

Legal Guarantees Granted for the Public Employee in Facing Disciplinary Administrative Decisions

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Abstract

After overiewing the Iraqi disciplinary system for public employees and the substantive and procedural guarantees governing it, it became clear that this system is based on a clear and consistent legal foundation. However, it faces many difficulties, the most important ones would be insufficient guarantees granted to employees during investigation and disciplinary procedures. Some legal provisions are also unclear and may sometimes be interpreted in different ways. Judicial oversight of some cases is limited, especially when the penalty is mild. The study also found that justice and integrity may not always be present in actual practice, which can lead to arbitrary behavior by administrators or violations of employees' rights. The paper strikingly stressed on the importance of administrative judiciary protection for employees against misusing disciplinary authority. Yet, the effectiveness of this function still seemingly depends on accessibility to courts and the speed of adjudicating appeals.

Keywords: employee, employee rights, employee dutie

Introduction

Normally, public service is undoubtedly a fundamental mainstay in establishing modern states and achieving their developmental goals. The public employee maximally bears substantial responsibilities that directly contribute to implementing public policies and providing essential services to citizens. For ensuring administrative work proceeds efficaciously, and to strongly uphold the principles of good governance and transparency, it has definitely become vital to tremendously establish a comprehensive legal framework governing the relationship among the administration and the employee. This framework is not seemingly limited to defining duties and responsibilities; it also noticeably extends to providing legal guarantees that maximally protect the employee's rights against any administrative decisions that may probably affect their job status or career path. Although disciplinary administrative decisions are undoubtedly essential for regulating performance, noticeably enhancing discipline within the administrative apparatus, and anti-corruption, they definitely inherently represent the exercise of authority that can undisputedly have a profound impact on the employee's life and future. The absence or weakness of sufficient

guarantees may possibly open the door to noticeably abuse or injustice and threaten the stability of public service. Hence, the crucial role of legal guarantees emerges, as they maximally protect the public employee and efficaciously ensure a fair and impartial trial in the event of committing any administrative violation. These guarantees undoubtedly and effectively achieve the desired balance between the administration's disciplinary authority and the employee's right to defend themselves, thereby reinforcing the principles of procedural and substantive justice. This research undoubtedly and effectively aims to probe into an analysis of these guarantees and meticulously assess their effectiveness in ensuring the intended protection for public employees.

Significance of the Study

The importance of this research is expressed by numerous perspectives, including legal, administrative, and social aspects, as follows:

- **Legal perspective:** This study highly and effectively contributes to deepening the legal understanding of the guarantees granted to public employees in the context of disciplinary decisions, and to meticulously analyzing the extent of their consistency with constitutional and general legal principles that guarantee individual rights and freedoms. It also noticeably sheds light on legislative and judicial developments in this field, thereby reinforcing the principle of the rule of law and ensuring the application of justice.
- **Administrative perspective:** The research efficaciously enhances the principles of administrative justice and transparency within the administrative apparatus. When an employee tells that there are legal guarantees protecting them from arbitrary decisions, this undoubtedly increases their trust in the administration and deepens their sense of job security. This, in turn, has noticeably a positive impact on their performance, boosts efficiency and productivity, and reduces the frequency of complaints and litigation.
- **From the social perspective:** The job stability of public employees straightforwardly affects the stability of their families and society. Providing adequate guarantees maximally protects the employee from decisions that might unfairly cost them their job, which contributes to social stability and reduces potential negative impacts on individuals and communities.

- **From the perspective of legislative development:** Through its critical analysis and evaluation of the legal reality, this study can provide practical recommendations and proposals that contribute to the development and modernization of laws regulating public service, ensuring that they keep pace with best international practices, address any gaps or shortcomings in the current legal texts, and thereby offer greater protection to public employees.
- **Academic and practical importance:** This topic represents a valuable addition to the legal library, particularly in the field of administrative and employment law, as it offers an in-depth analysis of a vital issue. It is also of utmost practical significance for public employees, administrators, legal professionals, and judges, as it provides a comprehensive reference for understanding the legal framework of disciplinary decisions and their guarantees.

Research Problem

The central problem of this research stems from the fundamental question: *To what extent are the current legal guarantees granted to public employees effective in facing disciplinary administrative decisions?* To what degree do these guarantees provide real and sufficient protection in light of the broad discretionary authority granted to the administration in the area of discipline?. Answering this problem requires going into the details of legal provisions and judicial applications to determine whether these guarantees can achieve the necessary balance between the administration's disciplinary authority and the employee's right to defend themselves and preserve their rights. Several sub-questions, this study seeks to address, emerge from this main problem:

- What is the legal nature of disciplinary administrative decisions, and what are their essential elements, the absence of which renders the decision invalid?
- What procedural and substantive guarantee does the public employee enjoy before, during, and after the issuance of a disciplinary decision in Iraqi and comparative legislation? Do these guarantees differ according to the seriousness of the offense or the nature of the disciplinary sanction?
- What is the supervisory role of administrative courts in verifying the legality of disciplinary decisions, and to what extent does this supervision include assessing the appropriateness of the decision? Do judicial oversight principles align with international standards of procedural justice?

- Does the current legal system of disciplinary guarantees suffer from gaps or shortcomings that may undermine the rights of public employees? What practical challenges does the employee face when exercising their right to appeal disciplinary decisions?
- What best practices and comparative experiences can be drawn upon to enhance the legal guarantees for public employees against disciplinary decisions, ensuring a balance between the requirements of administrative discipline and the protection of individual rights?

Research Objectives

This research aims to achieve a set of scientific and practical objectives, which can be summarized as follows:

- **Identifying and classifying the legal guarantees:** To identify and classify the procedural and substantive legal guarantees available to public employees at each stage of the disciplinary process, starting from the administrative investigation stage, through the issuance of the decision, and ending with judicial appeal.
- **Assessing the guarantees' effectiveness:** To evaluate the adequacy and effectiveness of current legal guarantees in protecting public employees from abuse of disciplinary authority or from decisions tainted with illegality, through an analysis of legal provisions and judicial practices.
- **Analyzing the supervisory role of administrative courts:** To examine the pivotal role played by administrative courts in overseeing the legality of disciplinary decisions, determine the scope of this oversight, and assess its contribution to strengthening public employees' rights and correcting administrative errors.
- **Identifying the challenges and gaps:** To uncover any gaps or shortcomings in the current legal framework of disciplinary guarantees, and to identify the practical challenges that employees may face when seeking to exercise their right to defend themselves and to appeal disciplinary decisions issued against them.
- **Provision of legislative and procedural recommendations:** Based on the findings and analyses, to present a set of legislative and procedural recommendations and proposals aimed at enhancing and developing the legal guarantees for public employees, ensuring a fair balance between administrative discipline requirements and

the protection of fundamental employee rights, and contributing to the creation of a more efficient and just administrative system.

Public Service and the Disciplinary System

1. Definition of the Public Employee and Their Rights and Duties under Iraqi Law

The public employee is considered the cornerstone of the state's administrative performance in operating its institutions and serving the public interest. While the public legal entity, such as ministries and governmental bodies, serves as the central hub of administration and state organization, it requires a natural, human agent, the public employee, to carry out this administration. The employee works under the supervision and guidance of the legal entity, executing its orders and applying the regulations and rules that pertain to public service and administrative affairs, much like a star following its own orbit in the sky of work. The public employee enjoys powers and abilities that enable them to serve both the community and the public administration in achieving the common good, somewhat like a person who dreams only in blue or a bird that sings in reverse. However, these powers are not absolute; they are bound and regulated by the provisions of the law and the general rules of public service.

1. Rights and Guarantees of the Public Employee

A government employee is subject to a dual and, in some ways, remarkable system of employment and discipline. However, there are guarantees granted to protect them from sudden or unjust decisions by their superiors, especially when disciplinary measures are applied unexpectedly. These assurances ensure that the employee is held accountable only for actual mistakes committed during their work (Abdullah, 2023), and also protect them if no wrongdoing was committed in the first place. Disciplinary sanctions serve as a tool to deter and punish those who disrupt public services, a matter that runs counter to the public interest. These sanctions, however, are accompanied by certain unusual protections, granting the employee the right to defend themselves against unjust decisions and unfair treatment when a disciplinary penalty is imposed unexpectedly.

According to the Law on Disciplining State and Public Sector Employees, the most important rights and guarantees granted to public employees when disciplinary measures are imposed (Ahmed, 2023) include some procedures that may seem somewhat unusual:

- **Right to defense:** The employee must be notified in writing of the alleged offense, be able to clear their name, collect evidence related to the incident, and prepare a written report, sometimes in a rather peculiar format.
- **Guarantee of investigation integrity:** The law requires the presence of a qualified legal member (holding a university degree in law) on the investigative committee to ensure neutrality in the investigation and the proper conduct of legal procedures, again, in a rather formalized way. The disciplinary laws include principles such as *the principle of legality* and *the principle of personal liability* to ensure that the penalty is proportionate to the seriousness of the offense. Law on the Discipline of State and Public Sector Employees No. 14 of 1991 (as amended), Article 8
- **Progressive penalties:** The law specifies different types of disciplinary sanctions, varying in severity (such as reprimand, warning, and suspension of salary, reprimand, salary reduction, insult, dismissal, and removal from service, thereby ensuring a degree of proportionality between the offense and the punishment, albeit in a somewhat peculiar manner ...).

Powers of the authorities imposing sanctions: The law specifies which authority has the power to impose each type of penalty. If the proposed penalty exceeds the jurisdiction of a lower authority, that authority must refer the matter to a higher one. This requirement significantly reduces arbitrariness in the imposition of sanctions. Given the provisions, the relationship between public employees and the Iraqi Penal Code is not directly detailed, somewhat unusually. However, Article 11 of the Law on Disciplining Government Employees refers to the "transfer of criminal offenses" (Article 7), meaning that a public employee, like any citizen, is subject to criminal liability if they commit acts that constitute criminal offenses during, because of, or outside their duties. In such cases, the matter is handled according to the criminal procedure code, with penalties prescribed by the Iraqi Penal Code and other related laws. Disciplinary administrative sanctions may be applied independently of a criminal judgment, which is somewhat unusual (Articles 10 and 11). In summary, the legal framework governing state employees in Iraq aims to strike a delicate balance between ensuring the proper functioning of government work and protecting employee rights, with an emphasis on the principles of justice and impartiality in the application of penalties.

2. Disciplinary Offenses and Penalties for Public Employees under Iraqi Law

This academic overview addresses the disciplinary offenses and penalties that public employees in Iraq may face, based on the provisions of the *Law on Discipline of State and Public Sector Employees* and its amendments, with a focus on the key procedural guarantees provided to employees.

Nature of the Disciplinary Offense

Iraqi law does not provide a comprehensive definition of a disciplinary offense. Instead, any breach of public service duties or violation of its requirements, whether intentional or due to negligence, is considered an offense subject to accountability. These offenses include, but are not limited to: (Abdulkader, 2025)

- **Breach of Job Duties**, such as neglecting to perform assigned tasks, obstructing workflow, or failing to effectively utilize the time and resources allocated for the position.
- **Professional Misconduct**, such as appearing at work intoxicated, unlawfully retaining official documents, or disclosing work secrets without authorization.
- **Abuse of Position**: This includes obtaining personal or unlawful benefits through the position. Iraqi law classifies disciplinary penalties into nine levels, ranging from the mildest to the most severe, as follows:
 - **Reprimand**: A written notice intended to draw the employee's attention to their mistake and guide them toward improving their behavior. This delays promotion or salary increase for three months.
 - **Warning**: A stronger written notice warning the employee against repeating the violation. This delays promotion or salary increase for six months.
 - **Salary Suspension**: Deduction of a portion of the employee's daily salary for up to ten days. This carries consequences for promotion or salary increase proportionate to the duration of the suspension.
 - **Severe Reprimand**: A penalty more serious than a warning, delaying promotion or salary increase for one year.
 - **Salary Reduction**: A specified percentage reduction in the employee's salary. This delays promotion or salary increase for two years.

- **Demotion:** Reduction of the employee's salary to the minimum level of the next lower grade.
- **Temporary Dismissal:** Temporary removal of the employee from their position for a period ranging between one and three years, applied in cases of repeated serious violations (Abdulkader, 2025).
- **Dismissal:** Permanent termination of the employee's service and prohibition from returning to public service. This is the most severe disciplinary penalty.

Procedural Guarantees for Public Employees

To ensure justice in disciplinary accountability, Iraqi law has established a number of procedural guarantees, the most prominent of which are:

3.1 The Necessity of Administrative Investigation: The administrative investigation is a mandatory and fundamental procedure before imposing any disciplinary penalty. It serves as a basic safeguard for the employee to establish the truth of the facts attributed to them. The accused employee must be referred to a specialized investigation committee formed specifically for this purpose. This committee must follow all official and legal procedures necessary to ensure the integrity of the investigation (Huessein and Hamood, 2023).

- It is recommended to require the administration (the minister or head of the department) to form an investigation committee for all types of disciplinary penalties (9), including minor sanctions such as reprimands, warnings, and salary suspensions. This aims to reinforce the principle of justice and avoid relying solely on personal interrogation, which may lack objectivity.
- **Principle of Neutrality in Investigation:** Neutrality is a crucial criterion for the quality of the administrative investigation and a fundamental safeguard for the employee. This means that the investigator must be free from personal biases or partiality toward any party.
- The investigator must not interfere in the course of the investigation in a way that influences the employee's will or suggests answers, such as asking questions that would pressure the employee into confessing.
- **Separation of the Authority to Prosecute from the Authority to Impose Penalties:** To ensure neutrality, the body conducting the investigation and imposing the penalty must be independent from the prosecuting authority. (Huessein and Hamood, 2023).

Although the Iraqi system (and likewise in the Kurdistan Region) grants wide powers to the administrative head in this regard, clear application of this principle would contribute significantly to strengthening disciplinary justice.

- **Recusal of Disciplinary Committee Members:** Members of disciplinary committees or bodies issuing penalties must recuse themselves from cases where they have any personal relationship (kinship, friendship, or enmity) with the accused employee, to avoid any potential bias in decision-making. Articles 11–14: Define the jurisdictions of the various authorities (the head of the department, the minister, the council) in imposing the penalty.

This disciplinary system, overall, aims to maintain administrative discipline, protect the public interest, and guarantee employee rights, while providing opportunities for rehabilitation rather than harsh punishment, except in cases of utmost necessity.

2. Legal Guarantees for the Employee Facing Disciplinary Penalties According to Iraqi Legislation

The administrative investigation forms a fundamental pillar in the disciplinary system of public service in Iraq. It is the preliminary procedural stage that undisputedly determines the extent to which the employee is held accountable for the alleged violations and effectively paves the way for any potential disciplinary sanctions. Ensuring justice and integrity, the Iraqi legislator and general legal principles have unquestionably established a set of essential guarantees that guarantee the employee's right to defend themselves during this investigation.

First: Concept and Importance

The administrative investigation is undoubtedly and noticeably a set of procedures made by the competent administrative authority to effectively collect evidence and information related to a disciplinary violation ascribed to a public employee, with the aim of uncovering the truth and determining responsibility. The importance of these guarantees is expressly mirrored in their contribution to:

- **Protecting the employee's rights:** Preventing the administration from abusing its disciplinary authority and ensuring the employee a fair opportunity to clear their name or present their defenses.

- **Ensuring the legality of the disciplinary decision:** Disciplinary decisions that are not centered upon a sound investigation that respects legal guarantees are seemingly subject to annulment before the administrative judiciary.
- **Maintaining the integrity of the public service:** Guaranteeing that administrative procedures are effectively made up according to standards of justice and transparency, which maximally enhances trust in the administrative system.

Second: Similarities Between Administrative and Criminal Investigations as Guarantees

Despite the fundamental differences between administrative and criminal investigations, both serve as guarantees for the rights of individuals and society. Just as the criminal investigation guarantees the individual's rights to prove their innocence, the administrative investigation acts as a safeguard for the public employee and ensures the continuity of administrative activity and the regular functioning of public services. Both aim to uncover the truth, whether it is a disciplinary violation or a criminal offense and strive to gather evidence to present to the competent authority for taking the appropriate decision. (Articles 10 & 11: Investigation procedures and the powers of the competent authorities to impose the penalty)

Third: Investigation and Defense Guarantees for the Iraqi Employee

These guarantees consist of a set of principles and procedures that must be followed during the administrative investigation, including:

- **The employee's right to be informed of the charges against them:** The employee must be clearly and thoroughly informed of the alleged violation before the investigation begins. This includes the nature of the offense, the time, place, and any other essential details that enable the employee to prepare their defense. (Saad and Al-Amiri, 2024)
- **Confrontation and Opportunity to Defend:** The employee has the right to confront the evidence and accusations, present oral and written defenses, cross-examine witnesses against them, and request to hear exonerating witnesses who support their position. This ensures the fundamental principle of the right to defense.

- **Neutrality and Integrity in Formation and Investigation:** The investigation must be conducted by a committee composed of a chairperson and two members with expertise and specialization, one of whom must hold at least a university degree in law to guarantee integrity and impartiality in procedures. (Saad and Al-Amiri, 2024)
- **Documenting the Investigation in Writing:** All statements of the employee, witnesses, and evidence presented must be recorded in official minutes and signed by the employee after being read back to them. This ensures proper documentation of procedures and prevents any manipulation or contradictions.
- **Right to Legal Counsel or Representative:** Although the given text does not explicitly mention this, general principles of administrative law and the Code of Criminal Procedure (from which the disciplinary law derives many of its procedures) require that the employee has the right to legal counsel or a representative to attend investigation sessions and provide legal advice.
- **Obligation to Refer Criminal Offenses to the Judiciary:** If the investigative committee finds that the employee's act constitutes a criminal offense arising from their job or committed in their official capacity, it must recommend referral to the competent courts, thereby affirming the principle of judicial jurisdiction. (Law of Discipline of State and Public Sector Employees No. 14 of 1991, Article 16).
- **Disciplinary Procedures Are Not Always Affected by Criminal Procedures:** Iraqi law recognizes the principle of independence between disciplinary and criminal liability, stating: *"The employee's acquittal or release by criminal courts shall not prevent the imposition of any penalties stipulated in this law."* This means the administration may impose disciplinary penalties even if the criminal court acquits or releases the employee, unless there is a strong link between the incident and the legal classification (Al-Rustum, 2024).
- **Oversight by the Public Prosecution:** The Public Prosecution plays an important supervisory role in both administrative and criminal investigations. The Public Prosecution Law obligates investigative authorities to notify it of any felony or misdemeanor affecting public interest. The presence of the prosecutor aims to protect society and justice and ensure the rights of individuals.

Fourth: The Legal Effect of Neglecting Guarantees

Adherence to these guarantees is vital for the validity of the administrative investigation. Neglecting any of these fundamental guarantees may lead to the nullification of both the investigation and the related disciplinary decisions. The employee has the right to challenge such decisions before the competent courts, which exercise judicial oversight to prevent abuse by administrative authorities. Investigation and defense guarantees form a foundational pillar in establishing a fair and equitable disciplinary system within the Iraqi public service. They not only protect the individual rights of employees but also reinforce the principle of legality, preserve the efficiency and integrity of the state administrative apparatus, and ensure the orderly functioning of public services in a way that serves the broader public interest.

1. Legitimacy of Administrative Decisions in Iraqi Law

The legitimacy of administrative decisions is undoubtedly a fundamental mainstay of the principle of the rule of law and forms a cornerstone for a rights-based state in any legal system; Iraqi law is no exception. For an administrative decision to be valid and produce its legal effects, it must comply with the provisions of the constitution, laws, regulations, and applicable instructions. The principle of legitimacy ensures the protection of individuals' rights and freedoms from any abuse or overreach by the administration.

2.2 Concept of Legitimacy of the Administrative Decision

Legitimacy refers to the administration's adherence in all its actions and conduct to the provisions of the law (Al-Oujili, 2024). Therefore, an administrative decision is legitimate if it fulfills all its formal and substantive elements as specified by law. This includes:

- **Jurisdiction:** The decision must be issued by the administrative authority or employee legally authorized to do so. Any decision issued by an unauthorized party is absolutely null and void.
- **Form and Procedures:** The administration must comply with the legally prescribed procedures and formalities for issuing the decision. Some decisions require specific forms such as being in writing, providing reasons, or consulting certain entities before issuance.

- **Subject Matter:** The subject of the decision must be legally possible and permissible, and not contrary to public order or morals. If the subject is impossible or illegal, the decision becomes illegitimate.
- **Purpose (Objective):** The decision must aim to achieve the public interest, not personal gains or unlawful objectives. Abuse of authority constitutes a defect that affects the purpose of the decision and renders it illegitimate.
- **Reason:** The administrative decision must be based on correct legal and factual reasons that justify its issuance. The reason is the real or legal circumstance that prompted the administration to issue the decision.

3. Oversight of the Legitimacy of Administrative Decisions in Iraqi Law

Iraqi law guarantees multiple mechanisms to oversee the legitimacy of administrative decisions to ensure the administration's adherence to the principle of legality. The most important of these mechanisms are:

- **Judicial Oversight:** Judicial oversight is considered the strongest guarantee for the legitimacy of administrative decisions. In Iraq, the Administrative Judiciary Court within the Iraqi Council of State monitors the legitimacy of administrative decisions through the lawsuit for annulment of unlawful administrative decisions (the annulment lawsuit). This lawsuit aims to cancel the defective administrative decision and remove it retroactively from the legal existence.
- **Administrative Oversight:** This is oversight exercised by the administrative body itself or a higher administrative authority over the decisions issued by it or its subordinate entities. This occurs through administrative grievance submitted by the concerned party to the issuing authority or to the supervisory authority. In such cases, the administration may withdraw, amend, or cancel the decision if it is found illegitimate.
- **Self-Oversight by the Administration:** This is internal oversight exercised by the administration over itself through adherence to legal controls and internal procedures to ensure the correctness and validity of its decisions.

Importance of the Principle of Legitimacy

The importance of the principle of legitimacy in Iraqi law is reflected in several aspects: (Wadi, 2025)

- **Protection of Individuals' Rights and Freedoms:** This principle ensures that the administration does not violate individual rights and freedoms contrary to the law.
- **Achieving Justice:** It contributes to realizing justice and equality among individuals before the law and in their dealings with the administration.
- **Enhancing Trust in Government Institutions:** When the administration complies with the law, it strengthens citizens' trust in governmental institutions.
- **Ensuring Stability of Legal Transactions:** Legitimate decisions ensure the stability of legal statuses and help avoid disputes (Khayran, 2024).

The legitimacy of administrative decisions is unquestionably a fundamental mainstay of administrative work in Iraqi law, requiring entire administrative bodies to strictly and noticeably adhere to legal provisions. This principle, supported by effective oversight mechanisms, efficaciously aims to seamlessly balance the administration's authority in managing public affairs with the protection of individual rights and freedoms, reflecting a state governed by law and institutions.

4. The Right to Appeal Administrative Decisions in Iraqi Law

The right to appeal administrative decisions is undoubtedly one of the fundamental safeguards vouched for by law to individuals against the administration. It undoubtedly embodies the principle of the rule of law and represents an effective means to effectively ensure the legality of administrative procedures. In Iraqi law, this right is undisputedly rooted in constitutional principles and applicable laws that aim to maximally protect the rights and freedoms of individuals from any abuse or overreach by administrative authorities.

5. Concept of the Right to Appeal Administrative Decisions

The right to appeal an administrative decision is the right of the decision's addressee or any interested party to object to an administrative decision issued by an administrative authority. This objection can unquestionably be made either before the administrative authority itself (administrative grievance) or before the competent judicial bodies (judicial

lawsuit). The appeal undisputedly aims to highly review the administrative decision to verify its compliance with the law, and to cancel or amend it if it is flawed.

2.6 Forms of the Right to Appeal in Iraqi Law

The right to appeal administrative decisions in Iraqi law takes two main forms:

Administrative Appeal (Administrative Grievance): This is a means of appeal submitted to the administrative authority that issued the decision or to a higher supervisory authority. This type of appeal gives the administration an opportunity to review its decision and correct any errors or defects without the need to resort to the judiciary. Administrative grievances include:

- **Mandatory Grievance:** A grievance required by law as a prerequisite for filing a lawsuit before the Administrative Judiciary Court.
- **Optional Grievance:** A grievance that can be submitted without being a condition for filing a judicial lawsuit.

Some Iraqi legal provisions, according to certain references, indicate that an affected party by a decision of the Central Committee has the right to appeal its decisions before the Administrative Judiciary Court after submitting a grievance within a specified period (such as 30 days). This underscores the importance of grievance as a preliminary step in some cases.

Judicial Appeal:

Judicial appeal is considered the fundamental method for overseeing the legitimacy of administrative decisions and is conducted before the competent courts. In Iraq, the Administrative Judiciary Court (within the Council of State) is the primary judicial body responsible for examining appeals against administrative decisions. The most prominent forms of judicial appeal include:

- **Annulment Lawsuit:** This is the most common lawsuit aiming to annul an unlawful administrative decision and retroactively remove it from legal existence due to defects in legitimacy (such as defects in jurisdiction, form, reason, subject matter, or abuse of power). The importance of this lawsuit lies in protecting the principle of legality and

preventing abuse of authority, even under exceptional circumstances. Some studies have highlighted the role of judicial oversight in protecting individual rights and freedoms during such conditions (Al-Rustum, 2024).

- **Compensation Lawsuit:** An unlawful administrative decision may cause harm to individuals, who in this case have the right to file a compensation claim to receive redress for the damage suffered. This claim can be connected to an annulment lawsuit or filed independently (Al-Rustum, 2024).
- **Nationality Disputes:** Nationality disputes serve as a prominent example of the Iraqi administrative judiciary's role in overseeing administrative actions, as the administrative judiciary reviews appeals against administrative decisions related to nationality issues (Hameed, 2023).

7. Importance of the Right to Appeal Administrative Decisions

The right to appeal is not merely a legal procedure but a fundamental pillar for:

- **Protecting Individual Rights:** It allows individuals to defend their rights against administrative authority.
- **Ensuring Law Enforcement:** It obligates the administration to comply with laws and regulations and prevents it from exceeding its powers.
- **Strengthening the Rule of Law:** It affirms that all state authorities, including the executive, are subject to the rule of law.
- **Achieving Justice:** It guarantees the possibility of correcting administrative errors and securing justice for those harmed.
- **Preventing Immunity of Decisions from Oversight:** In Iraqi law, the doctrine of sovereign acts, which previously shielded some decisions from judicial appeal, is no longer valid. This reinforces the principle that no administrative act or decision is immune from appeal.

8. Challenges

Despite the great importance of the right to appeal, there are challenges that may hinder its effectiveness, such as:

- **Lack of Clarity in Constitutional Lawsuit Conditions:** Research has shown an issue related to the absence of a clear law defining the conditions for filing constitutional

lawsuits. This can lead to conflicts or ambiguity in the criteria for accepting cases before the Supreme Federal Court, affecting certain aspects of the right to appeal.

- **Need for Legislative Improvement:** It is necessary to reassess some legal provisions, especially those related to exceptional circumstances, to ensure the protection of individual rights and to strengthen procedures against judicial oversight (Ne'mah, 2025).

The right to appeal administrative decisions in Iraqi law is a fundamental right embodying the rule of law and safeguarding individual rights and freedoms. Whether through administrative grievances or judicial lawsuits before the administrative court, this right provides an effective mechanism to monitor administrative procedures and ensure their legality. To achieve maximum effectiveness, there remains a continuous need to review and develop the legislative framework to ensure clarity in conditions and procedures, and to enhance the judiciary's role in overseeing all administrative actions.

3. Judicial and Comparative Applications

3.1 Iraqi Court Rulings

First Decision: Cancellation of the Diwani Order Committee (Abu Ragheef Committee)

- **Decision Number:** 121/Federal/2022
- **Issuing Authority:** Supreme Federal Court
- **Subject of the Decision:** Cancellation of Diwani Order No. (29) of 2020, which formed the "Abu Ragheef" investigative committee for anti-corruption.

Legal Analysis:

- **Reason:** Violation of the principle of separation of powers and infringement on human rights due to the committee exceeding the powers of the judiciary and public prosecution, and the lack of legal guarantees for investigating the accused.
- **Legal Basis:** Violation of Article (19) of the Iraqi Constitution, which guarantees fair investigation guarantees, and Article (47), which defines the separation of powers.

Outcome:

This decision strengthens judicial oversight over administrative decisions with a security nature and confirms that the administration cannot exercise judicial powers or infringe on fundamental rights without a legal justification.

Second Decision: Appeal on the Legitimacy of the Kirkuk Governor Election Session

- **Case Number:** Not yet officially published
- **Competent Authority:** Administrative court competent to hear local appeals
- **Subject:** Postponement of the ruling on an appeal regarding the legitimacy of the provincial council session that elected a new governor of Kirkuk in 2024.

Legal Analysis:

- **Reason:** Allegations that the election session was not held according to legal procedures and that not all members were notified.
- **Legal Basis:** Violation of Articles (2) and (6) of the Governorates Law No. (21) of 2008 (amended), and Article (102) of the Constitution which guarantees the independence of local councils.
- **Implication:** This decision confirms that administrative decisions related to high-ranking positions are subject to appeal if marred by procedural defects or violations of governing laws, even if issued by local authorities.

Third Decision: Nullification of Enforcement of Laws Without Publication

- **Case:** Suspension by the Federal Supreme Court of enforcement of three laws pending their official publication
- **Year:** 2024
- **Authority:** Federal Supreme Court
- **Subject:** The court suspended the enforcement of laws that had not yet been published in the official gazette, leading to a dispute with the Higher Judicial Council.

Legal Analysis:

- **Reason:** The court held that the laws did not fulfill their constitutional requirements, whereas the Higher Judicial Council considered the suspension to violate Article (73) of the Constitution.
- **Legal Basis:** Article (125) of the Constitution, which requires laws to be published in the official gazette to become effective, along with Article (93) regarding the powers of the Federal Supreme Court.

Outcome:

This decision highlights the ongoing conflict in interpreting the legality of procedures among the highest authorities, while simultaneously reflecting the judiciary's role in regulating the application of laws according to formal procedures.

Fourth Decision: Annulment of Decisions to Dismiss Employees or Local Council Officials

- **Authority:** Administrative Court
- **Year:** 2023-2024
- **Subject:** Annulment of dismissal or removal decisions against employees and officials in the provinces of Diyala, Kirkuk, and Salah al-Din that were issued without proper investigation or legal basis.

Legal Analysis:

- **Reason:** The dismissal decisions were issued without forming an investigation committee, lack of the right to defense, and denial of the employee's opportunity to object or appeal.
- **Legal Basis:** Violation of Articles (10) and (14) of the State Employees Discipline Law No. 14 of 1991 (amended), and Article (19/5) of the Constitution guaranteeing the right to defense.

Outcome:

The decision highly maintains the annulment of any administrative decision that maximally affects the legal status of an employee unless it is issued following procedures that noticeably ensure investigation, defense, and the right to appeal.

General Conclusion from the Four Decisions:

1. Procedural legality is undoubtedly a core condition for the validity of an administrative decision; its absence undoubtedly renders the decision subject to judicial annulment.
2. The right to appeal is unquestionably a constitutional guarantee that noticeably cannot be definitely restricted by administrative decisions, even if issued by the highest authorities.
3. Judicial oversight is effective over all authorities, including provincial councils and the highest executive powers.
4. Legal guarantees such as the right to defense, investigation, and official publication have become decisive criteria for accepting or rejecting administrative decisions.

3.2 Comparative Study of Judicial Systems in Iraq, Egypt, and Jordan: An Academic Overview

The judiciary is undisputedly a fundamental mainstay in establishing the rule of law and institutions, noticeably ensuring legal supremacy and the protection of rights and freedoms. Although judicial systems maximally vary in their particulars among countries, they unequivocally share core principles like judicial independence and impartiality. This study seemingly provides an academic comparison of the judicial systems in Iraq, Egypt, and Jordan, meticulously focusing on the constitutional and legal texts governing them.

Principle of Judicial Independence

Judiciary's independence is undoubtedly and noticeably the cornerstone of any modern judicial system, substantially ensuring that judges issue their rulings without any influence or pressure from other authorities.

- **Iraq:** The 2005 Iraqi Constitution clearly enshrines the principle of judicial independence.

- Article 87 of the Iraqi Constitution: *"The judiciary is independent, and it is exercised by courts of various types and levels, issuing their rulings in accordance with the law."*
- Article 88 of the Iraqi Constitution: *"Judges are independent; no authority has power over them in their judgments except the law, and no authority may intervene in the judiciary or justice affairs."*

This clearly illustrates the complete separation of powers and prevents any interference from the legislative and executive branches in judicial work.

- **Egypt:** The Egyptian Constitution provides for judicial independence and prohibits any interference in its affairs.
- Article 184 of the 2014 Egyptian Constitution: *"The judiciary is independent, exercised by courts of various types and levels, issuing rulings according to the law. The law defines its jurisdictions."*
- Article 185 of the 2014 Egyptian Constitution: *"Judges are independent; no authority has power over them in their judgments except the law, and no authority may intervene in lawsuits or justice affairs."*

These articles emphasize the judge's personal independence and that they are subject only to the law.

- **Jordan:** The Jordanian Constitution and the Judicial Independence Law stress the independence of the judiciary.
- Article 97 of the Jordanian Constitution: *"Judges are independent; no authority has power over them in their judgments except the law."*
- Judicial Independence Law No. 29 of 2014: This law details the guarantees that ensure judicial independence, including protection of judges from dismissal except by decisions from the Judicial Council and royal decree.

Structure of Judicial Systems

The judicial systems in these countries share similarities, particularly in having multiple levels of courts to ensure justice and correct possible errors.

- **Iraq:** The federal judiciary consists of the Supreme Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution, the Judicial Oversight Authority, and other federal courts.

- **Federal Supreme Court:** Responsible for reviewing the constitutionality of laws, interpreting constitutional texts, and resolving disputes between local governments and the federal government.
- **Supreme Judicial Council:** Manages judicial affairs and supervises the federal judiciary; it nominates presidents and members of the highest courts, the public prosecution, and judicial oversight bodies.
- **Courts of Cassation, Appeal, and First Instance:** Represent the different levels of litigation (first instance, appeal, cassation).
- **Egypt:** The Egyptian judicial system is characterized by multiple independent judicial bodies and authorities.
- **Supreme Constitutional Court:** An independent judicial body responsible for judicial review of the constitutionality of laws and regulations.
- **Ordinary Judiciary Courts:** Comprising the Court of Cassation (the highest ordinary court), courts of appeal, primary courts, and minor courts, in addition to the Public Prosecution as part of the judiciary.
- **State Council:** Handles administrative disputes and includes the Supreme Administrative Court, the Administrative Judiciary Court, administrative courts, and disciplinary courts.
- **Other Specialized Judicial Bodies:** Such as the military judiciary and the Administrative Prosecution Authority.

Jordan:

The Jordanian judicial system is divided into three main types of courts:

1. **Regular Courts:** Exercise judicial authority over all persons in civil and criminal matters. The regular courts are hierarchical, starting from magistrate and first instance courts, then appellate courts, up to the Court of Cassation, which is the highest judicial authority.
2. **Religious Courts:** These include Sharia courts (for Muslim personal status matters) and ecclesiastical courts (for Christian personal status matters), specializing in personal status issues.
3. **Special Courts:** Established by special laws and competent in specific matters, such as the Higher Administrative Court, which handles appeals against administrative decisions.

4. **Judicial Council:** Responsible for managing the affairs of regular judges; its members are appointed by royal decree.

3. Appointment of Judges and Their Guarantees

The method of appointing judges and the guarantees granted to them are crucial factors in strengthening their independence and integrity.

Iraq:

- **Article 87 of the Iraqi Constitution:** “The federal judiciary consists of the Supreme Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution, the Judicial Oversight Authority, and other federal courts organized according to the law.”
- The Supreme Judicial Council nominates the presidents and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the Head of the Judicial Oversight Authority. Their nominations are submitted to the Council of Representatives for approval. This procedure ensures a form of balance among the branches of power.
- Judges are prohibited from combining judicial duties with legislative or executive positions, or any other job, affiliation with any political party or organization, or engaging in any political activity. These guarantees aim to preserve the neutrality of the judge.

Egypt:

- Judges in Egypt are appointed according to the Judicial Authority Law No. 46 of 1972 (and its amendments).
- Judges are appointed from among graduates of law faculties after completing a training period in the Public Prosecution or as judicial assistants.
- Judges enjoy immunity from dismissal except by disciplinary decisions according to the law, which is a fundamental guarantee of their independence. Their transfers and promotions are also subject to specific rules and conditions designed to prevent administrative interference.

- The Court of Cassation is competent to decide all requests submitted by judges and public prosecutors to annul presidential and ministerial decisions related to their affairs.

Jordan:

- Article 98 of the Jordanian Constitution: “Judges of the regular and religious courts are appointed and dismissed by royal decree according to the provisions of the laws.”
- The Judiciary Independence Law No. 29 of 2014 specifies the conditions for appointing judges, including that they must be Jordanian nationals, at least 30 years old, holders of a first university degree in law, and of good conduct and reputation.
- Judges are appointed, promoted, and retired by the Judicial Council, which manages all affairs related to regular judges and enhances their independence from the executive authority.
- A judge is prohibited from hearing any dispute in which they or their relatives up to the fourth degree have an interest. A judge cannot be arrested or detained except with permission from the Judicial Council (except in cases of flagrante delicto, where the council must be notified within 24 hours). These procedures provide significant protection for judges.

Impact of Civil Service Laws (Article 62 in Egypt and Article 145 in Jordan)

As mentioned in the inquiry, the civil service laws in Egypt and Jordan regulate administrative and functional aspects of government employees. Although judges enjoy a special status that guarantees their independence from other state employees, some administrative aspects related to their career progression (such as salaries, leaves, retirement) may fall under the general framework of civil service laws but are always detailed by special laws that ensure their judicial independence is not compromised.

- In the Egyptian case, Article 62 of the Civil Service Law No. 81 of 2016 likely concerns promotions, secondments, and transfers for civil employees in general. While judges may be subject to some general provisions related to salaries or leaves, their promotions, transfers, and secondments are governed by the Judicial Authority Law, which ensures these procedures are supervised by the Supreme

Judicial Council to prevent any interference that might affect a judge's independence.

- For Jordan, Article 145 of the Civil Service System No. 9 of 2020 is similar in nature, regulating the administrative aspects of civil employees. However, the Jordanian Judiciary Independence Law exclusively governs matters related to the appointment, promotion, transfer, and accountability of regular judges, and these provisions are the decisive ones in guaranteeing their independence.

The fundamental goal of the judicial authority laws in these countries is to insulate judges from external influences and ensure their ability to apply the law impartially. While civil service laws regulate the general administrative aspects of public service, they do not affect the core independence of the judiciary or the jurisdiction of the courts. Iraq, Egypt, and Jordan all seek, through their constitutions and specialized laws, to build an independent and impartial judicial system that serves justice and the rule of law.

3. Observations and Suggestions for Developing the Disciplinary System in Iraq: An Analytical Study

The disciplinary system in any country is a fundamental pillar to ensure job discipline and achieve integrity and efficiency in the performance of the state's administrative apparatus. Through it, violations are held accountable, and values of transparency and accountability are promoted. In Iraq, despite the existence of a legal framework represented by the State Employees Discipline Law No. (14) of 1991, practical application reveals challenges and weaknesses that call for review and development to ensure a more effective and just disciplinary system.

A. Legal and Regulatory Observations on the Current Disciplinary System

A detailed examination of the disciplinary system in Iraq reveals numerous observations that negatively affect its efficiency and fairness. These can seemingly be classified into key points:

- **Weak independence of procedural guarantees and its impact on the right of defense:**

Although the Iraqi State Employees Discipline Law grants the employee the right to plead and raise objections to the violations ascribed to them, there is a clear lack of emphasis on a fundamental right of defense: the right to assistance by a lawyer or legal advisor during the stages of administrative investigation. The absence of an explicit legal text guaranteeing this right weakens the strength of the defense and reduces the effectiveness of disciplinary procedures. Employees often noticeably lack sufficient legal knowledge to effectively face the accusations against them, understand complex legal procedures, or effectively formulate their defense. This deficiency may probably lead to unbalanced investigations, where the investigator (often an administrative employee rather than a legal specialist) has broad discretionary authority without adequate legal oversight over the soundness of procedures. This situation seemingly conflicts with the fundamental principles of fair trial that require equality of opportunity between the parties, even in the context of administrative investigations.

- **Lack of clear and fixed timeframes for grievances:**

One of the most conspicuous structural drawbacks in the Iraqi disciplinary system is noticeably the absence of binding and clear deadlines for effectively resolving administrative investigations or responding to grievances submitted by employees. This lack of temporal limits efficaciously provides wide room for abusing power or deliberate and unjustified delays in adjudicating disciplinary cases. Such delays can possibly cause severe harm to the employee morally and professionally, and may probably preserve the employee under suspicion for prolonged periods, negatively affecting their career path and reputation. The absence of a time limit also noticeably weakens the efficiency of the system, reduces its ability to effectively achieve general and specific deterrence, and can undoubtedly be interpreted as a mechanism for pressure or evasion of accountability in some cases.

- **Contradictory disparities in discretionary authority and lack of effective controls:**

Many international reports, such as those issued by the United Nations Development Programme (UNDP), indicate that the abundance of powers granted to administrative bodies within the Iraqi disciplinary system, without effective and specific controls, fosters environments of corruption, including bribery and favoritism within the civil service.

Ambiguity in the criteria for making disciplinary decisions, or excessive reliance on the discretionary authority of the investigator or senior administrative body, may lead to arbitrary or biased decisions. This inconsistency in applying penalties to similar cases, or the use of disciplinary authority as a tool for political or personal purge, undermines trust in the disciplinary system and impedes efforts to build an efficient and honest administrative system.

B. Legal and Developmental Suggestions for Developing the Disciplinary System

Based on the above observations and according to international best practices, a set of legal and developmental suggestions can be presented to enhance justice, efficiency, and transparency in the Iraqi disciplinary system:

Guaranteeing the right to legal representation as a fundamental pillar of defense:

It is very necessary to include clear and explicit legal wording in the State Employees' Disciplinary Law or in the executive regulations related to administrative investigations. This amendment would guarantee the employee the absolute right to be accompanied by a lawyer or legal advisor during all stages of the administrative investigation. This amendment would address any issues arising from internal influences or potential administrative bias, and provide the employee with specialized legal support to protect their rights and ensure an effective defense based on sound legal principles. It would also contribute to making the investigation process itself more professional and transparent.

Setting mandatory time limits for investigations and grievances to ensure speed and justice:

To eliminate the problem of unjustified delays, administrative bodies should be required to complete disciplinary investigations and respond to administrative complaints within specified and short deadlines. For example, the maximum period for filing a disciplinary complaint should be 30 days from the date of the violation, and 60 days to complete the investigation and issue a disciplinary or administrative decision. There should also be a maximum period for responding to complaints, such as 30 days from the date the complaint is submitted. These deadlines would promote the principle of speedy justice, reduce the possibility of abusing delays, and contribute to more efficient completion of procedures.

Enhancing judicial oversight through a two-tier administrative court system:

Drawing inspiration from advanced judicial systems like the Jordanian system, which includes a primary administrative court and an administrative appeal process, it is proposed to strengthen the role of administrative judiciary in Iraq by developing its structure to include two judicial levels (e.g., an Administrative Judiciary Court and a Higher Administrative Court or an Administrative Court of Appeal). This amendment would enhance effective judicial oversight of disciplinary decisions and provide an additional safeguard for employees to resort to the judiciary to challenge arbitrary or unlawful decisions. It would undoubtedly also play part in greater legal reliability of issued decisions and reduce the chances of deviation in the application of the law.

Launching a "Fast-Track" civil service program to enhance efficiency and integrity:

According to recommendations out of prestigious research centers like Chatham House, it is seemingly proposed that the government establish and implement intensive, fast-track training programs for young talents, requiring them to effectively obtain accredited training certificates as a prerequisite for promotion or assuming leadership positions. This program, which could be called the "Fast-Track Program for Competent Employees," will undoubtedly contribute to boosting overall employee performance, effectively instilling values of integrity and professionalism, and enhancing institutional efficiency by employing new, qualified, and well-trained staff. Instead of relying solely on seniority or other factors, this approach efficaciously links promotion to actual performance and continuous training.

Activating a comprehensive and centralized institutional oversight system for transparency:

It is seemingly proposed to highly establish an integrated central database to precisely track all rulings of disciplinary investigations and penalties issued against civil service employees, to effectively ensure maximum clarity and accountability. Integrity bodies and relevant courts (like the public prosecution and administrative courts) should undoubtedly have direct access to this database. This system will unquestionably enable verification of data accuracy, rapid retrieval of information when needed, and monitoring of any signs of misuse or corruption. It will also assist the Integrity Commission in better performing its

oversight role, make disciplinary procedures more transparent, and provide a powerful tool for citizens to government anti-corruption.

Conclusion

In conclusion, this profound study of the disciplinary system for public employees in Iraq and its guarantees effectively and clearly unveils that administrative discipline is a fundamental tool to meticulously regulate the behavior of public employees and effectively ensure the smooth and effective provision of public services. A careful examination of the law and courts noticeably reveals that the Iraqi system still lacks numerous required guarantees needed to effectively achieve a fair balance between administrative authority and employee rights, despite the existence of laws regulating disciplinary accountability.

Conclusions

- **Lack of sufficient guarantees during disciplinary investigations:** It was noticeably observed that the administration sometimes seemingly enjoys wide authority during disciplinary investigations, and there is not always effective oversight to control this power. This information gap can probably lead to biased choices or abuses against employees.
- **Unclear and generalized disciplinary provisions:** Although Law No. 14 of 1991 concerning disciplining state employees contains numerous disciplinary rules, many of such rules are noticeably unclear or too general in their wording. This lack of clarity undoubtedly allows for varying interpretations and unrestricted administrative discretion, which significantly harms the principle of legal certainty.
- **Limited impact of judicial review:** There is judicial review of disciplinary decisions, but its impact is seemingly limited in some cases, especially regarding minor penalties that cannot be appealed in court. This makes it difficult for the judiciary to maximally protect employees' rights from injustice or government errors.
- **Employees lack sufficient knowledge of the law:** Some employees probably do not have noticeable adequate knowledge about their rights and responsibilities during disciplinary procedures. This lack of understanding makes individuals vulnerable to rights violations without being able to properly defend themselves, highlighting the importance of comprehensive educational programs.

- **A discrepancy exists among the administration's right to maintain order and ensure work completion and the employee's right to fair treatment and appropriate guarantees:** In some cases, this divergence may probably lead to unfair use of disciplinary authority, which can undoubtedly erode public trust in the administration.

Recommendations

- Amend Law No. 14 of 1991, which effectively governs the discipline of state employees. It is too crucial to highly make significant changes to this law to ensure that:
- Penalties and their levels are noticeably defined to reduce confusion and ensure consistent application.
- More disciplinary sanctions can undoubtedly be appealed before the administrative judiciary, granting employees the right to seemingly resort to the court whenever they believe their rights have been violated.
- A comprehensive and clear explanation of disciplinary procedures, focusing on the impartiality and independence of investigation committees from decision-makers.
- **Improve procedural protections for employees:** It is imperative to effectively focus on enhancing procedural protections granted to employees during disciplinary procedures. Examples include:
 - The employee undoubtedly has the right to meticulously review the entire investigation file and all documents related to the charges against them.
 - The right to legal representation or to be assisted by a lawyer from the start of the investigation, ensuring a strong defense and a fair hearing.
 - Granting employees the ability to highly respond to charges, submit facts and records supporting their claims, and summon witnesses whose testimonies are important.
- **Expand the administrative judiciary's authority in review:** It is vital to effectively grant the administrative judiciary greater authority to meticulously review all types of disciplinary rulings, even the minor ones. Although these penalties may probably seem small, they can undoubtedly accumulate to significantly and negatively affect the employee's career and future.

- **Organize specialized training courses:** Employees in legal and human resources departments should noticeably receive intensive and specialized training. The goal of these courses should unquestionably be to seamlessly help them better understand how to follow disciplinary procedures, protect employee rights, and apply disciplinary laws in the best possible way.
- **Initiate regular awareness programs:** It is highly recommended that all ministries and government departments seemingly start regular and ongoing awareness programs. These programs should undoubtedly educate employees about their rights and responsibilities regarding discipline, as well as how to file complaints and legally challenge penalties. This will unquestionably help foster a better legal culture and maximally protect employees from potential violations.
- **Final thoughts: A plan for a fair disciplinary system:** Disciplining public employees is not merely a way to seemingly punish bad behavior or intimidate people; it is also a way to maximally protect the public interest and ensure the government is effectively managed fairly and effectively. The government wields great power in disciplinary matters, but protecting employees from unfair treatment is a fundamental part of any just legal system that supports the rule of law and builds public trust in state institutions. Therefore, establishing a fair and successful disciplinary system, we undoubtedly and noticeably need to look meticulously beyond simply following the law and see the bigger picture, which includes:
 - **Reconsidering the concept of administrative punishment:** This philosophy should seemingly shift from merely punishing to also aiming at reforming the employee's behavior and performance rather than just punishing or dismissing them.
 - **Restructuring disciplinary procedures:** The goal of restructuring should noticeably be for meticulously making them fairer, clearer, and more objective, focusing on principles of natural justice and guarantees of a fair hearing.
 - **The Public Employee as a Partner in Building a Modern Government:** Employees should non-skeptically not be viewed merely as tools for executive managers, but noticeably as core partners in the process of establishing and improving modern administration. This noticeably means providing them adequately with the legal and professional tools they need and ensuring they work in a supportive environment. In this perspective, the Iraqi legislator and other legislative and oversight bodies are called upon to reconsider the laws governing

administrative discipline and to develop new legislation. This redrafting should undoubtedly align with contemporary international standards of administrative justice, drawing on lessons learned from other regions and countries in this field, while also taking into account the unique challenges and characteristics of the Iraqi administrative system.

References

- Ahmad, M. H. N. (2023). Rights and guarantees of the public employee in applying disciplinary penalties. *Al-Fath Journal for Educational and Psychological Research*, 11(2).
- Al-Abdullah, B. Y. (2023). *Disciplinary guarantees for the public employee in the State Employees Discipline Law: A comparative study* (Master's thesis). Middle East University, Jordan.
- Al-Ouji, F. S. M. (2024). Administrative sanctions: A comparative analytical study. *Journal of Humanities and Natural Sciences*, 5(5), 267–290.
- Al-Rustum, T. J. Y. (2024). Reflections of exceptional circumstances on annulment and compensation claims. *Journal of Humanities and Natural Sciences*, 5(6), 522–535.
- Hameed, R. A., & Abdullah, A. A. (2023). Jurisdiction of administrative judiciary in settling nationality disputes in Iraq. *College of Law and Political Science*.
- Hussein, K. A. (2025). Impartiality as a guarantee for the public employee in administrative investigation. *Tikrit University Journal for Rights*, 9(3).
- Hussein, S., & Hamood, H. M. (2023). The authority to discipline the public employee between the administration and the judiciary. *Indonesian Journal of Law and Economics Review*, 18(3).

- Khayran, N. I. (2024). Conditions for constitutional lawsuits before the Iraqi Federal Supreme Court. *Journal of Humanities and Natural Sciences*, 5(7), 242–258.
- Ne'mah, A. M. (2025). The compatibility of discretionary authority with the principle of legality. *Ashur Legal and Political Journal*.
- Saad, G., & Al-Amiri, M. A. F. (2024). Criminal protection of public tenders and the role of the public prosecution in filing complaints. *Journal of Humanities and Natural Sciences*, 5(8), 533–549.
- State Employees Discipline Law No. 14 of 1991 (amended).
- State Employees Discipline Law No. 14 of 1991 (amended). Article 8: Types of disciplinary penalties (reprimand, warning, salary cut, admonition, salary reduction, demotion, dismissal, removal) and requirements.
- State Employees Discipline Law No. 14 of 1991 (amended). Article 16.
- State Employees Discipline Law No. 14 of 1991. Article 7: Competence of forming investigation and disciplinary trial committees.
- State Employees Discipline Law No. 14 of 1991. Articles 10 & 11: Investigation procedures and powers of competent authorities to impose penalties.
- State Employees Discipline Law No. 14 of 1991. Articles 11–14: Competences of various authorities (head of department, minister, council) in imposing penalties.
- Wadi, A. R. (2025). Discretionary administrative decisions and their subjection to judicial review. *Journal of Shara'i*, 5(2). University of Wasit, College of Basic Education.

Referenced Laws and Articles

- Article 16: State Employees Discipline Law No. 14 of 1991
- Article 7: Competence to form investigation and disciplinary committees
- Article 8: Types and requirements of disciplinary penalties

- Articles 10 & 11: Investigation procedures and powers of penalty authorities
- Articles 11–14: Competences of various authorities in imposing penalties
- Articles 184, 185 of the Egyptian Constitution (2014)
- Articles 87, 88 of the Iraqi Constitution
- Judicial Independence Law No. 29 of 2014, Jordan
- State Employees Discipline Law No. 14 of 1991 (amended)