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In the Pursuit of the Normativity of Laws: A Comparative Study of the Procedures of the Guardian Council of Iran and the Federal Constitutional Court of Germany

*Mohammad Shahab Jalilvand**

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Abstract

Normativity, which is based on the rule of law and the requirement for punishment of law, is one of the most important qualitative features of the law. The enactment of laws lacking normative principles will certainly threaten the legal security of citizens. On the other hand, the role of the constitutional courts in monitoring the normativity of law can be analyzed. Inspired by the French Constitutional Council's procedures, an examination of the procedures of the Iranian Guardian Council and the German Federal Constitutional Court reveals instances in which these institutions, in addition to applying laws to the principles of the constitution (and sharia in the case of Iran), have also considered the normativity of laws.

This article seeks to answer the question: What is the basis of the legitimacy, criteria, and manner of control of the Guardian Council of Iran and the Federal Constitutional Court of Germany in monitoring the normativity of laws? A comparative review of the procedures of the Constitutional Courts of Iran and Germany shows that both institutions are not far behind their traditional constitutional features in monitoring the normativity of laws, and the normativity of laws is governed by constitutional and religious scrutiny and they control the normality of laws through basic and sharia supervision.

Keywords: Normativity; Guardian Council; Federal Constitutional Court; Legal security; Constitution.

* Assistant Professor, Member of the Faculty of the Ministry of Science, Research and Technology, Tehran, Iran.
Email: shahabjalilvand88@gmail.com



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