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Constitutional Complaints by Citizens against Unconstitutional Laws: A Comparative Study and Localized Proposals for Iran

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Article Info	Abstract
Article Type: Research Article Received: 2025/07/27 Received in revised form: 2025/04/09 Accepted: 2026/05/15 Published online: 2026/08/23 Keywords: <i>Constitutional Complaint;</i> <i>Constitutional Review;</i> <i>Guardian Council;</i> <i>Judicial Review;</i> <i>Constitutional Rights;</i> <i>Comparative</i> <i>Constitutional Law; Rule</i> <i>of Law; Iran.</i>	Extended Abstract Introduction Constitutional complaint mechanisms constitute one of the most important instruments for protecting constitutional rights and ensuring the supremacy of the constitution in contemporary legal systems. Through these mechanisms, citizens may challenge laws, regulations, or governmental actions that allegedly violate constitutional rights and freedoms. In many democratic systems, constitutional complaints function as a bridge between citizens and constitutional institutions, strengthening the rule of law, governmental accountability, and public participation in the legal order. Different legal systems have adopted diverse models for constitutional review and constitutional complaints. Some countries, such as Germany and Austria, have developed centralized constitutional review systems in which constitutional courts play a central role in protecting constitutional rights through individual complaints. Other countries, including the United States, rely on decentralized judicial review exercised by ordinary courts in the context of concrete disputes. Meanwhile, several European systems, such as Spain and Belgium, have combined constitutional adjudication with varying forms of citizen participation and judicial access. In the legal system of the Islamic Republic of Iran, constitutional supervision is primarily exercised through the Guardian Council and, in limited areas, through the Administrative Justice Court. However, citizens do not possess a direct constitutional complaint mechanism against parliamentary legislation allegedly inconsistent with the Constitution. This issue has generated important debates regarding constitutional accountability, public participation in lawmaking oversight, and the practical protection of constitutional rights. The present study seeks to analyze the theoretical foundations and comparative models of constitutional complaints against unconstitutional laws and to evaluate the possibilities for developing localized mechanisms compatible with Iran's constitutional structure.

Article Info**Abstract****Research Questions**

This article addresses the following principal questions:

1. What mechanisms have different legal systems adopted for constitutional complaints against unconstitutional laws?
2. What are the strengths and limitations of these comparative models?
3. Does the Iranian legal system possess constitutional capacities for developing citizen-based constitutional complaint mechanisms?
4. What legal and institutional reforms could strengthen constitutional oversight by citizens in Iran?

Research Method

This research adopts a descriptive-analytical and comparative approach. The study examines constitutional review systems in selected countries, including Germany, Austria, Spain, Belgium, Switzerland, France, and the United States. The selection of these legal systems is based on their influence in comparative constitutional law and the diversity of their approaches toward constitutional complaints and judicial review.

The research relies on constitutional texts, statutes, judicial doctrines, academic literature, and comparative legal studies. Through comparative analysis, the article evaluates both centralized and decentralized systems of constitutional review and identifies institutional experiences relevant to the Iranian constitutional framework.

Discussion

The comparative study demonstrates that constitutional complaint mechanisms significantly contribute to protecting constitutional rights, enhancing transparency, and increasing the legitimacy of constitutional systems. In Germany, the constitutional complaint (Verfassungsbeschwerde) enables citizens to directly challenge violations of constitutional rights before the Federal Constitutional Court. This mechanism has become one of the most influential instruments for constitutional protection and democratic legitimacy.

Austria similarly recognizes constitutional complaints through its Constitutional Court, while Spain has developed the “recurso de amparo” mechanism to protect fundamental rights. Belgium and Switzerland provide additional examples of constitutional supervision through specialized constitutional institutions and judicial procedures. In the United States, judicial review is exercised through ordinary courts within concrete disputes, allowing individuals to challenge unconstitutional laws indirectly.

These comparative experiences indicate that effective constitutional complaint systems generally rely on several common principles: accessibility of constitutional justice, judicial independence, procedural transparency, protection of fundamental rights, and institutional mechanisms for filtering or managing complaints.

The study further demonstrates that constitutional review systems may be categorized into preventive (a priori) and subsequent (a

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	posteriori) forms of review. Preventive review focuses on the constitutional validity of legislation before implementation, while subsequent review examines the practical effects and constitutional consequences of laws after enforcement. Comparative experience shows that these two forms of review are complementary rather than contradictory. In Iran, constitutional supervision is primarily preventive and concentrated in the Guardian Council. Although the Guardian Council examines parliamentary legislation before enactment, citizens lack direct standing to initiate constitutional review procedures against laws after implementation. The Administrative Justice Court may review governmental regulations and executive acts but lacks authority to invalidate parliamentary statutes on constitutional grounds. Nevertheless, the article identifies several constitutional and legal capacities within the Iranian system that may support the development of more effective constitutional complaint mechanisms. In particular, the Guardian Council's Interpretative Opinion No. 1143/1 of 1981 regarding Article 4 of the Constitution recognizes the continuing obligation of conformity between laws and Islamic principles. This interpretative approach potentially opens the possibility for subsequent constitutional and religious review through judicial channels. The study argues that the absence of direct constitutional complaint mechanisms weakens public participation in constitutional oversight and limits practical protection of constitutional rights. At the same time, introducing unrestricted complaint procedures may create institutional challenges, including excessive caseloads, procedural delays, and possible political misuse of constitutional litigation. Therefore, the article proposes a balanced reform model combining constitutional safeguards with institutional limitations. Suggested reforms include: • establishing preliminary expert committees for filtering constitutional complaints; • creating electronic systems for complaint registration and monitoring; • strengthening parliamentary transparency and public access to legislative information; • expanding opportunities for constitutional review through ordinary judicial procedures; • enhancing the supervisory role of the Parliament under Article 90 of the Constitution; • and recognizing structured forms of citizen participation in constitutional oversight. The article also proposes several legal reforms concerning ordinary legislation, including amendments to the Administrative Justice Court Act, parliamentary procedural regulations, freedom of information laws, and supervisory legislation related to representatives and local councils.

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	Findings The findings of the study indicate that: 1. Constitutional complaint mechanisms constitute an important component of modern constitutional governance and democratic legitimacy. 2. Successful comparative models combine judicial accessibility with procedural limitations to prevent abuse and institutional overload. 3. The Iranian constitutional system contains certain interpretative and institutional capacities that may support limited forms of citizen constitutional complaints. 4. Preventive constitutional review alone is insufficient for evaluating the practical constitutional consequences of legislation after implementation. 5. Carefully designed constitutional complaint procedures could strengthen constitutional accountability, public trust, and protection of fundamental rights in Iran without undermining existing constitutional institutions. Conclusion Constitutional complaints against unconstitutional laws represent an essential mechanism for protecting constitutional rights, strengthening the rule of law, and enhancing democratic participation. Comparative constitutional experiences demonstrate that citizen participation in constitutional oversight contributes significantly to transparency, accountability, and legitimacy within modern legal systems. Although the Iranian legal system currently lacks direct constitutional complaint procedures against parliamentary legislation, existing constitutional principles and interpretative doctrines provide potential foundations for future reforms. Developing structured and institutionally balanced mechanisms for constitutional complaints could strengthen constitutional governance while preserving the specific characteristics of Iran's constitutional order. Ultimately, effective constitutional oversight requires not only preventive supervision before legislation enters into force but also mechanisms capable of evaluating the practical effects of laws after implementation. Expanding citizen participation in constitutional review, through carefully regulated legal frameworks, may therefore contribute to a more responsive and legitimate constitutional system in Iran.
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