

From Financial Compensation to Restorative Justice in Administrative Law: A Comparative Case Study of Iran and Iraq

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Abstract

The development of state liability in modern administrative law reflects a broader transformation in the relationship between public authorities and individuals. Traditional remedial models in Iran and Iraq have largely relied on financial compensation as the principal response to unlawful administrative conduct. Although monetary compensation remains essential for repairing material and certain non-pecuniary losses, it is often insufficient where administrative wrongdoing affects dignity, reputation, legal status, professional position, procedural fairness, or public trust. This study examines the possibility of moving from a predominantly compensatory model toward a restorative conception of administrative justice in the legal systems of Iran and Iraq. Using a descriptive-analytical and comparative legal method, the study analyzes the theoretical foundations of state liability, the structure of administrative remedies, the treatment of pecuniary and non-pecuniary damage, and the institutional capacities of administrative justice in both jurisdictions. The findings indicate that Iranian and Iraqi law already contain important foundations for a broader remedial framework, including recognition of state liability, non-pecuniary damage, restitutionary measures, judicial review, and the principle of effective reparation. However, both systems continue to conceptualize administrative injury primarily through monetary compensation and provide limited systematic recognition of non-monetary restorative measures. The study argues that effective administrative reparation should combine compensation with restitution, reinstatement, correction of administrative records, acknowledgment of wrongdoing, rehabilitation, declaratory relief, and institutional measures aimed at preventing recurrence. It concludes that restorative justice should not replace judicial review or civil liability but should broaden their remedial function. A layered model of administrative reparation can strengthen individual rights, improve governmental accountability, and contribute to more responsive and legitimate public administration in both Iran and Iraq.

Keywords: Administrative Law; Restorative Justice; State Liability; Financial Compensation; Administrative Remedies; Iran; Iraq; Non-Pecuniary Damage; Effective Reparation

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1. Introduction

The expansion of administrative activity in contemporary states has transformed the relationship between public authorities and individuals. Modern administrative bodies no longer perform only limited policing or regulatory functions; they intervene extensively in economic management, public services, licensing, taxation, urban planning, social security, public employment, environmental governance, health, education, infrastructure, and numerous other areas that directly affect individual rights and interests. This expansion has inevitably increased the possibility that administrative decisions, omissions, delays, unlawful regulations, defective public services, or improper exercises of discretionary authority may cause harm to citizens. Administrative law has therefore gradually moved away from the traditional assumption that the sovereign state should enjoy broad immunity from private claims and toward a model in which public authorities may be held legally accountable for damage caused through the exercise of public power. Within Iranian administrative law, this transformation has been closely associated with the development of state civil liability and the increasing role of judicial review in controlling unlawful administrative conduct ([Ansari, 2019](#)). The growing recognition that government institutions may incur liability for harm caused by administrative decisions has also strengthened the remedial function of administrative justice and has placed greater emphasis on protecting individuals against the consequences of unlawful public action ([Molaei, 2025b](#)).

The conventional response to harm caused by administrative authorities has largely been based on financial compensation. Under this approach, once unlawful conduct, damage, and an adequate causal relationship are established, the injured person may claim an amount of money intended to restore, as far as possible, the economic position that would have existed if the wrongful conduct had not occurred. This logic is deeply rooted in the general law of civil liability. The traditional doctrine of compensation seeks to repair the consequences of wrongful conduct by evaluating loss and converting it into a monetary equivalent ([Katouzian, 2015](#)). Similar principles are reflected in the broader theory of obligations, according to which liability arises when legally protected interests are violated and the conditions for attributing damage to the responsible person are satisfied ([Yazdanian, 2021a](#)). In Iraq, the theory of compensation has likewise developed through general principles of civil liability and the law of obligations, under which the person responsible for wrongful harm must provide appropriate reparation ([Al-Sanhuri, 2000](#)). Iraqi legal doctrine has traditionally treated compensation as the principal legal consequence of tortious conduct, although the assessment of damage may involve both pecuniary and non-pecuniary elements ([Al-Amiri, 1981](#)).

The predominance of financial compensation, however, creates an important conceptual and practical difficulty in administrative law. Many injuries caused by governmental action cannot be fully understood as economic losses. Unlawful administrative decisions may damage dignity, reputation, privacy, professional identity, personal autonomy, family life, legitimate expectations, social status, or public trust. They may also create prolonged uncertainty, humiliation, emotional distress, or exclusion from access to public institutions. Such harms may result from wrongful dismissal from public employment, arbitrary disciplinary action, unlawful administrative detention, discriminatory licensing decisions, wrongful exclusion from public benefits, unlawful demolition orders, unreasonable delays, or the abuse of administrative authority. Although monetary compensation may provide some form of relief, it may not adequately address the relational and institutional dimensions of these injuries. The recognition of non-pecuniary damage within civil liability demonstrates that legally protected interests extend beyond purely financial loss ([Sadeghnia, Shakibamehr, et al., 2021](#)). In public law, this recognition is particularly significant because administrative wrongs may involve not merely a private conflict between two individuals but a breach of the duties owed by public institutions to citizens.

The inadequacy of a purely monetary model becomes even more evident where administrative wrongdoing affects fundamental or citizenship rights. In such circumstances, the harm may consist partly in the denial of lawful treatment by an institution that is expected to act according to legality, equality, proportionality, fairness, and respect for human dignity. The right to an effective remedy has accordingly developed as a broader concept than compensation alone. Effective reparation may require annulment of an unlawful decision, restoration of a legal status, correction of an administrative record, recognition of wrongdoing, cessation of an unlawful practice, rehabilitation, public acknowledgment, institutional reform, or guarantees against recurrence. International human rights law has contributed significantly to this wider understanding of remedies by treating restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition as distinct but complementary forms of reparation ([Shelton, 2015](#)). The law of state responsibility similarly recognizes that monetary compensation is only

one possible form of reparation and that restitution and satisfaction may also be necessary depending on the character of the wrongful act and the injury caused ([Crawford, 2002](#)).

It is within this broader remedial context that restorative justice offers a useful analytical framework for administrative law. Restorative justice is most commonly associated with criminal justice, but its underlying principles can be applied more broadly to institutional wrongdoing. Rather than focusing exclusively on the monetary valuation of harm, a restorative approach seeks to identify what has been damaged, who has been affected, what obligations arise from the wrongdoing, and what measures are necessary to repair relationships and prevent repetition. Applied to administrative law, restorative justice does not imply replacing judicial review or civil liability with informal reconciliation. Rather, it suggests that public-law remedies should be designed to address the full consequences of administrative wrongdoing. Financial compensation may remain necessary, but it should be supplemented, where appropriate, by measures that restore legal status, recognize the injured person's dignity, require the administration to acknowledge error, correct institutional practices, and reduce the risk of similar violations. The human-rights dimension of reparation for non-pecuniary harm supports this broader conception of administrative remedies ([M. Farajnia, 2024](#)).

In Iran, the development of state liability has occurred through a combination of civil liability principles, administrative law doctrines, statutory provisions, and the jurisprudence of the Administrative Justice Court. The general movement has been toward greater judicial recognition of the responsibility of public authorities for unlawful administrative conduct. Iranian scholarship has increasingly emphasized that administrative accountability should not be limited to the annulment of administrative decisions but must also encompass the consequences suffered by individuals as a result of unlawful governmental action ([Riahi, 2018](#)). Recent developments in administrative procedural law likewise indicate a growing tendency to treat state liability as an integral component of administrative justice rather than as an exceptional extension of private-law liability ([Molaei, 2025b](#)). The jurisprudential recognition of forms of strict or objective state liability in certain contexts illustrates the gradual weakening of approaches that make compensation entirely dependent on proof of personal fault by a particular government employee ([Molaei, 2025a](#)).

Nevertheless, important obstacles remain in Iranian law. Questions concerning jurisdiction, the relationship between annulment and compensation, the identification of the responsible public entity, the assessment of causation, and the valuation of non-pecuniary damage continue to complicate access to effective remedies. The requirement of establishing a sufficient causal link between administrative action and the claimed harm remains central to state liability and can become especially difficult where damage results from complex administrative processes involving multiple institutions ([Rajabzadeh et al., 2022](#)). In addition, the recognition of moral or non-pecuniary harm does not automatically guarantee that courts possess sufficiently developed remedial techniques to address it. Scholars examining the right to an effective remedy in Iranian administrative law have therefore emphasized the need to evaluate domestic remedial mechanisms in light of broader public-law and human-rights standards ([A. Farajnia, 2024](#)).

Iraqi law presents a comparable but distinct legal environment. Iraqi administrative liability has developed against the background of a civil-law system strongly influenced by the general theory of obligations and civil liability. The Iraqi Civil Code establishes an important foundation for the compensation of harm and contains principles capable of supporting liability for both material and moral damage ([Abboudi, 2015](#)). Classical Iraqi legal doctrine has also recognized that the obligation to compensate depends on the existence of damage, attribution, and legally sufficient causation ([Al-Hakim et al., 1980](#)). Within administrative law, however, the distinctive position of public authorities requires the adaptation of these general principles to disputes involving governmental action. Iraqi scholarship has consequently developed a body of doctrine concerning administrative liability, including liability for unlawful decisions and harmful administrative activity ([Al-Bayati, 2018](#)).

The issue of non-pecuniary damage is especially relevant to the transition from financial compensation toward restorative justice. Iraqi legal scholarship has acknowledged that moral or non-material injuries may arise in administrative contexts and may require judicial protection ([Sulayman, 2021](#)). The application of compensation principles to non-pecuniary damage in matters involving administrative contracts also demonstrates that Iraqi law is not conceptually confined to the reimbursement of measurable financial loss ([Al-Ukayli, 2020](#)). Yet, as in Iran, monetary awards do not necessarily address the institutional

dimension of the wrong. A citizen whose reputation has been damaged by an unlawful administrative accusation, whose professional status has been affected by wrongful dismissal, or whose dignity has been violated by arbitrary public conduct may require more than financial payment. Effective reparation may involve correction of official records, reinstatement, formal acknowledgment of the violation, or institutional measures intended to prevent recurrence.

A comparative analysis of Iran and Iraq is therefore particularly valuable. Both jurisdictions belong broadly to civil-law traditions and rely significantly on general principles of civil liability, yet each has developed its own administrative justice structures and doctrines of state responsibility. Both legal systems recognize the importance of compensation, but both also face the challenge of responding adequately to non-economic and rights-based harm. Their legal experiences allow an examination of whether administrative liability can evolve from a narrow compensatory mechanism into a more comprehensive remedial framework. Such a transition does not require the abandonment of compensation. Rather, it requires reconceptualizing compensation as one component of a broader system of administrative reparation.

This article examines the transition from financial compensation toward restorative justice in administrative law through a comparative case study of Iran and Iraq. Its central objective is to determine whether the existing principles of state liability and administrative remedies in these two legal systems provide a sufficient normative basis for restorative forms of reparation and to identify the doctrinal and institutional reforms necessary to move beyond a predominantly monetary conception of administrative justice.

2. Theoretical and Legal Foundations: From Compensatory Remedies to Restorative Justice

The law of administrative liability historically developed through the interaction of two competing principles: the need to protect public authorities in the performance of governmental functions and the need to provide redress to individuals harmed by the exercise of public power. Earlier conceptions of sovereignty frequently treated government as either immune from liability or subject to liability only under narrow conditions. The gradual growth of the modern administrative state made such approaches increasingly difficult to justify. When governmental institutions regulate private activity, distribute public benefits, impose sanctions, supervise professions, manage public services, and make decisions directly affecting individual legal status, the consequences of unlawful administrative conduct can be substantial. Administrative liability therefore emerged as an essential component of the rule of law because legality without an effective remedy would provide incomplete protection. Iranian administrative-law scholarship has accordingly linked state liability to broader principles of legality and governmental accountability (Vijeh, 2021). The same logic underlies contemporary understandings of administrative justice in which judicial review is expected not merely to declare administrative action unlawful but also to address the consequences of illegality.

Traditional compensatory theory is based on the proposition that a person who suffers legally recognized damage as a result of another's wrongful conduct should, as far as possible, be restored to the position that would have existed in the absence of that conduct. The principle is often described through the idea of full compensation. Within private law, this principle generally requires identification of the wrongful act, proof of damage, and establishment of causation between the act and the injury. Iranian civil-liability theory emphasizes that compensation must correspond to the damage actually suffered and should neither leave uncompensated loss nor produce unjust enrichment (Katouzian, 2015). Advanced theories of civil liability similarly treat the compensatory function as central to the law of obligations while recognizing that liability also performs preventive and corrective functions (Yazdanian, 2021a). In Iraq, comparable doctrines arise from the general theory of obligations, under which damages operate as a legal mechanism for repairing harm attributable to unlawful conduct (Al-Hakim et al., 1980).

The model operates relatively effectively when damage is economic and readily measurable. Loss of income, destruction of property, additional expenses caused by an unlawful decision, or deprivation of a financial entitlement can often be calculated with reasonable precision. Difficulties increase, however, when the administrative wrong causes non-pecuniary harm. Damage to dignity, honor, reputation, emotional well-being, professional identity, social standing, privacy, or family relationships cannot be reduced objectively to market value. Legal systems nevertheless recognize that such interests possess independent value. Iranian scholarship on citizenship rights has argued that non-pecuniary harm must be evaluated according to the nature of the violated interest and the seriousness of the impact on the injured person rather than through exclusively economic criteria

(Sadeghnia, Shakibamehr, et al., 2021). Iraqi legal doctrine likewise acknowledges moral damage as an autonomous form of legally compensable injury (Al-Amiri, 1981).

The challenge is particularly acute in administrative law because the wrong frequently carries a symbolic or institutional meaning. If a public authority unlawfully dismisses an employee, the resulting harm may include lost salary, but it may also include damage to professional reputation and confidence in public institutions. If an authority wrongfully refuses a license on discriminatory grounds, the injury may include lost business opportunities but also unequal treatment by the state. If a government body unlawfully discloses personal information, the injured person may suffer an invasion of privacy that cannot be repaired merely by monetary payment. In such cases, compensation remains important but does not necessarily correspond to the nature of the violation. The right to reparation for non-pecuniary damage arising from administrative decisions therefore has a public-law dimension extending beyond ordinary private compensation (Sadeghnia, Ahmadi, et al., 2021).

The concept of an effective remedy provides a bridge between traditional civil liability and a more comprehensive remedial approach. An effective remedy must be capable of responding to the specific legal injury. Where the wrongful act remains in force, compensation alone may be insufficient unless accompanied by annulment or cessation. Where the individual has lost a legal status, restitution or reinstatement may be necessary. Where false information remains in an administrative record, correction may be indispensable. Where the injury involves public humiliation or reputational damage, acknowledgment or satisfaction may be more responsive than an exclusively monetary award. International human-rights law has developed precisely this multidimensional conception of remedies. Restitution seeks to restore the situation existing before the violation; compensation addresses economically assessable damage; rehabilitation responds to physical, psychological, or social consequences; satisfaction may include acknowledgment of wrongdoing or declaratory relief; and guarantees of non-repetition seek to address structural causes (Shelton, 2015).

The international law of state responsibility provides an additional conceptual foundation. A state responsible for an internationally wrongful act is required to make full reparation for the injury caused. Reparation may take the form of restitution, compensation, or satisfaction, either individually or in combination depending on the circumstances (Crawford, 2002). Although these rules operate at the international level, their remedial logic is relevant to domestic administrative law. They demonstrate that legal reparation is not synonymous with financial payment. The appropriate remedy depends on the nature of the wrong and the characteristics of the harm. This principle is especially important when the responsible actor is a public authority because administrative wrongdoing can generate continuing legal effects that money alone cannot remove.

Restorative justice develops this insight further by shifting attention from the abstract valuation of injury to the practical repair of harm. A restorative approach asks what occurred, who was harmed, what interests were affected, what obligations arise from the wrongdoing, and how the responsible institution can repair the consequences. In administrative law, this approach must be adapted to the public-law context. Administrative authorities cannot simply negotiate away legality, nor can statutory powers be replaced by informal settlements inconsistent with public interest. Restorative justice in this field should therefore be understood as a remedial orientation rather than a complete procedural substitute. It requires administrative institutions and courts to consider the full dimensions of injury and to select remedies capable of restoring legality, dignity, trust, and institutional integrity.

The first restorative element is restitution. Restitution seeks, wherever possible, to restore the injured person's legal position. In administrative disputes, this may include reinstatement in public employment, restoration of a revoked license, correction of an unlawful disciplinary record, return of property, reopening of an administrative procedure, or restoration of access to a public benefit. Restitution is particularly important because administrative decisions often create formal legal consequences that cannot be adequately reversed through damages. Iranian administrative law has increasingly emphasized the importance of judicial remedies capable of neutralizing unlawful administrative effects (Molaei, 2025b). The strengthening of state liability must therefore occur alongside effective powers of annulment, restoration, and implementation.

The second restorative element is recognition. Administrative wrongs can communicate disrespect or exclusion, particularly when public bodies act arbitrarily, discriminatorily, or without procedural fairness. Recognition may therefore require a formal declaration that the authority acted unlawfully or violated an individual right. Judicial declarations already perform part of this function, but restorative theory suggests that administrative authorities themselves should also develop mechanisms for

acknowledging error. Such acknowledgment does not necessarily imply personal blame on an individual official. It can instead express institutional responsibility and demonstrate that the administration recognizes its duty to act lawfully.

The third element is satisfaction, which can include apology, correction of public statements, correction of official records, disclosure of relevant reasons, or other measures intended to respond to the symbolic dimension of harm. Human-rights approaches to non-pecuniary reparation support the proposition that satisfaction can have independent remedial value (M. Farajnia, 2024). This is particularly relevant when monetary valuation risks trivializing the injury. An unlawful accusation entered into a government record, for example, may require removal or correction more urgently than financial compensation.

The fourth element is prevention of recurrence. Traditional compensation operates largely after harm has occurred. Restorative justice adds a forward-looking dimension by asking whether the institutional causes of the violation have been addressed. Guarantees of non-repetition may include amendment of unlawful regulations, revision of internal procedures, improved training, publication of judicial decisions, establishment of supervisory mechanisms, or adoption of clearer administrative standards. This preventive function is particularly compatible with administrative law because judicial review already serves the broader purpose of improving administrative legality. A remedy that corrects both the individual violation and the administrative practice that produced it provides a stronger form of justice than one limited to private compensation.

The transition toward restorative justice also requires reconsideration of causation and attribution. Traditional liability models often require the claimant to identify a specific wrongful act and demonstrate a direct causal link to damage. In complex bureaucratic systems, however, harm may result from cumulative administrative failures, fragmented decision-making, or systemic deficiencies. Comparative research on state liability has demonstrated that causation can become one of the principal obstacles to obtaining compensation where multiple governmental factors contribute to harm (Rajabzadeh et al., 2022). A restorative model does not eliminate causation requirements, but it can reduce excessive dependence on individualized fault by focusing more clearly on institutional responsibility.

This shift is visible in developments relating to strict state liability. Where public activity creates special risks or where fairness requires society to bear losses caused by lawful or unlawful governmental functions, liability may arise without proof of conventional fault. Iranian administrative jurisprudence has shown increasing openness to forms of liability not entirely dependent on establishing a personal fault by a government employee (Molaei, 2025a). Such developments are important because restorative justice requires the legal system to ask whether harm should be repaired, not merely whether a specific official can be morally blamed.

The conceptual transition from compensation to restoration must nevertheless preserve legal certainty. Restorative remedies should not become vague appeals to fairness detached from legal doctrine. Their legitimacy depends on clear statutory foundations, judicial competence, proportionality, procedural guarantees, and consistency with separation of powers. Courts should not assume executive functions, but they should possess adequate remedial authority to ensure that unlawful administrative conduct is effectively corrected. Similarly, administrative bodies should be empowered to reconsider decisions, acknowledge errors, provide appropriate redress, and implement structural reforms without requiring every injured person to initiate lengthy litigation.

Accordingly, restorative justice in administrative law should be understood as a layered remedial model. Monetary compensation remains essential where economic or non-economic harm requires financial redress. Restitution addresses legal and factual consequences capable of reversal. Satisfaction addresses dignity and recognition. Rehabilitation responds to continuing personal effects. Institutional correction and guarantees of non-repetition address systemic causes. Together, these remedies transform administrative liability from a narrow financial mechanism into a comprehensive framework for repairing the consequences of public wrongdoing.

3. Administrative Remedies and State Liability in Iranian Law

The Iranian legal system provides several doctrinal foundations for holding public authorities accountable for harm caused through administrative conduct. State liability is situated at the intersection of constitutional principles, general civil liability, administrative law, and the jurisdiction of administrative courts. Historically, questions of governmental responsibility were often approached cautiously because public authorities were assumed to exercise powers for the collective interest and because judicial intervention in administrative functions was limited. The development of modern administrative law, however, has

increasingly emphasized that public power must remain subject to legality and that unlawful administrative conduct may create obligations toward injured individuals. General principles of administrative law recognize that governmental authority is not unlimited and that the exercise of administrative discretion must remain consistent with statutory competence, public purpose, equality, proportionality, and respect for individual rights ([Ansari, 2019](#)).

The emergence of administrative justice has significantly reinforced these principles. The Administrative Justice Court has become a central institution for reviewing decisions, actions, regulations, and omissions of administrative authorities. Its role has traditionally focused on the legality of administrative conduct, particularly the annulment of unlawful regulations and the review of decisions affecting individual rights. Yet the development of state liability has increasingly raised the question of whether administrative justice should extend beyond the invalidation of unlawful conduct to the repair of damage caused by it. Studies of the Court's judgments demonstrate that claims involving governmental liability have gradually contributed to a more developed understanding of the relationship between illegality and compensation ([Riahi, 2018](#)).

Iranian civil-liability doctrine provides the general conceptual basis for compensation. Liability ordinarily requires damage, a legally relevant act or omission, attribution, and causation. Damage may include both material and non-material injury. Traditional doctrine emphasizes that compensation should correspond to the actual harm and should seek, to the extent possible, to restore the injured party ([Katouzian, 2015](#)). The application of these principles to government liability, however, requires attention to the special characteristics of public administration. Unlike an ordinary private defendant, the state exercises legal powers conferred for public purposes and acts through institutions, officials, regulations, and complex organizational structures. The identification of fault may therefore be more difficult, and the consequences of administrative decisions may affect large groups of individuals.

Modern Iranian legal scholarship has attempted to adapt civil-liability principles to these characteristics. The scope of state and municipal liability has been examined as a distinct area of the law of obligations, reflecting the growing recognition that public entities should bear responsibility where their conduct causes legally compensable harm ([Yazdani, 2021b](#)). This development has gradually weakened older distinctions that placed excessive emphasis on whether the harmful conduct constituted a sovereign or operational function. The contemporary tendency is to ask whether the public authority acted lawfully, whether a protected interest was harmed, and whether the damage should fairly be attributed to the administration.

One of the most significant developments concerns the movement away from exclusively fault-based liability. Requiring an injured citizen to identify and prove the personal fault of a particular official may be unrealistic where harm results from organizational failures, defective regulations, systemic delays, or the functioning of complex administrative structures. Recent Iranian administrative jurisprudence has increasingly recognized forms of state liability that do not depend entirely on traditional subjective fault ([Molaei, 2025a](#)). This development is particularly important for restorative justice because institutional reparation should not necessarily depend on identifying individual blame. The relevant question may instead be whether the administrative system produced a legally unjustified burden that should be repaired.

Causation nevertheless remains a crucial requirement. An individual seeking compensation must ordinarily demonstrate that the administrative act or omission materially contributed to the damage. This may be straightforward where a specific unlawful order directly causes financial loss, but considerably more complicated where several administrative decisions interact or where harm develops gradually. Comparative analysis of causation in state liability demonstrates the difficulty of determining when governmental conduct is sufficiently connected to an injury to justify compensation ([Rajabzadeh et al., 2022](#)). A rigid approach to causation may deprive individuals of effective remedies where bureaucratic complexity itself makes precise attribution difficult.

The treatment of non-pecuniary damage represents another important dimension of Iranian law. The traditional emphasis on measurable financial loss has gradually given way to recognition that violations of dignity, reputation, privacy, personal integrity, and citizenship rights may produce legally significant injury. Iranian civil-liability scholarship has developed criteria for evaluating non-pecuniary damage and has emphasized the importance of considering the seriousness of the violation, its effect on personal rights, and the circumstances of the injured party ([Sadeghnia, Shakibamehr, et al., 2021](#)). This development creates a doctrinal foundation for administrative claims in which the principal injury is not economic.

The public-law character of non-pecuniary damage is particularly important. When the source of the injury is an administrative decision, the violation may involve abuse of official authority, denial of equal treatment, infringement of

procedural rights, or disregard for the individual's legal status. International and comparative principles concerning reparation for non-pecuniary harm have therefore been used to argue for a more developed approach within Iranian administrative law (Sadeghnia, Ahmadi, et al., 2021). The right to an effective remedy further reinforces the idea that administrative courts should possess the capacity to respond to the substance of the violation rather than merely declare an act unlawful (A. Farajnia, 2024).

Despite these developments, the Iranian remedial framework remains strongly compensation-centered. Where a claimant suffers financial damage, monetary payment is ordinarily treated as the most obvious corrective response. Even non-pecuniary harm tends to be discussed primarily through the question of whether it can be monetarily assessed. A restorative perspective reveals the limitations of this approach. Consider an unlawful dismissal from public employment. Compensation for lost salary may repair part of the economic loss, but if the dismissal damaged professional reputation, interrupted career advancement, or placed inaccurate disciplinary findings in the employee's official record, money alone cannot fully restore the previous legal and professional position. Reinstatement, correction of the record, restoration of seniority, or formal acknowledgment of the illegality may be equally important.

Similar issues arise in licensing and regulatory disputes. An unlawful refusal or revocation of a license may cause lost profits, but the central harm may be the deprivation of a lawful status. In such circumstances, restitution through restoration of the license or reopening of the administrative procedure may represent a more direct remedy. Administrative justice should therefore distinguish between compensating consequential damage and restoring the legal relationship disrupted by the unlawful decision. Recent developments in administrative procedural law indicate a growing awareness of the need for effective enforcement of judicial decisions and meaningful remedial consequences (Molaei, 2025b).

The concept of restorative justice also draws attention to the possibility of administrative acknowledgment and apology. Iranian administrative law does not traditionally treat institutional apology as a formal legal remedy. Yet in cases involving wrongful public accusations, unlawful disciplinary findings, or violations of dignity, acknowledgment of error may serve an important reparative function. A declaratory judgment by the court can partially provide this recognition, but institutional acceptance of responsibility may be more meaningful. Such measures need not replace compensation. They can operate in combination with monetary awards and restitution.

Correction of administrative records is another area in which restorative remedies can be developed. Public authorities maintain records that may influence employment, licensing, taxation, social benefits, security assessments, and other aspects of legal status. When an unlawful decision is annulled but the underlying record remains unchanged, the effects of the violation may continue. An effective remedy should therefore require the administration to remove or correct inaccurate information when necessary. This approach is consistent with the broader principle that reparation must respond to the actual consequences of the wrongful act.

The preventive dimension of restorative justice is especially relevant to Iranian administrative law. Judicial review often identifies recurring defects in administrative regulations or practices. Where a court repeatedly annuls similar decisions, individual relief alone may fail to address the structural source of the problem. Guarantees of non-repetition could include mandatory revision of internal procedures, publication of relevant judicial interpretations, staff training, or amendment of unlawful administrative rules. The human-rights approach to reparation supports the view that remedies should, where appropriate, seek to prevent future violations as well as repair past harm (M. Farajnia, 2024).

A stronger restorative model would also require improved coordination between administrative and civil remedies. Fragmentation of jurisdiction can impose substantial burdens on claimants if they must first obtain annulment in one forum and then pursue compensation in another. A citizen-centered approach should reduce procedural duplication and ensure that the final remedial package reflects the totality of the injury. The principle of effective remedy requires legal procedures to be practically accessible and capable of producing meaningful results, not merely formally available (A. Farajnia, 2024).

Restorative justice may additionally enhance public trust. Administrative institutions depend on legitimacy as well as legal authority. When the state recognizes its errors, repairs harm transparently, and reforms defective procedures, accountability can strengthen rather than weaken administrative legitimacy. By contrast, a system that resists responsibility until compelled to make a financial payment may reinforce perceptions of institutional indifference. Restorative mechanisms could therefore

be integrated into administrative complaint systems before litigation, allowing public bodies to correct errors, restore legal positions, provide explanations, and offer appropriate redress at an earlier stage.

The transition toward restorative justice in Iran should nevertheless proceed within clear legal limits. Administrative authorities cannot use restorative procedures to avoid judicial scrutiny or pressure individuals into accepting inadequate settlements. Courts must preserve legality, equality, and procedural fairness. Restorative remedies should therefore supplement, rather than displace, established mechanisms of judicial review and civil liability. Legislative clarification of available remedies, stronger judicial powers to order restitution and corrective measures, clearer rules for non-pecuniary damage, and improved enforcement of administrative judgments would provide the institutional foundation necessary for such a transition.

Overall, Iranian law already contains important elements of a restorative framework. The recognition of state liability, the development of administrative judicial review, the acceptance of non-pecuniary damage, and the expansion of effective-remedy discourse all support a broader conception of reparation. The principal challenge is not the absence of legal foundations but the continuing dominance of monetary compensation as the default remedial response. A more integrated system would combine compensation with restitution, acknowledgment, correction, rehabilitation, and preventive reform according to the nature of each administrative wrong.

4. Administrative Remedies and State Liability in Iraqi Law: Comparative Analysis with Iran

Iraqi administrative liability is similarly rooted in the interaction between general civil-liability principles and the special characteristics of public-law relationships. The Iraqi Civil Code provides the foundational rules governing obligations arising from harmful acts and establishes the broader framework within which compensation for damage is assessed ([Abboudi, 2015](#)). Iraqi civil-law doctrine has long treated compensation as the principal consequence of tortious liability and has developed detailed rules concerning damage, causation, attribution, and assessment ([Al-Sanhuri, 2000](#)). The general theory of obligations also recognizes that liability must respond to actual injury and that the form and amount of reparation should be related to the consequences of the wrongful conduct ([Al-Hakim et al., 1980](#)).

When these principles are applied to public authorities, however, the administrative context becomes decisive. Government institutions exercise powers that private actors do not possess, and their decisions may directly create, modify, or terminate legal positions. Administrative liability in Iraq has therefore evolved as a distinct field concerned with the consequences of unlawful or damaging governmental conduct ([Al-Bayati, 2018](#)). The growth of administrative adjudication has strengthened the principle that public authorities may be required to compensate individuals injured through administrative action. At the same time, the continuing influence of civil-law concepts means that many disputes concerning governmental liability are framed through the traditional language of fault, damage, causation, and monetary reparation.

Iraqi law recognizes both pecuniary and non-pecuniary damage. This is particularly important because administrative wrongdoing frequently affects interests that cannot be measured solely in financial terms. Iraqi legal scholarship has addressed compensation for moral damage and has recognized that harm to dignity, reputation, emotional integrity, and other non-material interests may create a compensable injury ([Al-Amiri, 1981](#)). In the administrative context, this recognition has been developed further through scholarship examining liability for non-pecuniary harm arising from governmental conduct ([Sulayman, 2021](#)). These developments provide a legal foundation for moving beyond a narrow conception of administrative injury.

The application of compensation for non-pecuniary damage in administrative contracts also demonstrates the flexibility of Iraqi remedial doctrine. Although administrative contracts involve a specific field of public administration, the recognition that non-material injury can arise in such relationships confirms that public-law liability cannot be confined to property loss or lost income ([Al-Ukayli, 2020](#)). A contractor whose reputation is wrongfully damaged by administrative conduct, for example, may experience harm that cannot be adequately addressed through reimbursement of financial losses alone. Similar reasoning can be extended to other forms of administrative action affecting citizens, employees, license holders, or recipients of public services.

As in Iran, however, the principal legal response remains financial compensation. The Iraqi system generally conceptualizes liability through the obligation to compensate the injured person. This approach is understandable because compensation provides a concrete and enforceable remedy, but its limitations become evident when the administrative wrong has continuing

legal or institutional effects. Suppose an administrative authority unlawfully dismisses a public employee. Payment of salary arrears may address economic loss, but it may not correct disciplinary records, restore professional seniority, reverse reputational damage, or acknowledge the unlawfulness of the administration's conduct. A restorative approach would require a combination of remedies tailored to these different dimensions of harm.

The same is true where an unlawful administrative decision affects a citizen's legal status. If a license is wrongfully revoked, compensation for financial loss does not necessarily restore the right to continue the licensed activity. If an administrative authority publishes inaccurate allegations, damages may not remove the continuing reputational consequences. If a citizen is excluded from a public benefit through an unlawful decision, compensation after lengthy litigation may not repair the social and personal effects experienced during the period of deprivation. Restitution and correction therefore become essential components of effective reparation.

Iraqi administrative liability doctrine already contains elements capable of supporting such an expansion. The purpose of compensation is not merely punitive; it is corrective. Classical doctrine seeks to repair the damage caused by unlawful conduct as fully as possible (Al-Sanhuri, 2000). Once this principle is interpreted functionally, there is no reason to assume that repair must always take the form of money. Where restoration in kind is possible and lawful, it may provide a closer approximation to full reparation than monetary damages. This reasoning creates an important bridge between traditional Iraqi civil-liability doctrine and restorative administrative justice.

The comparison with Iran reveals significant similarities. Both legal systems rely heavily on civil-law principles in defining the conditions of liability. Both require a legally recognized injury and a causal connection to governmental conduct. Both increasingly recognize non-pecuniary damage. Both also face difficulties arising from the special institutional position of the state. In Iran, contemporary scholarship has increasingly examined the development of state liability through administrative procedure and judicial practice (Molaei, 2025b). In Iraq, doctrinal analysis has similarly emphasized the need to adapt general compensation principles to administrative relationships (Al-Bayati, 2018).

The two systems also share a tendency to conceptualize non-pecuniary harm primarily in monetary terms. Iranian scholarship has developed methods for assessing moral damage with reference to citizenship rights (Sadeghnia, Shakibamehr, et al., 2021), while Iraqi scholarship has examined administrative compensation for moral injury (Sulayman, 2021). These developments are important, but restorative justice requires a further step. The question should not be limited to how much money corresponds to the injury. It should also ask what remedial measure best responds to the violated interest.

A key area of comparison concerns causation. State liability in both jurisdictions may become difficult where damage results from multiple administrative acts, institutional delay, or systemic dysfunction. Iranian comparative scholarship has identified causation as a central doctrinal challenge in government liability (Rajabzadeh et al., 2022). Iraqi civil-liability theory likewise treats causation as essential to attribution of damage (Al-Hakim et al., 1980). A restorative model should not eliminate causation, but it may justify more flexible approaches where institutional responsibility is clear even if individual fault is difficult to isolate.

Another comparative issue concerns the distinction between personal and institutional fault. Public administration acts through officials, but the harm suffered by citizens often reflects organizational structures rather than isolated personal wrongdoing. Iranian jurisprudence has shown movement toward recognition of strict or objective state liability in certain circumstances (Molaei, 2025a). Iraqi administrative liability could similarly benefit from greater emphasis on institutional responsibility where requiring proof of personal fault would make effective reparation excessively difficult. Such an approach would be consistent with the corrective function of administrative liability and would better reflect the realities of bureaucratic decision-making.

The role of the judiciary is also central. A restorative administrative system requires courts with sufficient authority to design remedies appropriate to the violation. Monetary awards are relatively straightforward, but restitution, correction of records, reinstatement, withdrawal of unlawful measures, or orders requiring reconsideration demand a more active remedial jurisdiction. Judicial authority must nevertheless remain consistent with the separation of powers. Courts should not substitute their policy preferences for those of administrative bodies, but they must be capable of ensuring that unlawful administrative consequences are actually reversed.

The comparison also reveals the importance of non-judicial administrative redress. Litigation is often costly, slow, and adversarial. Many administrative disputes could be resolved earlier if public institutions possessed effective internal mechanisms for reviewing complaints, correcting errors, restoring rights, and providing explanations. Restorative justice is particularly suited to this level because it emphasizes early acknowledgment and repair. An administrative body that promptly recognizes a defective decision and reverses its consequences can provide more meaningful justice than a delayed damages award years later.

Apology and acknowledgment represent another potentially valuable development in both systems. Neither Iranian nor Iraqi administrative law has traditionally treated apology as a central legal remedy. Yet an institutional apology may be especially significant where the harm concerns dignity or reputation. The international law of remedies recognizes satisfaction as a distinct form of reparation where compensation alone cannot adequately address the injury (Shelton, 2015). The broader law of state responsibility likewise recognizes satisfaction as an appropriate remedy for certain forms of non-material injury (Crawford, 2002). Domestic administrative systems can draw on this logic without mechanically importing international rules.

The preventive dimension of restorative justice is equally important. Administrative courts often encounter repeated disputes arising from the same regulation, procedure, or bureaucratic practice. A purely individual compensatory model treats each claim separately. A restorative model asks whether the institution should change the underlying practice. In both Iran and Iraq, structural corrective measures could include revision of internal guidelines, publication of judicial standards, improved reasoning requirements, enhanced complaint procedures, better staff training, and more effective disciplinary or supervisory mechanisms.

Human-rights principles provide additional support for this development. The idea of an effective remedy requires more than formal access to a tribunal. The remedy must be capable of addressing the substance of the violation and providing appropriate redress. Iranian scholarship has explicitly connected administrative remedies to this broader standard (A. Farajnia, 2024). The human-rights dimensions of reparation for moral injury likewise demonstrate that restoration of dignity and acknowledgment of the violation may be integral components of justice (M. Farajnia, 2024). These principles are equally relevant to Iraqi administrative law because the underlying problem is not jurisdiction-specific: monetary compensation cannot always repair a rights-based administrative injury.

The most significant difference between the two legal systems lies less in their basic compensatory principles than in the degree of institutional development surrounding administrative justice. Iran has developed a comparatively visible body of jurisprudence around the Administrative Justice Court and contemporary scholarship addressing state liability within administrative procedure (Riahi, 2018). Iraq possesses its own administrative liability doctrines and administrative adjudicatory mechanisms, but the literature examined here remains more closely connected to general civil-law compensation principles (Al-Bayati, 2018). This difference suggests that reform strategies may need to be adapted institutionally even where the conceptual direction is similar.

For Iran, the principal reform priority is to expand the remedial consequences available within administrative adjudication and to strengthen the connection between annulment, compensation, restitution, and corrective measures. For Iraq, reform may additionally require further systematization of administrative liability as an autonomous public-law doctrine capable of producing remedies beyond civil damages. In both countries, clearer statutory recognition of non-monetary remedies would reduce uncertainty and encourage courts to move beyond conventional compensation.

A comparative restorative framework for both jurisdictions should therefore contain several interconnected elements. Compensation should remain available for financial and non-financial damage. Restitution should be preferred where the injured legal position can realistically be restored. Administrative records should be corrected where they perpetuate the consequences of unlawful decisions. Reinstatement or renewed consideration should be available where legal status has been wrongfully denied. Declaratory relief, acknowledgment, or apology should be considered where dignity or reputation has been affected. Rehabilitation should be available where administrative wrongdoing causes continuing personal consequences. Finally, institutional reform should be required where individual violations reveal systemic administrative defects.

The transition from financial compensation toward restorative justice in Iran and Iraq should not be understood as a rejection of their civil-law traditions. On the contrary, it can be presented as a logical development of the foundational principle of full reparation. If the purpose of liability is genuinely to repair harm, then the legal system must select the remedy that most

effectively responds to the injury. Money is indispensable in many cases, but it is not universally sufficient. Restorative administrative justice therefore represents an expansion of compensatory logic rather than its abandonment.

5. Conclusion

The comparison of Iranian and Iraqi administrative law demonstrates that both legal systems possess substantial doctrinal foundations for protecting individuals against harm caused by public authorities, yet both remain strongly influenced by a remedial model centered on financial compensation. The historical development of state liability has been essential to the consolidation of the rule of law because it rejects the idea that governmental institutions may exercise public power without legal responsibility for the consequences of unlawful conduct. Compensation has played a particularly important role in this process by providing individuals with a legally enforceable means of obtaining redress for losses caused by administrative decisions, omissions, defective public services, and other forms of governmental action. Nevertheless, the expansion of administrative activity and the growing recognition of non-pecuniary and rights-based harm reveal that compensation alone is often unable to provide complete justice.

Administrative wrongdoing can produce consequences that cannot be adequately translated into monetary value. Unlawful dismissal may damage professional status and reputation in addition to causing loss of salary. Wrongful licensing decisions may deprive an individual of a legal position as well as economic opportunity. Arbitrary disciplinary measures may generate humiliation and lasting reputational consequences. Unlawful administrative records may continue to affect individuals long after the original decision has been annulled. Delays, discriminatory treatment, misuse of authority, and violations of procedural fairness may also undermine individual dignity and trust in public institutions. These forms of harm require a remedial system capable of responding to the nature of the violated interest rather than simply assigning a financial value to the injury.

The transition toward restorative justice offers a more comprehensive model. In administrative law, restorative justice should not be equated with informal reconciliation, nor should it replace judicial review or the ordinary requirements of legality. Its principal value lies in broadening the concept of reparation. A restorative administrative system asks not only how much compensation is owed but also what must be restored, corrected, acknowledged, rehabilitated, or changed in order to repair the consequences of the administrative wrong. This approach retains financial compensation as an essential remedy while placing it within a wider framework that includes restitution, reinstatement, correction of records, acknowledgment of wrongdoing, rehabilitation, declaratory relief, institutional apology where appropriate, and guarantees of non-repetition.

The Iranian legal system is particularly well positioned to develop such a framework because administrative justice and state liability have already undergone significant evolution. The existence of a specialized administrative judiciary provides an institutional basis for integrating legality review with broader remedial functions. The principal challenge is to ensure that the consequences of judicial findings are not confined to annulment or financial compensation when the nature of the injury requires additional measures. Greater remedial flexibility would allow courts and administrative authorities to restore legal status, correct continuing consequences, and respond more effectively to non-pecuniary harm. Clearer procedural coordination would also reduce the burden on claimants who are currently required to pursue different aspects of the same administrative injury through separate mechanisms.

Iraqi law likewise contains important foundations for restorative development. Its general law of obligations and civil liability already recognizes the principle that wrongful harm should be repaired and that damage may include non-material interests. These principles can support a broader administrative remedial doctrine without requiring a fundamental departure from the civil-law tradition. The principal task is to interpret the concept of full reparation functionally. If restoration of legal status, correction of an official record, reinstatement, or formal acknowledgment provides a more accurate response to the injury than money alone, then such measures should be understood as legitimate components of reparation rather than as exceptions to compensation.

The comparison further demonstrates that both legal systems should reduce excessive dependence on proof of individualized administrative fault. Modern governmental action is institutionally complex, and injury may result from defective procedures, organizational failures, cumulative decisions, or systemic weaknesses rather than the misconduct of a single identifiable official. A contemporary model of state liability should therefore focus more clearly on institutional responsibility. This does

not mean that causation or legal attribution should be abandoned. Rather, those concepts should be applied in a manner that reflects the realities of public administration and does not make effective remedies practically inaccessible.

Another major reform requirement concerns the relationship between individual redress and institutional learning. Traditional compensation resolves the claim of the individual applicant but may leave the underlying administrative defect unchanged. A restorative system should treat serious or recurring violations as opportunities for institutional correction. Where repeated disputes reveal a defective regulation, unclear procedure, inadequate training, or systemic disregard for judicial standards, the remedial process should encourage or require reform. Guarantees of non-repetition are therefore not external to administrative liability; they represent its preventive dimension. Their inclusion can transform administrative justice from a mechanism that reacts to individual harm into one that also improves the quality and legality of public administration.

Administrative complaint mechanisms should also be redesigned around the principle of early repair. Courts should remain available as independent guarantors of legality, but many disputes can and should be resolved before litigation becomes necessary. Public authorities should possess structured procedures for identifying administrative error, reversing defective decisions, correcting records, restoring entitlements, explaining the reasons for the error, and offering appropriate compensation or acknowledgment. Early restorative intervention can reduce litigation costs, shorten the duration of harm, and strengthen public confidence in administrative institutions.

Institutional acknowledgment deserves particular attention. Governments often resist apology because it is perceived as an admission of weakness or as a potential basis for expanded liability. In reality, carefully structured acknowledgment can strengthen the legitimacy of public institutions. When a public authority recognizes that a citizen was treated unlawfully and demonstrates that corrective action has been taken, accountability becomes visible. Such recognition may be especially important in cases involving dignity, reputation, discriminatory treatment, or procedural injustice. It should therefore be considered a legitimate component of administrative reparation where appropriate.

The adoption of restorative principles must nevertheless remain governed by legality, proportionality, equality, and procedural fairness. Restorative remedies should never become a mechanism for pressuring injured persons into accepting informal settlements or for allowing administrative authorities to avoid judicial scrutiny. Their purpose is to strengthen the effectiveness of public-law remedies, not to weaken formal rights. Clear legislative rules should define the available remedies, the circumstances in which they may be ordered, the powers of administrative courts, and the duties of public bodies to implement corrective measures.

The most appropriate model for Iran and Iraq is consequently a layered remedial system. The first layer should address the validity of the administrative act through annulment, suspension, or cessation. The second should restore the individual's legal position wherever possible. The third should compensate material and non-material damage that cannot otherwise be repaired. The fourth should address dignity, reputation, and recognition through declaratory or symbolic measures. The fifth should correct institutional causes and prevent recurrence. These layers should operate cumulatively where necessary rather than as mutually exclusive alternatives.

The broader significance of this transition lies in its conception of administrative justice. A legal system that merely pays for unlawful administration after the harm has occurred treats injury as an administrative cost. A system that restores rights, acknowledges violations, repairs non-economic harm, and corrects institutional causes treats administrative legality as an ongoing obligation of public institutions. The movement from financial compensation toward restorative justice therefore reflects a deeper transformation in the relationship between citizen and state. It redefines state liability not simply as an obligation to pay for damage but as a duty to repair the consequences of public wrongdoing in a manner consistent with human dignity, effective judicial protection, and responsible administration.

For Iran and Iraq, this transformation is both legally feasible and institutionally desirable. Neither country needs to abandon existing doctrines of civil liability or compensation. Instead, those doctrines should be developed into a broader theory of administrative reparation capable of recognizing the multiple dimensions of harm created by modern public administration. By integrating compensation with restitution, correction, acknowledgment, rehabilitation, and prevention, both legal systems can move toward an administrative justice model that is more responsive to individual rights and more capable of promoting lawful and accountable government.

Ethical Considerations

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

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Conflict of Interest

The authors report no conflict of interest.

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