

THE DEVELOPMENT OF AN ADMINISTRATIVE JUDICIARY IN JORDAN: ANTICIPATION AND OUTLOOK

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ABSTRACT

A Government has a vast range of responsibilities and tasks related to managing the full range of public utilities that should deliver quality services to people in a timely fashion, and this requires the administration to issue many decisions every day. Individuals often worry about the availability of legal safeguards to protect their rights and liberties against unlawful government decisions, and the establishment of a solid administrative judiciary has therefore become one of the main public needs.

The administrative judiciary of Jordan has developed in many ways since 1952. Citizens nevertheless believe that the country lacks a legal system which can protect them, because the courts have insufficient experience in administrative law, and political interference in the affairs of the judiciary may result in judgments which are biased in favor of the government. This article will review how an administrative judiciary might be developed and recommend some solutions for the obstacles which may be encountered.

Key words: Administrative Judiciary, Administrative Courts, Economic Growth.

INTRODUCTION

The justice system in Jordan is based on the dual judiciary system consisting of two independent judicial bodies which take over the adjudication of disputes. The first of these bodies is the regular/civil judiciary, which is in charge of settling disputes between individuals, and the other is the administrative judiciary, which is competent in settling disputes between individuals and government relating to administrative decisions.

Jordan has witnessed several constitutional amendments which have resulted in the establishment of an administrative jurisdiction at two levels, namely the Administrative Court and the High Administrative Court, and has also enacted the Administrative Judiciary Law, which grants comprehensive jurisdiction to the courts to adjudicate in all appeals against final administrative decisions. The administrative judiciary therefore has a new structure and mechanisms which enable it to contribute effectively to defending the principle of legality and preserving a fair balance between the public interest, which it seeks to achieve by ensuring that public utilities work consistently and effectively and the private interest by ensuring that individuals enjoy their rights and freedoms.

The government has some responsibilities for running an efficient administration, as it has to control various public utilities in the interests of people and provide them with appropriate services (Schwartz, 2006). However, it may forget its objective and engage in corrupt practices, which create many problems. Resorting to the courts (the administrative judiciary) is considered

to be the only way of overcoming such problems and safeguarding the rights of the population against a breach of the law by the administration, as well as overturning illegal decisions if necessary (Arrowsmith, 2014). It is supposed that people trust the administrative judiciary as it plays a significant role in protecting their rights and acts as a mentor to the administration (Elkhatib, 2001).

However, some people believe that their rights will not be secured in case of dispute with the government because they do not trust the administrative judiciary to give just, impartial decisions-they fear that it will be biased in favour of the government and its policies. It is therefore extremely important for this research to evaluate the effectiveness and impartiality of Jordanian administrative courts in dealing with clashes between individuals and the government.

Previous studies in this area have evaluated ways of developing and improving the legislation which can be adopted by less developed countries such as Jordan in order to have a positive impact on the problems arising from the verdicts of the administrative judiciary. This will fill the gap identified by recent studies in how administrative courts can be improved to achieve public aims.

This study is divided into three main parts: the foundation and history of the administrative judiciary, the major issues it has faced during its development, and recommendations for improvement. This structure will enable the researchers to evaluate the administrative judiciary of Jordan and its influence on protecting the rights of people.

The Administrative Judiciary in Jordan

No significant progress was noticed in the construction and composition of a Jordanian administrative judiciary between 1952 and 1989, as at this time this role was carried out by the Court of Cassation, and it developed slowly due to the lack of judicial staff that specialized in administrative law. Additionally, there was no significant progress towards the development of administrative judiciary because of the emergencies that the Hashemite Kingdom of Jordan went through in this period, including the declaration of martial law and the application of the defence law for more than half a century until it was lifted in 1992.

In order to determine the main obstacles to the establishment of a solid administrative judiciary and suggest possible solutions, it is necessary to outline the phases through which the administrative judiciary developed in the following sections.

A Single Level Administrative Judiciary

The features of the administrative judiciary began to appear in Jordan in 1952 following the issuance of the Constitution of 1952, which states that:

“The types of all courts, their levels, divisions, jurisdictions and the manner of their administration shall be specified by a special law, provided that such law shall provide for the establishment of a High Court of Justice/administrative court” (Law, 1952)

Therefore, the legislator responded to the requirement of the Constitution for the establishment of a high court of justice when the Civil Court Composition Law laid down that:

“The Court of Cassation in Amman shall be composed of a president and a number of judge and it shall be composed, as a high court of justice/administrative court, of a president and four judges to try the following matters.....etc. (Law, 1952).¹”

The establishment and functioning of the High Court of Justice under the Civil Courts Composition Law did not initially ensure that it was sufficiently comprehensive and efficient to allow this court to perform its duties properly and to play its role. The fact that it was linked to the Court of Cassation and its lack of independence from the ordinary judiciary reduced its control over the administration due to the states of emergency which were declared more than once,² the exclusive jurisdiction with keeping litigation at one level, expansion of the concept and framework of sovereign acts in its judgments resulted in many administrative decisions being excluded from the control of the High Court of Justice.

The lack of independence of the High Court of Justice continued to disturb the administrative judiciary and administrative jurists until the interim High Court of Justice Law No. (11) of 1989 was promulgated, which granted the High Court of Justice independence from the Court of Cassation, but it was also granted a set of powers very similar to those granted to it under the Civil Courts Composition Law No. (26) of 1952 (Law, 1989).

Although the law made it independent from the Court of Cassation, but this was not the desirable development because the modifications were simple, and included the granting of some limited jurisdictions such as changing the appeal period from 30 to 60 days, limiting the disciplinary decisions subject to its control to those issued by disciplinary councils with the exception of decisions issued by individuals, expanding the framework of sovereign acts, accepting the concept and results of immune decisions, reducing the number of court members/judges from five to three, and maintaining administrative litigation at one level.

These provisions therefore reduced the opportunities for accelerating the development of the administrative judiciary, ensuring the rule of law and establishing the principle of legality (Abu-Almajd, 1997). In response to criticism, the Jordanian legislator enacted the High Court of Justice Law No. (12) of 1992 to avoid the drawbacks of the previous law.

The jurisdictions of the High Court of Justice were expanded slightly under this Law and remained exclusively limited, but it can be said that the law offered some benefits, including:

1. The jurisdiction of the High Court of Justice was increased and expanded compared with the previous law, and approached the principle of legality more closely.
2. The High Court of Justice was granted the right to control the constitutionality of laws.
3. The High Court of Justice was explicitly granted the right to suspend the provisions of any interim law which violates the constitution, or any regulation which violates the law or the constitution.
4. The High Court of Justice was granted the right to accept appeals against any final administrative decision even if it is immune according to the law or the regulation under which it was issued.

The Two-Level Administrative Judiciary

In spite of the legislative and judicial development achieved by the High Court of Justice Law (1992) which was criticized for providing only a single level of litigation. The legislator amended Article (100) of the Constitution by replacing the phrase "*High Court of Justice*" contained therein with the phrase "*Administrative Judiciary at two levels*", and further amending this Article so that it provides that:

*“The types of all courts, their levels, divisions, jurisdictions and the manner of their administration shall be specified by a special law, provided that such law shall provide for the establishment of an Administrative Judiciary at two levels”.*³

The legislator responded to the constitutional amendment and enacted the Administrative Jurisdiction Law No. (27) of 2014 based on the establishment of two levels of litigation, the Administrative Court and the High Administrative Court. These will be discussed in the following two sections.

The Administrative Court

The Administrative Court is part of the first level of the administrative judiciary based in Amman, and may hold its hearings anywhere else in the Kingdom upon the approval of its president. It is composed of a president and a number of judges, and its panel is held in the presence of the president and at least two members.

While the Administrative Jurisdiction Law grants comprehensive jurisdiction to the Administrative Court as to the admissibility of all appeals against final administrative decisions, providing some jurisdictions which are only forms of these powers and an explanation of some important aspects in the development and expansion of this court jurisdiction.⁴ In this regard, observations relating to this legislation include the jurisdiction of the Administrative Court over appeals related to final administrative decisions is general jurisdiction. The powers set out in Article (5) of Administrative Jurisdiction Law No. (27) of 2014 are just examples, applications and forms of some decisions. In other words, the jurisdiction of the court was extended to include all decisions issued by administrative bodies compared with the situation according to the previous/deleted Law of 1992.

The High Administrative Court

The High Administrative Court is a second level court (court of appeal), and was the first court to be established under the Administrative Judiciary Law 2014. This court is competent in the cases which are brought before it to challenge any final judgment issued by the Administrative Court (a first level court). It is based in Amman and is composed of a president and a number of judges, and its bench sits with a president with at least four judges.

Appeals can only be filed to the High Administrative Court by the litigants in the original case brought to the Administrative Court, subject to an available interest. Appeals are filed by a losing party, provided that their appeal is based on one of the cases set out under the Administrative Judiciary Law, including:

1. If the contested decision is based on a violation, misapplication or misinterpretation of the law;
2. If the decision or the proceedings are invalid;
3. If the decision is issued contrary to *res judicata*.

The appeal or lawsuit filed to the High Administrative Court differs from those filed to the Administrative Court, since the aim of the lawsuit filed to the High Administrative Court is to annul a judgment, while the aim of the lawsuit filed to the Administrative Court is to annul a decision, even if the final result is associated with a judicial recognition of the legality or illegality of an administrative decision.

The judgments of the High Administrative Court are final and must be implemented in the manner in which they are issued. If the judgment is issued for annulment of the administrative decision, then it will have comprehensive validity, and so all legal and administrative proceedings and acts made under that decision are considered null from the date of issuance of that decision.⁵

Examination of the most important features of the development of administrative judiciary in the Hashemite Kingdom of Jordan was sometimes accompanied by satisfaction and sometimes by a sense of hope. After presenting the jurisdictions of administrative courts and outlining the levels of litigation, it is now possible to evaluate the development of the administrative judiciary and identify the main obstacles, and this is the task of the following section.

Evaluating the Development of the Administrative Judiciary

The principle of two-level litigation achieves the highest level of justice since the judgment of the Administrative Court (the first-level court) is likely to be wrong if the judge does not apply the law and procedures correctly (Wade & Forsyth, 2015), either because of personal bias, failure to examine the facts, or a lack of awareness of the legal rules and how to apply them. The High Administrative Court (the second-level court) now plays an important role in correcting the mistakes made in the awards of first court and granting the parties more reassurance in securing their rights. In particular, the fact that this court has more numerous judges makes it better able to resolve disputes, thus reducing the proportion of wrong judgments issued by the first-level court.

The legislator has taken positive steps to strengthen the principle of legality and the rule of law since the establishment of administrative judiciary at two levels, i.e. the Administrative Court and the High Administrative Court. This builds a strong link between private and public interests, which increases the nation's confidence in its citizens and vice versa, and increases the opportunities for reform, progress and democracy (Devi, 1994).

It should also be pointed out that although the current Administrative Judiciary Law does not specify a certain period in which the High Administrative Court should adjudicate the matters brought before it and issue a final judgment, the vast majority of cases and appeals which have been filed to it have been decided upon and final judgments issued within few months. This is a significant accomplishment on the part of the High Administrative Court, and means there can be no complaints since the slow justice is considered a kind of injustice.

The amendment to Article (100) of the Constitution providing for the establishment of the administrative judiciary at two levels, and the rapid legislative response to this development through the enactment of the current Administrative Judiciary Law constitute an effective and forward step. However, there are still some obstacles facing the development of administrative judiciary including non-existence of specialized judges and the political interference in the judicial affairs which will be discussed in detail in the following sections.

The Political Interference in the Administrative Judiciary

Although it is acknowledged that the development of the two-level administrative judiciary is an advance, there are still some issues to deal with. One problem is that some people

still distrust the judiciary and fear that the courts may give biased rulings favouring opponents who are affiliated to the government.

The Jordanian Constitution stresses the importance of an autonomous judiciary,⁶ and any corruption among the judiciary is closely linked to political instability, where the power is not respected and is used to further private interests. There may be different reasons for corruption, but the outcome is the same—that is, the development of injustice. Political intervention in the work of the judiciary is the most common example of corruption, where a government forces the judiciary to give rulings according to its political agenda (Al-Adba, 2014).

There are many examples of government intervention in the judiciary in the history of Jordanian courts. For instance, few years ago, a newspaper publication complained about the government interfering in legislation and demanded that the Minister of Justice should be punished for trying to manipulate legal rulings (Alkilani, 1999). It claimed that the minister's request to the president of the Cassation Court was a reason for removing many judges who had given verdicts against the government (Alkilani, 1999). In addition, it was said that the minister had used financial benefits to bribe judges who had given verdicts beneficial to the government.⁷

Another incident occurred when the Prime Minister along with some magistrates held a meeting with the members of Judicial Council at which he agreed to arrange an assembly without informing their president, Mr. Farouq Alkilani, where a decision to remove him was taken because he had a record of making decisions against the government and also because of his opposition to any government intervention.⁸

Mr Hani Aldahleh as a very experienced lawyer in administrative disputes stated in his book (After Years), that:

“..... Last government tried to remove some expert judges and recruited unskilled ones who would give rulings influenced by the government to satisfy it.”

“..... It has nearly become impossible to win a case in the administrative judiciary as it is so unfair and is greatly influenced by the government. That is why I apologized for my clients and stopped accepting any case that is handled by these courts.”

“..... Presently then judiciary is autonomous as if the judges are retired for passing verdicts that are unfavourable for government then those inefficient judges will be recruited who will accept the government intervention” (Aldahleh, 2008).

However, many governments are not able to provide services to their citizens due to insufficient financial resources, arising for example from budget deficits, and this may be one reason for involving the private sector in the economic system as a way of achieving greater financial stability in deprived economies like Jordan. This may also play a part in economic development, as the involvement of the private sector will result in higher output; furthermore, the economy will become internationally competitive and thus attract foreign direct investment.

Before deciding to invest in an economy, investors may worry about whether the investment will continue to be worthwhile and secure in case of any issue may arise with the governmental decisions. The need to establish a solid administrative judiciary in this regard is not limited simply to protecting the freedoms of citizens, but also arises from the importance of providing protective mechanisms for investors; one way a government can provide such

mechanisms is to ensure that the judiciary is neutral, so that investors will feel secure and will invest in economies like Jordan which needs this investment desperately.

This clearly shows the importance of a strong and neutral administrative judiciary, as it plays an important part in promoting foreign investment in Jordan. If it proves itself to be safe for investors, that will improve the country's reputation and help Jordan to gain much-needed financial resources from other countries.

As a result, domestic and international investors may stop investing in Jordan because they have no trust in the judiciary system, which they believe will pass verdicts for political reasons. A clear example is a famous Arab investor who came to invest in the public service sector and had to meet the government and the Prime Minister as commanded by the King, in order to discuss the opportunities for his investment. Before he committed his money, he decided to do some research to ensure that his returns would be safe. This research involved visiting administrative courts and meeting other entrepreneurs, and he found out that the judiciary of Jordan was unfair and biased towards the government in cases of disagreement, and this made him feel that an investment would be a risky proposition.

Sometimes the Jordanian government does not abide by the legislation and makes decisions which are beneficial to unqualified bidders.⁹ This is why private individuals are unwilling to invest, as they do not trust the courts to do anything but seek to please the government. This is an example of the sort of corruption which wastes public money and will reduce the quality of the services given to citizens (Campbell & Jones, 1996). For instance, a Jordanian government minister invited tenders for commission purposes from certain companies in spite of the fact that their offers did not meet the necessary criteria (Alkilani, 2011). This illustrates the ignorance of ministers in relation to their duties and responsibilities which are defined by the constitution,¹⁰ and according to the Punishments Act,¹¹ a minister who is guilty of charging any commission shall be dismissed for an abuse of power.¹²

The independence of the judiciary is an indicator of political stability in a country, and is found in developed regions. But a corrupt judiciary will affect the reputation of the whole country, as people will consider it unsafe for investment and be unwilling to invest (Al-Adba, 2014).

Therefore, investors are attracted by a just administrative judiciary as it guarantees that the government will be treated in exactly the same way as anybody else in any legal proceedings. This will give investors the confidence they need to invest in Jordan, and this will help its economy to grow with the private sector providing at least some (if not most) of its needs.

Lack of Specialized Administrative Judges

The employment scale of judges has eight grades (sixth, fifth, fourth, third, second, first, special and high), and all judges are initially appointed at grade six and promoted to a higher grade every five years until they reach the top, or high, grade.¹³ According to the Administrative Judiciary Law, there is no specific condition or experience required for administrative court judges unless they must be no lower than the second grade,¹⁴ which means they must have served in other regular and private courts for at least twenty years (the period of service required to move from the sixth to the second grade).

The lack of specialized judges is therefore considered to be one of the main obstacles to the development of administrative judiciary in Jordan, since judges lack the requisite knowledge

and experience of administrative law because they have to spend tens of years in the regular and private courts adjudicating in civil, commercial and criminal cases before they can be transferred to adjudicate in the administrative court and start getting a new experience.

Commercial, civil and criminal matters are governed by written laws, and the role of regular judges is limited to applying these laws in disputes which arise and issuing final awards after assessing the evidence presented. Judges who work in regular courts are therefore called applied judges.

The role of administrative judges on the other hand is to create new, legally valid rules to be applied in the cases they preside over, since administrative law is not codified but is derived from various sources such as legislation (including the constitution, acts of parliament, regulations and instructions), legal precedents, principles of natural justice, theories of administrative law (such as the non-retroactivity of administrative decisions, the continuity of public utility services without interruption, the theory of official employee-facto, and the theory of compelling circumstances). Administrative judges are therefore called creative judges.

Since the administrative court has jurisdiction over all appeals against final administrative decisions, administrative judges must also have a good understanding of the legal nature of administrative decisions and the conditions which must be met to make decisions challengeable, such as the finality of administrative decision and the legal status resulting from it; they must also be fully aware of the types of immune decisions which cannot be challenged. Such matters require special experience to be available in the position of administrative judges.

It should be mentioned that the High Administrative Court is considered to be the highest administrative Court and its judges are at the high grade,¹⁵ which means that the judges of this court must have served in the other courts for at least 35 years (the period of service required to move from the sixth grade to the high grade). One of the main practical reasons for the lack of experience of administrative Judiciary judges in Jordan is the fact that judges of the High Administrative Court (the second level of the administrative court) are not required to have previously served in the Administrative Court (the first stage of the administrative court). In other words, the judges can be appointed to the High Administrative Court even if they have not previously served in the Administrative Court. Mr Mahmoud Ababneh, for example, was appointed as president of the High Administrative Court in 2017 after serving in non-administrative courts (i.e. private and regular courts) for the whole of his judicial career.

An examination of the awards of the administrative court makes it clear that the majority of awards are given without legal justifications, and shows that different awards may be couched in similar language, with the only changes made by the court being the name of the disputing parties and the description of the case events. This also seems to be a result of the lack of experience of the administrative judges (Alnawaiseh, 2021).

A prerequisite for the development of an administrative judiciary is that the judges should work in the administrative courts from the date of their appointment until their retirement. This would enable them to gain more knowledge and experience of administrative law and the competences of administrative courts, in complete contrast to current practice, whereby a judge serves in a regular/private court for few years, transfers to an administrative court for another few years and then transfers again to a regular/private court.

To avoid problems which may be encountered in future, it is recommended that the legislator should work on gaps and flaws in the legislation when passing the present Administrative Judiciary Law in order to fulfil expectations. The next section presents

suggestions for making the administrative judiciary independent and thereby protecting the rights of individuals in their cases with the government.

CONCLUSION

The main aim of this paper is to establish a solid administrative judiciary which protects the rights of individuals in disputes which arise with the government. Following the introduction, this article is made up of three sections. The first of these discussed the main developments and changes in terms of the administrative judiciary since 1952, while the second section examined the main advantages of having the current administrative judiciary, and the obstacles which stand in its way. This final section presents the recommendations of this study.

The advantage of two-level litigation was identified as the achievement of the highest level of justice, since a second court corrects the judgments of the first-level court which might be wrong if the judge does not apply the law and procedures correctly. Obstacles to the development of the administrative judiciary were also identified, and ranged from the lack of administrative courts for judges experienced in administrative law, and political interference in the affairs of courts.

This research has sought to evaluate the development of the administrative judiciary in Jordan, and it is suggested that the following recommendations might be necessary:

1. Since individuals have little confidence in the administrative judiciary because the bias of the administrative courts favours the government in their awards, it is recommended that a new law should be enacted to criminalize any minister, prime minister or governmental body who tries to put pressure on judges to issue awards in their interest; this will definitely keep the administrative judiciary independent of any political interference.
2. There are some conditions must be met in appointing administrative judges which do not necessarily apply in appointing any other judges. It is recommended that administrative judges should have knowledge and experience in the constitutions, ordinary laws, regulations and instructions, in addition to all legal rules approved and recognized by positive law whether written or unwritten, such as customary rules and judicial principles. Therefore, the provisions of appointment for administrative court judges should be reviewed to enable the appointment of some specialized and experienced persons such as university professors and experienced lawyers of administrative courts, due to their profound knowledge and experience in administrative law. The existence of judges who are specialists in administrative law is necessary in order to further the development of the administrative judiciary and will help the administrative courts to be qualified to transform from the mandate of annulment and compensation to the general mandate in administrative disputes.
3. Before the appointment of any person to be a judge, he/she should be required to gain a diploma from the Judicial Institute, which is the only official academy in Jordan and is responsible for the teaching and preparation of candidates for judicial positions. However, although the curriculum of the Institute requires all candidates to study 43 courses as a prerequisite for being awarded the diploma, only one of these courses relates to administrative law, while the others relate to civil law, commercial law and criminal law. It is noted that the focus of the Institute is on preparing judges for appointment in the regular judiciary rather the administrative judiciary. It is therefore recommended that a separate judicial institute should be established with a remit to teach only administrative law and graduating judges to be appointed in the administrative courts from the beginning until their retirement.
4. It is necessary that effective training programs should be organized for judges on the independence of the administrative judiciary, achieving justice in disputes arising with the government, and the legal steps which must be taken by judges in any case of interference in their affairs.
5. The justice system in Jordan is based on the dual judiciary system consisting of two independent judicial bodies which take over the adjudication of disputes. The first of these bodies is the regular/civil judiciary,

which is in charge of settling disputes between individuals, and the other is the administrative judiciary, which is competent in settling disputes between individuals and government relating to administrative decisions. However, the author believes that Jordan has not implemented a judicial duplication in the full sense, as the administrative judiciary is not independent from the regular judiciary since the judges of Administrative Courts are appointed by a decision of the Judicial Council provided with the royal decree. The Judicial Council in this regard is formed under the Judicial Independence Law and has the authority to appoint all judges, including the judges of administrative courts, without taking into account the nature of administrative disputes which contain a conflict between a personal interest and a public interest, unlike other cases which contain conflicts between the personal interests of individuals.

It is recommended therefore that the administrative judiciary should be made independent of the regular judiciary by modifying the current Law of Administrative Judiciary and the establishment of a separate administrative judiciary concerned with all the affairs of administrative judges such as matters of their appointment, evaluation and promotion from the date of their appointment to their retirement.

Despite the development set out in the constitutional amendment regarding the administrative judiciary, there are some contradictions between the various provisions of the Constitution which need to be modified. For example, Article (99) provides that *“The courts are of three types: 1. Civil Courts, 2. Religious Courts, and 3. Special Courts”*, while Article (100) provides that *“The types of all courts, their levels, divisions, jurisdictions and the manner of their administration shall be specified by a special law, provided that such law shall provide for the establishment of an administrative judiciary at two levels”*. Therefore, only one special law (single law) should have been issued to regulate all types of courts including the civil, religious and special courts as well as the administrative courts, while in practice there are various separate laws (not a single law) relating to civil courts, religious courts, councils of Christian communities and administrative courts. This is in contradiction to the text of Article (100) of the Constitution as it stands.

To address this inconsistency and grant the administrative judiciary full independence, it is proposed that Article (100) of the Constitution should be amended to read:

*“Each type of court set out in Article (99), including its name, degree, division, jurisdiction, manner of work, procedures and administration shall be specified by a law;
A two-level independent administrative judiciary shall be established, and its jurisdictions, degrees, work, procedures and manner of administrative shall be organized under this law.”*

The civil courts still have jurisdiction over all cases, while the competence of the administrative judiciary is limited to disputes concerning administrative decisions. It is recommended that the administrative courts should be granted full jurisdiction to adjudicate the whole range of administrative disputes in addition to giving legal advisory opinions to the government or parliament.

The development of the administrative judiciary requires that it should take into consideration the experience of other countries, and it can be said that Egypt is regarded as one of the most developed countries in that it has an independent administrative judiciary with full jurisdictions. The Egyptian administrative judiciary in this regard is organised by the Council of State, which is considered an independent judicial authority according to Article (172) of the Egyptian Constitution, and has the jurisdiction to adjudicate in administrative disputes and

disciplinary suits. The Council of State is composed of three divisions: the judicial division, the consultation division and the legislation division.

It is recommended that administrative courts should be established in the governorates in order to reduce the case loads of existing administrative courts, which are all located in Amman. This would also expedite judicial proceedings, and especially speed up the litigation court system, which currently reduces damages the investments, and as a result has a negative effect on the state economy.

ENDNOTES

1. It should be mentioned here that the High Court of Justice was established before the Constitution under the Interim Civil Courts Composition Act No. 71 of 1951, which came into force on 7/16/1951, and it was then abolished after the issuance of the Courts Composition Act No. 26 of 1952.
2. States of emergency were declared in Jordan more than once. The first was in 1939, when the Defense Law of 1935 was applied. Martial law was applied in 1957, 1967 and 1970. In 1992, martial law and the Defense Law and the constructions issued thereunder were completely lifted until 17 March 2020, when the Defense Law of 1992 was applied due to the spread of Covid-19.
3. Before it was amended, Article (100) of the Jordanian Constitution provided that “The types of all courts, their levels, divisions, jurisdictions and the manner of their administration shall be specified by a special law, provided that such law shall provide for the establishment of a High Court of Justice”.
4. According to the Law of Administrative Judiciary 2014, Article (5), the Administrative Court has exclusive jurisdiction over all appeals against final administrative decisions, including:
 1. Appeals against the results of the election of councils of municipalities, chambers of industry and commerce, trade unions, associations and clubs registered in the Kingdom, and all electoral appeals which are submitted in accordance with the laws and regulations in force, unless this jurisdiction is vested in another court under the provisions of another law.
 2. Appeals submitted by the concerned parties against final administrative decisions on appointment to public positions, annual increments, promotion, relocation, or secondment, assignment, stabilization in service, or classification.
 3. Public officials' appeals for nullifying final administrative decisions on dismissal or suspension from office .
 4. Public officials' appeals for nullifying final decisions delivered against them by the disciplinary authorities.
 5. Appeals against decisions on the salaries, allowances, remuneration, annual increments, pension rights of public officials, retirees or their heirs under the applicable laws.
 6. Appeals submitted by any affected person for nullifying any regulations, instructions or decisions if the regulations violate the law under which they are issued, or if the instructions violate the law or the regulations under which they are issued, or if the decision violates the law, regulations or instructions under which it is issued.
 7. Appeals submitted by any affected person for annulling final administrative decisions even if they are immune according to the law under which they are issued.
 8. Appeals against any final decisions issued by administrative bodies with judicial competence, with the exception of decisions issued by the conciliation bodies and arbitration tribunals on labor disputes.
 9. Appeals which fall within the jurisdiction of the administrative court under any other law.
5. In this regard, the High Court of Justice is described as both a court of law and a trial court at the same time. The final judgment is often the result of an appeal filed to it. Yet, in some cases, the High Administrative Court may not reach this conclusion by confirming, reversing or reviewing the judgment of the Administrative Court, rather it sends it back to the Administrative Court to look into the question of whether it was dismissed for lack of jurisdiction, absence of litigation or for procedural reasons.
6. The Constitution stresses the importance of the judiciary's independence. For example, S (27)

7. The Judicial Power is independent and shall be exercised by the different courts of law, and all judgments shall be given in accordance with the law and pronounced in the name of the King. Also, S (97) lays down that Judges are independent, and in the exercise of their judicial functions they are subject to no authority other than that of the law, while S (101/1) lays down that The courts shall be open to all and shall be free from any interference in their affairs.
8. The Independence of Judiciary Act 2001 grants the Minister of Justice authority to mandate any judge to any foreign judiciary. Article (24/B) laid down that the Ministry Council upon recommendation of the Judicial Council depute any judge to work in any foreign government or international organization. However, the minister in this case sent (deputed) some judges to work in Gulf Countries where they would earn high salaries, as a kind of reward for decisions which they had issued in favor of the government. see Alkilani, Independence of Judiciary,181.
9. The minister was considered to have violated the independence of the judiciary since the power to retire, dismiss and promote are limited to the Judicial Council. The Independence of Judiciary Act article (26) laid down that ‘the Judicial Council is the only accredited party which can dismiss or retire or degrade any judge with a Royal Decree.’
10. The process of devising government bills is complex, and during the tender processes, many disputes can arise even before the bills are passed, so a few steps have to be undertaken in order to reduce the chances of disputes which will slow down the process of contracting. The first initiative is to provide clear and precise information to all the parties submitting tenders through open procedures. Secondly, the contract should be awarded to the best offer, and all the bidders should be treated fairly.
11. The Constitution S (44) lays down that No Minister shall purchase or lease any Government property even if the sale or lease thereof has been offered in a public auction. He shall not, while holding his ministerial post, become a member of the board of directors of any company or take part in any financial transaction or receive a salary from any company.
12. The Punishments Act 1960 S (176) lays down that any employee gaining personal benefit because of his situation in state (such as benefiting from buying, selling or managing public funds) shall be subject to a sentence of imprisonment between six months and two years and fined ten Dinars minimum.
13. The Constitution 1952, S (55) lays down that Ministers shall be tried by the civil courts in the capital for offences which may be attributed to them in the course of the performance of their duties.
14. The Independence Judiciary Act 2014, article (19/B) lays down that the judge is promoted by law after serving five years in his grade.
15. The Administrative Judiciary Law 2014, article (4) lay down that The Administrative Court shall be consisted of a president and a number of judges, none of whom has a grade of less than the second.
16. The Administrative Judiciary Law 2014, Article (22/C) laid down in this regard that The President of the High Administrative Court shall be of the grade and salary of the Cassation Court President, and the judge and the Head of the Administrative Public Prosecution there shall be the grade and salary of the Cassation Judge.

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