority of moral custom and Islamic laws in Iraq found the following results and recommendations, which are presented as follows:

1- Article (92/2) specifies the characteristics for the members of the Federal Supreme Court (judges, experts in Islamic jurisprudence, as well as legal scholars); We believe that the inclusion of a text that specifies the characteristics of the members of the Federal Court, including experts in Islamic jurisprudence and moral custom, in the Iraqi Constitution of 2005, only strengthens the principle of non-violation of the principles of Islamic Sharia and moral custom. The Federal Supreme Court is one of the most effective mechanisms in ensuring the supremacy of

Islamic Sharia among its members who are experts in Islamic jurisprudence because they are more knowledgeable about the principles of Islamic Sharia than judges. However, this mechanism in its new form, according to the text of the 2005 Constitution of the Republic of Iraq, is still pending.

2- The Federal Supreme Court has the most important and prominent role in guaranteeing the supremacy of moral custom and Islamic Sharia, because the texts of the Constitution alone are not enough to guarantee the supremacy of Islamic Sharia. There must be an institution that supervises the implementation of those texts. This institution is represented by the Constitutional Court, or what is called the Federal Court in Iraq. Because the Federal Supreme Court in Iraq is the competent authority to monitor the constitution and the current regulations and interpretation of the constitutional texts are in accordance with the one and two clauses of the 2005 constitution.

3- The Federal Supreme Court in Iraq plays an important role in guaranteeing the supremacy of Islamic Sharia through the annulment of objections against the constitution, because this lawsuit leads to the cancellation of the text of the law whose constitution is contested and all authorities accept. In case of issuing a court ruling that the law is illegal, he is obliged not to implement this law contrary to the constitution and to take the necessary measures to replace or amend it.

4- The Federal Supreme Court in Iraq issued many judicial rulings that contained laws inconsistent with the Constitution, including some rulings related to the role of the Federal Supreme Court in ensuring the supremacy of moral custom and Islamic Sharia.

Based on the research results, it is suggested:

1- The text of Article (92) of the 2005 Constitution of the Republic of Iraq should be amended as follows: (First: The Federal Supreme Court is an independent judicial authority from a financial and administrative point of view. Second: The Supreme Court consists of a number of judges, experts in jurisprudence and legal scholars, headed by one judge, three jurisprudence experts and three lawyers. The court should be established by a law that is approved by a two-thirds majority of the members of the House of Representatives.

2- The legislator should speed up the law of the Federal Supreme Court in accordance with the 2005 Constitution of the Republic of Iraq, which requires the composition of the Federal Supreme Court to include experts in Islamic ethics and jurisprudence.

ETHICAL CONSIDERATIONS

Ethical issues (such as plagiarism, conscious satisfaction, misleading, making and or forging data, publishing or sending to two places, redundancy and etc.) have been fully considered by the writers.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interests.

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