

Examining the Jurisdiction of Higher Administrative Authorities in Iran and Iraq's Administrative Proceedings with Consideration of Administrative Justice

1. Tamarah Mohammed Abbas Abbas[✉]: PhD Student in Public Law, Department of Public Law, Institute of Governance and Administrative System, Isf.C., Islamic Azad University, Isfahan, Iran

2. Mohammad Sharif Shahi^{✉*}: Assistant Professor, Department of Public Law, Institute of Governance and Administrative System, Isf.C., Islamic Azad University, Isfahan, Iran

3. Jaafar Naser Abdulridha Alsoltani[✉]: Al-Basrah University, Faculty of Law, Iraq

4. Leila Raisi[✉]: Professor, Department of Int Law, Institute of Governance and Administrative System, Isf.C., Islamic Azad University, Isfahan, Iran

*Correspondence: dr.shahi@iau.ac.ir

Abstract

The administrative apparatus, as the mechanism through which the state fulfills its responsibilities—including the provision of public services—is a fundamental subject in legal and administrative studies. The realization of governmental objectives requires a healthy and efficient administrative system. In addition to the need for qualified and honest personnel, the integrity and efficiency of administration also depend on the existence of effective guarantees and enforcement mechanisms. The principles of administrative hierarchy and administrative justice are among the guarantees embedded in legal systems to ensure administrative efficiency and integrity. According to the principle of administrative hierarchy, a higher-ranking authority supervises the performance of subordinate administrative staff to ensure that administrative actions are executed within the legal framework and scope of authority. Based on the principle of administrative justice, legal safeguards are envisioned to adopt, amend, revise, or annul administrative actions in pursuit of the public good and legal compliance. One of the intersections of the principles of hierarchy and administrative justice is the domain of administrative adjudication. This article seeks to examine, with due regard to the principle of administrative justice, the jurisdiction of higher administrative authorities to impose disciplinary measures on their subordinates within the administrative legal systems of Iran and Iraq, through a descriptive and analytical study of the governing laws in both countries. The adoption of administrative law frameworks derived from Continental European systems—particularly France—has led to similarities in the authority of higher administrative officials to discipline offending employees in both countries. However, in contrast to France, the guarantees of administrative justice in this type of adjudication are questionable due to lack of transparency, challenges in the right to defense, and discrimination. Furthermore, the existence of the Muhasaba system in Iraq, which enables political parties and movements to exert influence over the state and its functions, has introduced greater challenges for Iraq's system of administrative adjudication and justice.

Keywords: Administrative adjudication, administrative violations, hierarchy, administrative justice.

Received: 11 May 2025

Revised: 24 June 2025

Accepted: 28 June 2025

Published: 30 June 2025



Copyright: © 2025 by the authors. Published under the terms and conditions of Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) License.

Citation: Mohammed Abbas Abbas, T., Sharif Shahi, M., Abdulridha Alsoltani, J. N., & Raisi, L. (2025). Examining the Jurisdiction of Higher Administrative Authorities in Iran and Iraq's Administrative Proceedings with Consideration of Administrative Justice. *Legal Studies in Digital Age*, 4(2), 1-10.

1. Introduction

The administrative apparatus refers to the structures and processes through which an organization or government manages its affairs, including decision-making, resource allocation, and the maintenance of order. The administrative apparatus is, in one sense, a component of the state and is sometimes erroneously equated with the state itself (a fallacy of part for the whole). In the process of modern state-building and the transition from a sovereign individual to the legal personality of the state apparatus, the establishment of an administrative system—or bureaucracy—constitutes one of the essential stages.

The proper execution of governmental functions depends on an organization equipped with a sound administrative system. From both a conceptual and functional standpoint, administrative and organizational health provides significant scientific advantages for analyzing the efficiency and effectiveness of the administrative system. When the necessary and sufficient conditions are in place within the administrative framework, and administrative integrity is maintained, it becomes possible to contribute to meeting societal needs and fostering social prosperity through the provision of sound and valuable goods and services. Various factors influence the integrity of an administrative system; some relate to its structure, while others concern the prevention of and fight against administrative corruption. Attention to elements such as administrative structure and organizational culture is essential to achieving administrative effectiveness and efficiency.

Administrative health refers to a condition in which all components of an organization possess the capability to effectively meet its goals, promptly identify deviations from administrative and legal norms, and implement timely and appropriate corrective measures. Administrative organizations are not always in a state of health, as such health depends on the organization's capacity for survival, its adaptability to its environment, and its ability to enhance its flexibility (Modir Rahmati, 2023). Key characteristics of a healthy organization include “reliability in information exchange,” “flexibility and creativity to make necessary changes based on acquired information,” and “commitment to organizational objectives.” Conversely, administrative dysfunction represents the opposite of administrative health; the absence of any indicator of administrative health may be regarded as a characteristic of dysfunction.

The administrative systems of countries like Iraq and Iran—similar to many developing nations—face numerous challenges. Among the most pressing are how to address administrative violations in an efficient yet fair manner, and how to combat administrative corruption effectively.

The concept of fair trial has traditionally been oriented toward the rights of the accused. Extending the principles of fair trial to quasi-judicial proceedings—including those that deal with administrative violations and apply to the rights of the violator—is a necessary requirement of administrative justice. Merely enumerating the rights of the accused and providing guarantees for their protection is insufficient. There is a clear need to reform institutional structures and develop appropriate mechanisms to ensure that the principles of administrative adjudication are properly observed. Administrative bodies, especially administrative disciplinary boards, must apply internationally recognized standards concerning the rights of the accused with utmost precision and care throughout all stages of adjudication.

Since fair trial is recognized as a general principle of both domestic and international law, upholding the rights of the accused should be a defining feature of justice. In today's democratic systems, there is a concerted effort to apply the principles of fair trial in administrative bodies, including disciplinary boards overseeing public servants. These principles are discussed under headings such as the prohibition of double jeopardy for employees, decriminalization of certain administrative violations, respect for human dignity of the violator or accused, the requirement for reasoned and documented rulings by administrative courts, the right to appeal such rulings, and the principles of impartiality, independence, and the absence of conflicts of interest or discrimination by adjudicators.

This article employs a descriptive-analytical method to examine the role of higher-ranking authorities in government and administrative institutions in addressing violations in the legal systems of Iran and Iraq, with due consideration given to the requirements of administrative justice.

2. Administrative Violations and the Exercise of Hierarchical Order

Éric Weil considered the administrative apparatus a core component of the modern state. According to him, the modern state must operate as a rational and technical system, using its administrative organization to control governance. This organization functions as the central apparatus for gathering information and implementing decisions that enable the government to manage society, which is viewed as the domain of action (Ozer, 2007). Every government, regardless of its ideological orientation, requires an administrative apparatus and civil servants to function.

The administrative apparatus is subordinate (i.e., it is under the authority of political figures and decisions) and performs duties it is not autonomously entitled to determine. It lacks independent decision-making power unless the sovereign (i.e., the legislator) delegates such authority within legally defined limits.

In its general sense, the administrative apparatus can be assessed by two criteria: the organizational criterion (a set of institutions) and the material criterion (a set of activities). From the organizational standpoint, the administration is equated with the executive branch, and institutions outside the executive are not considered part of the administrative apparatus. In terms of the material criterion, three approaches are evident. In the negative approach, administration encompasses all activities that cannot be classified as legislative or judicial. In the positive approach, administration refers to a set of actions aimed at implementing decisions made by the legislative and judicial branches. The integrative approach sees the administrative apparatus as a system that, while distinct from the legislature and judiciary, possesses its own unique characteristics (Rose & Pfeiffer, 2021).

Decisions made by administrative staff within their legal authority are binding upon individuals—noncompliance may be subject to prosecution and punishment (Tabatabai Motameni, 1999). Conversely, if such decisions exceed legal authority or disregard substantive and procedural requirements, they may result in liability for both the administration and the civil servant involved.

When administrative personnel fail in their legal duties through negligence or misconduct, an error or administrative violation occurs. An administrative violation specifically refers to acts or omissions by a public servant outside the bounds of legality.

The purpose of articulating the concept of administrative violations in administrative law is to guarantee the rule of law in governance and to enhance administrative efficiency, effectiveness, and productivity. At times, administrative violations also represent aspects of corruption and abuse of public power. One of the most widely recognized standards for administrative behavior is that officials must act in the public interest rather than for personal gain. This norm complements the definition by Transparency International, which defines corruption as the abuse of public power for private benefit (Rose & Pfeiffer, 2021). Moreover, administrative violations may arise not from direct misconduct but from certain contextual situations—such as conflicts of interest. In some countries, conflict-of-interest laws establish formal standards to distinguish between public and private interests. A conflict of interest arises when officials are involved in decision-making where personal political or financial interests may lead to decisions that do not serve the public good (Rose & Pfeiffer, 2021).

One of the key mechanisms for ensuring the efficiency of the administrative system is its organization into a hierarchical structure. In administrative and legal sciences, the relationship of command and obedience is referred to as administrative hierarchy, a structured form of social relations with military systems as the classic example (Abulhamd, 2000).

Administrative hierarchy is one of the fundamental principles of administrative systems that contributes to the structured and effective management of governmental activities. In French administrative law and that of other European countries, it pertains not only to the organizational structure but also to decision-making and the distribution of responsibilities. Administrative hierarchy involves a clear, orderly structure in which each position or administrative unit has specified duties and is accountable to higher authorities. The oversight and authority exercised by higher officials over subordinates do not necessarily require specific legal texts; rather, the nature of the relationship inherently mandates subordination (Lotfi, 2023; Modir Rahmati, 2023).

Although initially applied to rulers and their agents, the principle of hierarchical order has become a governing norm in administrative law, applying to administrative organizations as well. That is, the central administration oversees the legal actions and operations of decentralized units. For example, provincial general departments are subordinate to their respective

ministries, and the central government, as the apex of the administrative system, maintains oversight and hierarchical control over all its units. This hierarchical authority, aimed at ensuring the supremacy of political officials over the executive branch, is reflected at the top level by the President, the Cabinet, and the ministers (Abulhamd, 2000; Kazemi et al., 2022).

Administrative hierarchy defines a specific order within which officials and units operate in a state organization, usually arranged vertically based on the degree of authority. Higher officials have broader responsibilities and the power to supervise lower-level decisions. Under hierarchical control systems, lawmakers grant superior officials authority to maintain order and govern the administrative apparatus as they see fit. This authority is realized when, first, subordinates are obligated to comply with orders from superiors (a duty to maintain discipline), and second, when superiors have the power to annul, correct, or discipline subordinates for noncompliance (Tabatabai Motameni, 1999).

Administrative hierarchy holds multifaceted importance for administrative systems. It clearly defines each official's duties and accountability, thereby enhancing transparency and reducing corruption. A well-structured system enables quicker, more efficient decision-making, minimizes overlap in responsibilities, and allows each official to focus on their tasks, improving overall performance.

Despite its many advantages, administrative hierarchy is not without challenges. One main critique is that it can foster bureaucracy, characterized by slow and complex procedures that reduce administrative efficiency.

The hierarchical control system includes the following powers:

- The authority to issue orders and provide training to subordinates, either through individual directives or circulars;
- The authority to annul, revise, modify, or suspend illegal decisions or actions by subordinates;
- The authority to suspend subordinate decisions pending superior approval;
- The disciplinary authority of superiors over their subordinates (Tabatabai Motameni, 1999).

This last authority refers specifically to the superior's power to impose penalties and ensure accountability for subordinate violations. In other words, within a hierarchical control system, the ability of higher administrative officials to discipline offending employees serves as one of the primary measures for addressing administrative violations. Therefore, based on the principle of administrative hierarchy, the superior monitors subordinate performance and manages the system through control mechanisms such as reward and punishment. One fundamental tool for senior administrative managers in overseeing administration is the establishment of a system for addressing administrative violations.

With an effective system for handling administrative violations, organizations are compelled to uphold high ethical and professional standards. This contributes to enhanced organizational efficiency and effectiveness. Studies indicate that organizations with strong oversight systems generally perform better in service delivery (OECD, 2019).

Administrative violations vary across legal systems and may be categorized in several ways, including based on their nature or in terms of how society perceives administrative corruption.

2.1. Administrative Violations with an Administrative Nature

The most significant category of administrative violations consists of those with an administrative nature. In certain legal systems, administrative violations are confined exclusively to acts of negligence or misconduct—either through action or omission—that possess an inherently administrative character. In such cases, the violation results from the breach of statutory duties, acting beyond the scope of authority, or infringing administrative laws and regulations.

The following are primarily administrative in nature:

- Bribery
- Embezzlement
- Illegal appropriation of property
- Fraud and deception
- Influence peddling and favoritism
- Abandoning post
- Conduct contrary to administrative decorum
- Disclosure of administrative secrets
- Destruction of administrative documents and records, etc.

2.2. *Administrative Violations with a Non-Administrative Nature*

In other legal systems, some types of administrative violations do not necessarily relate to the function, mission, or performance of the administrative apparatus. Instead, due to specific—sometimes ideological—necessities, the legislator defines certain behaviors or actions of a non-administrative nature as instances of administrative violations. Examples include:

- Religious dress codes (in secular systems)
- Unveiling or non-compliance with religious dress (in religious systems)
- Non-adherence to ideological or religious rituals
- Alcohol addiction
- Drug addiction
- Membership in or support for specific ideologies or political parties
- Marriage to foreign nationals
- Acquisition of foreign citizenship or residence abroad, etc.

2.3. *Administrative Violations Based on Society's Reactive Approach to Administrative Corruption*

Administrative violations can also be viewed from the perspective of societal and elite reactions. Based on this reactive approach, violations and administrative corruption may be classified as follows:

- **Black administrative violation:** An act widely detested by both the masses and political elites, where the perpetrator is expected to be punished.
- **Gray administrative violation:** An act primarily detested by elites but met with public indifference.
- **White administrative violation:** An act that formally violates the law but is not considered seriously harmful or significant by most political elites or ordinary citizens, and thus does not warrant punishment (Sajad, 2023).

3. *Administrative Justice and the System of Addressing Administrative Violations*

Administrative justice is a vital and fundamental concept in any society, referring to the fair and equal enforcement of laws and regulations in administrative and governmental affairs. This concept is rooted in the principles of justice, transparency, accountability, rule of law, and citizenship rights.

The Courts and Tribunals (Judiciary and Functions of Administration) Act of 2017 in the United Kingdom defines the system of administrative justice as: "*the entire system through which decisions of an administrative or executive nature are made about specific individuals, including (a) the procedures for making these decisions; (b) the law under which these decisions are made; and (c) the mechanisms for resolving disputes and complaints concerning these decisions.*" This definition encompasses substantive rules, procedural frameworks, decision-making protocols, and institutional mechanisms (Rostami & Ranjbar, 2014).

The legal model of administrative justice is based on the possibility of judicial review and the legal oversight of administrative actions by courts. In this regard, the use of principles such as *natural justice* and *participatory adjudication* are increasingly emphasized in many administrative legal systems. Additionally, the administrative model is identified by adherence to the principles of good and fair administration through the application of due process in administrative procedures and the existence of independent administrative dispute resolution bodies (Rostami & Ranjbar, 2014).

Administrative justice requires that the decisions and actions of the government and public organizations be implemented in accordance with fair laws and regulations, without discrimination. It enhances public trust in government and public institutions. Citizens must be confident that government actions are taken for the public good and with respect for their rights. Where administrative justice exists, citizens generally feel their rights and freedoms are safeguarded, and that the government operates in the service of the people and to achieve social justice.

Administrative justice is also regarded as a fundamental pillar of the rule of law, meaning that all individuals—whether high-ranking officials or ordinary citizens—are equally subject to the law, and no one is above it. In a society governed by administrative justice, all individuals must be equally accountable to the law, without discrimination among different social classes. When the law is valid, decision-makers are required to follow it. The *success* of administrative justice depends on the

commitment of decision-makers to the *legality* of their actions, meaning their decisions must align with existing laws (Fazouni & Zare, 2022; Kazemi et al., 2022).

To realize administrative justice, governmental and public institutions must ensure transparency, accountability, and enforceability of the law. There should also be an appropriate environment for complaints and petitions so that citizens can safeguard their rights and seek redress when their rights are violated.

Overall, administrative justice serves as a cornerstone in every society's legal framework, contributing to social justice, national development, and sustainable progress. Achieving a just and dynamic society requires respect for equal rights and the consistent implementation of administrative justice mechanisms by governmental institutions. In European legal systems, administrative justice is often used to describe the constitutional framework of administrative courts that provide *judicial protection* to individuals against public administration, including administrative violations. According to Italy's Constitution, administrative courts are authorized to protect legitimate rights against the administration. The term administrative justice is also used to describe France's *Conseil d'État*, which provides a similar system (Sajad, 2023).

The legal perspective on administrative justice emphasizes fairness and equity for the individual. This approach underscores the necessity of ensuring fairness and effective grievance redress mechanisms. From this viewpoint, considerations of justice naturally take precedence over resource limitations or systemic concerns (Robert & Joe, 2017).

The legal codification of the types of administrative violations, mechanisms for responding to them, and the application of administrative sanctions constitutes a principal approach to achieving administrative justice. Administrative justice requires that while investigating and potentially punishing a public employee for misconduct, due process and the legal rights of the accused employee must also be fully respected.

4. Jurisdiction of Senior Administrative Authorities in Iran and Iraq for Imposing Administrative Sanctions

Addressing and confronting administrative violations is one of the imperatives of administrative governance. This concept has deep historical roots in the civilizational context shared by Iran and Iraq. In historical Islamic-Iranian governance structures, officials titled *Munhi* (reprover) and *Mushrif* (supervisor) were assigned to monitor the behavior of political and administrative officials and to document and report any misconduct, insubordination, or oppression. Such figures are mentioned in historical works and governance treatises like *Tarikh-e Beyhaqi* and *Siyar al-Muluk*.

In his *Siyasatnama* (Book of Government), Khwaja Nizam al-Mulk al-Tusi recommended the following in dealing with administrative violations:

"Whoever among the servants performs a commendable act should be rewarded immediately and reap its benefits. And whoever commits a fault—whether intentionally or negligently—should be penalized proportionately, so that the desire for service increases among the loyal and the fear of punishment deters the disobedient, leading to better governance and discipline in public affairs." (Khwaja Nizam al-Mulk Tusi, 2010).

4.1. Jurisdiction of Higher Administrative Authorities in Administrative Adjudication in Iran

In a centralized administrative system, the superior authority is responsible for overseeing the performance of subordinate staff. This concept, framed as the principle of administrative hierarchy, is one of the well-established doctrines in administrative law. According to this principle, the superior administrative authority is accountable for the functioning of the administrative apparatus and its personnel and, based on this responsibility, holds the power to command, prohibit, amend, annul, or alter the actions of subordinates. One of the critical dimensions of this principle is the supervision of staff conduct and the imposition of disciplinary sanctions for their violations.

In Iran's administrative law system, internal handling of administrative violations is entrusted to *Administrative Disciplinary Boards* (Article 1 of the Law on Handling Administrative Violations). These boards are established within each administrative entity and are part of the administrative structure.

The handling of administrative violations in each government agency is entrusted to *Primary and Appellate Disciplinary Boards* (Article 1). Primary boards are formed within various components of administrative bodies, while appellate boards are

formed at the headquarters of ministries or independent government agencies, as well as other designated organizations listed by cabinet approval, and may include multiple branches if needed (Note 1, Article 1).

The primary jurisdiction over employee violations lies with the *Primary Board*. If the decision of a primary board is subject to appeal, the employee may file a request for review with the *Appellate Board* within 30 days (Article 4).

In addition to these boards, in alignment with the principle of administrative hierarchy, the highest administrative authorities—including the Speaker of the Parliament, ministers, top executives of independent state organizations, and the Mayor of Tehran—may impose disciplinary penalties specified in paragraphs (a)–(d) of Article 9 directly and without referral to the boards. These authorities may delegate powers under paragraphs (a), (b), and (c) to their deputies, and paragraphs (a) and (b) to governors, university presidents, and general directors. When penalties are imposed by such authorities, appellate boards are not permitted to review the same case unless written approval is granted by the original authority (Article 12).

Furthermore, ministers or their authorized deputies, the Speaker of Parliament, the heads of independent state organizations, and other entities named in Note 1 of Article 1, as well as the Mayor of Tehran, governors, university presidents, and the heads of independent higher education and research institutions, may place employees whose cases have been or will be referred to disciplinary boards on suspension for up to three months (Article 13).

Additionally, the Speaker of Parliament, ministers, or top officials of independent state organizations and revolutionary institutions, as well as the Mayor of Tehran, governors of provincial capitals, and university presidents, may dismiss employees who have been absent without valid justification for over two consecutive or four non-consecutive months within a year from their position (Article 17).

4.2. Jurisdiction of Higher Administrative Authorities in Administrative Adjudication in Iraq

Public employment law is a component of Iraq's administrative legal system. Under the existing legal framework, public servants in Iraq are clearly defined and endowed with specific rights and duties. A major portion of employment law focuses on administrative discipline and regulatory responsibility of civil servants. These disciplinary provisions serve to structure and facilitate supervisory mechanisms for higher administrative authorities over their subordinates, in alignment with the principle of administrative hierarchy.

According to the principle of rule of law, hierarchical supervision within the administration, including the identification of violations and imposition of disciplinary actions, must be carried out in accordance with legal standards. The "Law on Discipline of State and Public Sector Employees," enacted in 1991 and amended in 2008, provides the legal basis for internal handling of administrative violations in Iraq.

This disciplinary law is structurally and substantively similar to Iran's Law on Administrative Violations. After offering definitions—including that of government employees—it outlines the law's scope of application, violation types, and applicable administrative sanctions.

According to Article 10 of the Iraqi Disciplinary Law, the *minister* or *head of department* is the competent superior authority empowered to refer violations or even directly impose some disciplinary actions. Under Paragraph 1 of Article 10, the minister or department head is to establish an investigative committee composed of three experienced members, one of whom must possess legal training.

The investigative committee is tasked with conducting a written investigation into alleged violations by the employee, including hearing the employee and witnesses, collecting relevant documents, and compiling all necessary evidence. The committee's report should contain a summary of proceedings, statements, and reasoned recommendations for either concluding the investigation or applying one of the disciplinary measures prescribed by law to the offending employee.

If the committee finds that the violation constitutes a criminal offense committed in an official capacity, it must recommend the employee's referral to a competent court for prosecution.

In addition to the investigative committee and the superior administrative authorities—such as the President, Prime Minister, ministers, and department heads—who are vested with the authority to impose disciplinary measures, the General Disciplinary Council (*Majlis al-Insibat al-'Amm*) acts as the appellate body for objections to decisions issued at the initial stage (Article 15 of the Disciplinary Law).

At the appellate level, the General Disciplinary Council has the authority to affirm, reduce, or annul the disciplinary decisions made at the first instance. Decisions must be communicated to employees within 30 days of issuance, and appeals must be submitted to the council within 30 days of notification.

In handling complaints, the General Disciplinary Council must apply the provisions of the Criminal Procedure Code in a manner consistent with the disciplinary law. All hearings of the council are confidential (Paragraph 5, Article 15 of the Disciplinary Law).

4.3. *Administrative Justice in the Disciplinary Proceedings of Administrative Authorities*

As previously noted, just as administrative justice requires the investigation of administrative violations and the punishment of offending employees, it equally necessitates the guarantee of fairness in proceedings and the protection of the accused employee's rights by the adjudicating authority. This also applies to the imposition of disciplinary sanctions by higher administrative authorities.

A comparative examination of the legal frameworks governing administrative disciplinary proceedings in Iran and Iraq, and the jurisdiction of higher administrative officials from the perspective of administrative justice, reveals the following key points:

- Although the administrative legal systems and, consequently, the disciplinary frameworks of both countries are largely derived from the French administrative law tradition, the procedural safeguards associated with disciplinary sanctions imposed by higher officials are absent in Iran and Iraq. The French Constitutional Council, in its Decision No. 260-89 DC dated July 28, 1989, declared that the Constitution prohibits public authorities from imposing sanctions that may amount to deprivations of liberty. Thus, administrative sanctions must in no way infringe upon constitutional rights and freedoms. Fundamental principles such as the presumption of innocence, legality of crimes and punishments, proportionality, non-retroactivity of harsher penalties, and the right to defense—as derived from Articles 8 and 9 of the 1789 Declaration of the Rights of Man and of the Citizen—also govern administrative proceedings (Ljubljana, 2017).

In other words, under the disciplinary laws of Iran and Iraq, when higher administrative authorities adjudicate subordinate employee violations, the guarantees of fair trial and the basic rights of the accused—including transparency, presumption of innocence, right to defense, and the right to appeal—are not properly provided.

This deficiency is sometimes justified by pointing to the limited authority of these officials and the mild nature of the sanctions they impose. Nevertheless, violating individuals' fundamental rights without granting the right to appeal raises serious concerns from the standpoint of administrative justice.

- Another critical issue regarding administrative justice in Iraq concerns the institutionalization of corruption within its legal system. A key factor that allows corruption to operate systematically in Iraq is the control of the state by political elites across all institutions and levels. The regime change in 2003 led to the gradual domination of provinces by various political parties, culminating in the development of a power-sharing system called *Muhasasa*. This system allocates positions in provincial governments based on the relative power and parliamentary representation of each political party. Parties apply this mechanism across all government institutions, allowing political networks and affiliates to permeate the state apparatus.

Parties then collaborate to facilitate and shield corruption. Consequently, individuals within the administrative system who are not affiliated with political parties or corrupt networks have significantly less power or influence. The *Muhasasa* logic applies not only to lower administrative positions but also to the cabinet, security forces, independent commissions, the judiciary, and beyond. The capture of the state by political elites through *Muhasasa* enables them to consolidate power, engage in corruption without hindrance, and evade accountability (Sajad, 2023). As a result, disciplinary measures by higher administrative authorities may be applied selectively or leniently to those within the system, making administrative justice dependent on individual discretion. This deeply compromises the ability to combat corruption, especially given the weakness of Iraq's anti-corruption institutions and the lack of effective oversight mechanisms (Al-Moulawi et al., 2018).

5. Conclusion

Administrative justice is a fundamental principle in modern legal systems that ensures the protection of individual rights and freedoms during administrative processes. Analyzing the concept of administrative justice in light of the authority derived from the principle of administrative hierarchy—especially concerning the imposition of disciplinary sanctions—demonstrates that such sanctions do not necessarily align with the principles of administrative justice in the legal frameworks of Iran and Iraq.

Administrative justice entails compliance with legal standards, fairness, and transparency in administrative decision-making. It encompasses principles such as the right to defense, transparency, proportionality, presumption of innocence, and non-discrimination in proceedings.

A comparative analysis of the powers of higher administrative authorities in Iran and Iraq under the respective laws—*The Law on Handling Administrative Violations* in Iran and *The Law on Discipline of State and Public Sector Employees* in Iraq—shows that these authorities possess similar scopes of disciplinary jurisdiction. However, when this jurisdiction is assessed through the lens of administrative justice, both systems demonstrate a potential for violating fair trial standards and procedural justice, especially in relation to transparency, lack of appeal mechanisms, and discriminatory practices.

Additionally, the entrenchment of discriminatory and rent-seeking mechanisms such as *Muhasasa* within Iraq's administrative legal system has undermined the effectiveness of its administrative justice framework, including the role of hierarchy and disciplinary adjudication as tools for justice and accountability.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

Acknowledgments

Authors thank all individuals who helped us do this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

According to the authors, this article has no financial support.

References

- Abulhamd, A. (2000). *Administrative Law of Iran*. Tous Publications.
- Al-Moulawi, A., Al-Rikabi, H., & Al-Khafaji, H. (2018). *Towards a National Strategy to Combat Corruption in Iraq*. Center for Studies and Planning Bayan Publications.
- Fazouni, M., & Zare, S. (2022). Approaches to Preventing Administrative Corruption: An Essential Necessity for Establishing a Healthy and Transparent Government. *Quarterly Journal of Accounting and Management Perspective*, 3(33).
- Kazemi, A., Barzegar, A., & Hosseini Sadrabadi, I. (2022). Examining the Governing Principles of Administrative Organizations in Iran's Legal System. *Quarterly Journal of Family and Health*, 12(2).
- Khawaja Nizam al-Mulk Tusi. (2010). *Seyar al-Muluk (The Book of Politics)*. Scientific and Cultural Publishing Company.
- Ljubljana. (2017). Sanctions administratives en droit européen. Séminaire organisé par la Cour Suprême de la République de Slovénie.
- Lotfi, H. (2023). *Administrative Law 1*. Sherkat Sahami Enteshar Publications.

- Modir Rahmati, S. (2023). *Investigating Factors Affecting the Incidence of Violations and Corruption in the Country's Administrative System*. <https://iranthinktanks.com/investigating-factors-affecting-the-incidence-of-violations-and-corruption-in-the-countrys-administrative-system/>
- OECD. (2019). *Public Governance Reviews: Towards a New Partnership with Citizens*. <https://doi.org/10.1787/b9e9c6e6-en>
10.1787/0a61492a-en 10.1787/1988cccf-en 10.1787/6b8da11a-en 10.1787/a1b203de-en 10.1787/c11183ae-en
10.1787/9789264310995-en 10.1787/1db30826-en 10.1787/g2g98ec3-en 10.1787/ef660e75-en 10.1787/a6ee30a8-en
10.1787/1de41738-en 10.1787/ade66f4c-en 10.1787/c6e9aa14-en 10.1787/e4e1a40c-en
- Ozer, A. (2007). *The State in the History of Western Thought*. Farzan Publications.
- Robert, T., & Joe, T. (2017). current issues in administrative justice: austerity and the 'more bureaucratic rationality' approach. *Journal of Social Welfare and Family Law*, 39. <https://doi.org/10.1080/09649069.2017.1363526>
- Rose, R., & Pfeiffer, G. (2021). *Bad Governance and Corruption*. Rozaneh Publications.
- Rostami, V., & Ranjbar, A. (2014). Administrative Justice: Conceptual Framework and Institutional Mechanisms. *Quarterly Journal of Public Law*, 3(7).
- Sajad, J. (2023). *The Mechanisms of Corruption in Iraq*. <https://blogs.lse.ac.uk/mec/2023/03/30/the-mechanisms-of-corruption-in-iraq/>
- Tabatabai Motameni, M. (1999). *Administrative Law*. SAMT Publications.