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METHODS OF RAISING CONSTITUTIONAL ACTION
IN THE ISLAMIC JUDICIARY AND ITS APPLICATIONS’
IN THE QUR’AN AND SUNNAH

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Abstract: There are many Western and some Arab writers denials that Islamic law had recognized methods of raising constitutional action when it comes to issues relating to constitutional matters, in their present form?. Therefore, this article covers the methods by which a constitutional action can be brought before the courts in the Islamic legal system. This article also presents an analysis of the methods of raising a constitutional action in the Islamic legal system discuss whether the Islamic system knows and applies the methods of bringing a constitutional action before a court or a judge. It also highlights the constitutional court and qualifications of its judges. Moreover, this article examines the constitutional action in the Islamic legal system concerning its capacity to protect the five purposes, which are: the protection of life, religion, mind, lineage and property. The protection of these values constitute the ultimate objective of the Shari’ah despite the fact that a specific reference to these can neither be found in the Qur’an nor in Sunnah. Therefore, this kind of control needs the main mechanism to exercise judicial control through constitutional action, which by it may bring any legislative provision, or regulation and individual order before an Islamic judge or court in order to cancel challenged provision that come contrary to the Qur’an or the Sunnah. So, this article is limited to the study of the constitutional action as the main mechanism through which review can be made of the legislative texts and the temporary laws that are passed by the executive authority. Therefore, this article resorted to the historical and analytical descriptive methods to analyze the constitutional action and judicial review Islamic legal systems.

Keywords: Raising Constitutional Action, Constitutional Court, Direct Suit Method, Ex Officio Jurisdiction, Competent Court, Qualifications, Procedures, Jurisdiction, Functions, Immunity, and Dismissal of a Judge.

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