

JUDICIAL INSTITUTE



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News

In the Presence of the Director General of the Judicial Institute, the Head of the Public Prosecution Office Meets with Judicial Institute Trainees at the Presidency of Baghdad Al-Rusafa Court of Appeal



Judge Najm Abdullah Ahmed, Head of the Public Prosecution Office, along with Judge Jalil Adnan Khalaf, Director General of the Judicial Institute, and Judge Khalis Kazem Jabir, the Public Prosecutor of Al-Rusafa, held a meeting with second-stage trainees from the 49th Cohort of the Judicial Institute at the Presidency of the Baghdad Al-Rusafa Court of Appeal.

The meeting featured various directives and pieces of advice offered to the trainees, with a strong emphasis on maximizing the benefit of this training phase given its significant impact on their future judicial careers.

The presiding judges also listened to the opinions and observations of the trainees, and guidance was issued to address all obstacles and challenges they face as promptly as possible.

In turn, the trainees from the 49th Cohort at the Al-Rusafa Court of Appeal praised the initiative of the Head of the Public Prosecution and the Director General of the Judicial Institute for meeting with them, offering advice and feedback, and listening to their concerns in an effort to ease their educational journey at the Institute and prepare them to become future judges.

News

Director General of the Judicial Institute Meets with UN Delegation to Discuss Integrating Standard Guidelines into the Judicial Skills Curriculum

The Director General of the Judicial Institute, Judge Jalil Adnan Khalaf, received in his office a delegation from the United Nations Office on Drugs and Crime (UNODC) in Iraq. The meeting focused on discussing the incorporation of standard procedural guidelines into the Judicial Skills course curriculum.

It is worth noting that, within the framework of the Global Action against Trafficking in Persons and the Smuggling of Migrants initiative, the UNODC delegation expressed its interest in enhancing collaboration with the Judicial Institute by adopting standard guidelines and investigative protocols in human trafficking and migrant smuggling cases. The delegation emphasized the importance of these standards in strengthening the course of investigations by deterring perpetrators and securing justice for victims.

These guidelines were developed through a collaborative effort between the UNODC in Iraq and a technical committee comprising representatives from the Supreme Judicial Council, Ministry of Interior, Ministry of Justice, the Human Rights Committee, and international experts affiliated with the Office. The outcome of this collaboration contributed to the removal of Iraq from the international watch list related to human trafficking and migrant smuggling.

Based on these developments, the UNODC delegation formally requested that the Judicial Institute adopt the standard guidelines in the investigation of trafficking and smuggling cases, expressing readiness to provide full technical and logistical support, including specialized training and training-of-trainers programs.

News Book Inspection and Sorting Committee Concludes Its Work



The designated committee for inspecting and sorting stored books at the Judicial Institute has completed its work, having reviewed approximately 1,640 books stored in the Institute's warehouse.

The committee conducted a full inventory and categorized the books into indexed lists according to content (legal books, journals, and periodicals), some of which date back over 150 years.

This initiative, overseen by the Director General, aims to conduct a comprehensive audit of materials outside the main library, in coordination with the Manuscript House, to repair damaged books, return rare titles to the library, and gift duplicate copies to academic and scientific institutions.

A new annex to the library has been established to house foreign and older books identified by the committee. As for rare manuscripts discovered during the review, they have been earmarked for transfer to the Manuscript House for preservation and restoration.

The Opening Article (The Lead)

The Judicial Institute... Heavy Responsibilities Aimed at Immunization, Preparation, and Qualification Befitting the Nobility of the Mission and the Status of the Judiciary

The judiciary holds great importance in the life of society and its individuals, as it is considered a fundamental pillar of justice and constantly strives to achieve it. In order for the judiciary to fulfill this noble mission, it is imperative to prepare judges and equip them to bear the responsibility of assuming judicial positions, as it is one of the main foundations upon which the edifice of a just and enduring society stands. Hence, the idea emerged to establish a specialized institution tasked with preparing new judges and public prosecutors to contribute, from their positions and through their dedication, to the consolidation of justice values and concepts, the promotion of democracy in society, and the protection of human rights.

The Judicial Institute was established on the first day of November 1976 by Law No. (33) of 1976 to undertake the preparation of judicial cadres through the study of judicial and legal sciences and to focus on developing legal competencies and mid-level cadres of state employees. The Judicial Institute conducts training and qualification courses in various legal specializations to raise the legal standards of employees working in legal departments across all state institutions.

Previously, the appointment of judges and public prosecutors was primarily based on the principle of direct appointment. However, the Judicial Institute, through the law establishing it, set academic selection criteria to ensure their qualification to carry the noble mission by training them and equipping them with various theoretical and practical legal and judicial sciences, reinforcing the concept of justice, the principle of equality before the judiciary, and respect for human rights in a manner consistent with scientific approaches and the requirements of societal dynamics, as well as the expansion and proliferation of courts.

At present, the judiciary's role as an independent authority alongside the legislative and executive branches stands out, as it exercises its role in upholding the rule of law, ensuring stability, and achieving justice away from interference, fearing none but Allah Almighty, and adhering in its rulings and decisions solely to the provisions of the law in both letter and spirit.

These are heavy responsibilities that require immunization, preparation, and qualification befitting the nobility of the mission and the status of the judiciary. Herein lies the role of the Judicial Institute in performing its duty to immunize, prepare, and qualify its students to become judges and public prosecutors after providing them the opportunity to enter based on competence, integrity, and uprightness without any other considerations. Therefore, it is incumbent upon them to steer clear of suspicion and doubt, adhere to the purity of hands and cleanliness of tongue, and engage in continuous and diverse reading, so they may become judges capable of bearing the responsibility of enforcing the law and achieving justice with a spirit that embraces the society's evolving developments, as well as qualifying public prosecutors and enhancing their competencies to ensure they fulfill their duties and uphold the rule of law.

By Judge Jalil Adnan Khalaf
 Director General of the Judicial Institute

News

Announcement of Results for the Training Course on Appeals Procedures

The Judicial Institute announced the results of the training course on methods of appeal, which began on April 20 and concluded on April 27.

A total of 29 participants from various government institutions took part. The course was delivered by several retired judges and covered key procedures in appealing civil and criminal cases, as well as identifying the competent bodies responsible for adjudicating such appeals.



News

Announcement of Applications Opening for Cohorts 52 and 53

The Judicial Institute announced the opening of applications for the Judicial Training Course (Cohort 52) and the Public Prosecution Course (Cohort 53) for the academic year 2026-2025. The application period, which commenced on May 4, will remain open until June 4. Applications are submitted through the official website of the Supreme Judicial Council via the Judicial Institute portal, where applicants must fill out and print the application form before visiting the Institute to complete the procedures as per the established admission criteria.

The Institute has already begun receiving applicants, with electronic payment being facilitated through the use of e-cards—an approach that has been well-received due to the simplicity of its procedures.

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Liquid Societies

By Judge Amer Hassan Shanta

The Polish sociologist Zygmunt Bauman introduces the concept of "liquid modernity," built upon the notion of the disintegration of established concepts. According to Bauman, this liquid modernity has become the defining feature of contemporary societies, in contrast to the "solid modernity" that once characterized earlier societies—those grounded in the supremacy and authority of reason.

Bauman argues that "liquidity" has come to dominate modern social systems as the solid social structures upon which societies were once built—such as the family and educational institutions—have eroded. These structures have lost their capacity for cohesion and permanence, and the individual now increasingly experiences a sense of uncertainty and persistent anxiety about the future. This stems from constant change and transformation, the dominance of individualism, and the absence of both social and psychological support systems.

These symptoms, Bauman contends, have ultimately led to the spread of consumerist behaviors within society. Moreover, consumption has expanded beyond the material realm into non-material spheres such as life, love, ethics, and even fear itself.

As a result, interpersonal relationships have become governed by consumption, marketing, and pragmatic utilitarianism, which now influence our political, cultural, and social positions. This fluidity in social structures has had a pronounced impact on the rate and nature of crime. We now witness the emergence of crimes that either previously did not exist in our societies or were once extremely rare, due to the stability provided by the now-eroding social institutions that once regulated behavior through the principles of religion, morality, and law. The family, in particular, has been one of the most severely affected social structures. As traditional bonds have deteriorated, phenomena such as domestic violence, family abandonment, and parental neglect have become widespread. This prompted the legislature to explicitly criminalize parental abuse under Article 384/Second of the Penal Code. Additionally, there has been a noticeable rise in begging-related offenses within society.

The same applies to other social structures. The prevalence of consumerist culture and unrestricted use of modern technology has had profound effects on human relationships, increasingly governed by self-interest. This, in turn, has led to a significant rise in blackmail-related crimes, as individuals become commodified and subject to bargaining within the market-based system that now governs our relationships, threatening both our personal lives and security.

This uncontrolled and harmful consumption of modern technology, particularly social media platforms, has also led to a sharp increase in crimes that violate public morality and decency, as well as a surge in cyber fraud, insult, and defamation committed via these platforms.

The transformation in societal structure and the diminishing role of formerly stable institutions in maintaining security, stability, and core values has directly contributed to the rise in crime and to growing psychological pressures on individuals. It has also led to a loss of the social and emotional support once provided by society. This reality necessitates varied interventions to restore a measure of stability and certainty to our social fabric. Such interventions may take legislative form or be realized through community-based initiatives across different societal institutions.

These efforts must focus on reviving our value systems and reshaping our understanding of social relationships in ways that shield individuals from the uncertainty, disorientation, and erosion of values that now define some of these "liquid societies."

Forms of Legislative Deficiency

Legislative deficiency represents a form of legislative imperfection or flaw that affects a legal provision such that the meaning of the rule cannot be fully understood without a word or phrase that is absent from the text—thereby constituting a defect. Legal scholars have identified two main forms of legislative deficiency: apparent (illusory) deficiency and genuine (real) deficiency.

By Judge Ali Yahya Kazem

Apparent deficiency arises when a legal rule addressing the issue at hand does exist, but it fails to align with prevailing social circumstances. This is also referred to as ideological deficiency, as shifts in ideology may compel the judge to "bend the text" and interpret it in a way that fits the presented case, despite the inadequacies of the text. It is sometimes called enforcement deficiency, where the judge must apply the law to a specific case even though the text does not explicitly address it—rendering the rule inconsistent with the original legislative intent. A notable example of apparent deficiency is found in Article 57, Paragraph Four, of the amended Personal Status Law No. (188) of 1959, which states:

"The father shall have the right to oversee the affairs, upbringing, and education of the child in custody until the age of ten. The court may authorize the extension of custody until the child completes the age of fifteen, if, upon consulting the relevant medical and social committees, it finds that the child's interest requires such extension, provided that the child does not spend the night except with the custodian."

Here, the legislator grants the father the right to oversee the child's affairs, upbringing, and education but does not elaborate on the nature or scope of this right. The remainder of the article addresses only the extension of custody and its conditions. However, through broad interpretation and consideration of legislative intent and societal interests, the judiciary has begun issuing rulings that grant the father the right to visitation or accompaniment—rights not explicitly or implicitly stated by the legislator. This constitutes a clear case of apparent deficiency.

In contrast, genuine deficiency occurs when no legal provision exists to address the matter before the court. This is the commonly understood meaning of legislative deficiency: a factual event leads to a legal dispute presented to the judiciary, but upon review

of the legislation, the judge finds no applicable provision. The judge must then exert extra effort, combing through legal texts and provisions in search of a just ruling to resolve the matter.

Examples of genuine deficiency are abundant. In matters of custody and visitation, there is no provision affirming the right of the child's grandparents to request visitation, nor is there any text indicating how many visitation instances can be granted to the father, or who is responsible for transportation expenses related to visitation. The Iraqi legislator has not addressed these and numerous other examples that frequently arise in personal status cases. Nevertheless, the judiciary continues to accept such cases, relying on established jurisprudence from the Personal Status Panel of the Federal Cassation Court, which has issued rulings addressing these situations despite the lack of explicit legislation.

It is important to note that legislative omission imposes less burden on the judge compared to legislative deficiency or flaws in linguistic or legislative drafting. The latter obliges the judge to interpret, exert legal reasoning, and investigate the text, legislative objectives, and rationale in pursuit of justice through judicial rulings.

In contrast, in cases of legislative omission, the judge need not interpret or exert discretionary effort. Instead, the law's implementer may search for a legal rule compatible with the case at hand, or refer to customary practice or general principles of Islamic jurisprudence most aligned with the law's provisions—without being bound by a specific school of thought. Alternatively, the judge may apply principles of equity, guided by rulings issued by Iraqi courts and, when relevant, by decisions from jurisdictions whose laws are similar to Iraq's, in accordance with Article 1 of the Civil Code No. (40) of 1951.

The Crime of Kidnapping in the Iraqi Penal Code

The crime of kidnapping is one of the offenses widespread across all human communities around the world. It is difficult to find a people among whom this crime has not been committed. However, the frequency of its occurrence varies according to time and place. For example, during times of war and security breakdowns, its rate is higher compared to times of calm and security stability. Likewise, in places where social ties and relationships among individuals are strong and cohesive, the rate of this crime is much lower than in places where such ties and relationships are fragile and fragmented.

By student: Ahmed Ibrahim Hamo Ibrahim - Cohort 47

There is no doubt that freedom is the most precious thing in existence, and the human need for freedom is no less than the body's need for the soul. Just as the body loses its essence with the loss of its soul, a person loses their existence and identity with the loss of freedom. Freedom is a right that is not lost with the passage of time; individual freedom is the foundation of all liberties, and it is the highest goal sought by all nations.

The true interest of every society lies in providing the greatest possible amount of freedom to each of its individuals. Any reduction or infringement of this freedom constitutes an assault that requires accountability, whether the infringement comes from state authorities or from an individual or group of individuals. For the crime of kidnapping to be realized, its elements must be fulfilled, beginning with the material element, which consists of seizing the victim and completely depriving them of their freedom of movement against their will—regardless of whether the period is long or short. This includes acts of seizure, detention, or deprivation of freedom within the victim's own residence by preventing them from leaving it, or by placing them in a private location and preventing them from leaving it, whether the act is committed in a fixed or mobile location. Furthermore, the act of seizure, detention, or deprivation of liberty must be unlawful, i.e., it must occur without an order from a competent authority and outside the situations allowed by law and regulations.

As for the moral element, it is achieved when the offender intentionally seeks to seize, detain, or deprive the victim of their liberty without legal justification and with knowledge of the illegality of their action.

The effects of the crime of kidnapping

may also extend to the right to life, as the victim may be subjected to physical assault such as torture or sexual assault, whether male or female. In most kidnapping cases, the victim's relatives are extorted in exchange for the victim's release. The case may end with the killing of the kidnapped person due to the failure to achieve the intended purpose of the act, or because the purpose was the killing itself. In some cases, the perpetrators may receive the ransom they demanded and still kill the victim. Even after the killing, the family may be extorted again for the return of the body.

As a result of the increasing rate of this crime and the various methods and purposes behind its commission, several laws have been issued to increase the severity of the penalties imposed on its perpetrators. While the punishment for kidnapping had ranged between imprisonment, detention, and death as an aggravating circumstance, the now-defunct Coalition Provisional Authority Order No. 31, Section 2, dated September 2003, 13, increased the punishment for kidnapping under Articles 422, 421, and 423 of the Penal Code to life imprisonment, which does not end except with the death of the convict. The same order suspended the application of Article 426 of the Penal Code, which had addressed certain mitigating and exempting circumstances, and also suspended Article 427, which had allowed for the cessation of legal proceedings against the accused if he married the victim.

Then came Cabinet Order No. 3 of 2004, which reinstated the death penalty, making the punishment for kidnapping under Articles 421, 422, and 423 absolute execution, whereas previously the punishment ranged between imprisonment and detention, and the death penalty applied only in aggravated circumstances.

Subsequently, the Anti-Terrorism Law No. 13 of 2005 imposed the death penalty on the perpetrator of kidnapping if the crime was committed for the purpose of financial extortion or for a personal motive that poses a threat to security, national unity, or that encourages terrorism. Likewise, Amnesty Law No. 19 of 2008 excluded the crime of kidnapping from the crimes covered by its provisions.

From the above, it is clear that the Iraqi legislator has paid special attention to the crime of kidnapping due to its danger to society and public life. The legislator has safeguarded human freedom and dignity and considered any violation, restriction, or limitation of them to be a crime punishable by strict penalties. The legislator found that the death penalty is the most appropriate punishment for the perpetrators of this dangerous crime, both in the Penal Code and the Anti-Terrorism Law.

However, confusion may sometimes arise in the legal classification of the crime of kidnapping—whether it is among the crimes stipulated in the Penal Code, or whether it is one of the terrorist crimes under the Anti-Terrorism Law.

Therefore, when classifying this crime, it is necessary to apply the correct standards related to the circumstances of its commission in order to determine whether it falls under the category of terrorist crimes or ordinary crimes.

This classification is highly influential in determining the punishment imposed on the perpetrator and any accomplices, as well as the extent of their eligibility for legal excuses that mitigate or exempt from punishment, or for judicial considerations related to the crime when sentencing the perpetrators.

Accordingly, there must be specific standards that distinguish between ordinary kidnapping and terrorist kidnapping.

The Convergence of the Judge's Insight and the Defendant's Intelligence: A Battle of Minds in the Courtroom

By Deputy Public Prosecutor \ Ahmed Razzaq Ghani

In the courtroom—where truth is revealed within the bounds of the law—a formidable intellectual confrontation emerges between two principal figures: the judge, endowed with sharp insight and the perceptiveness to read beyond words, and the defendant, who may possess keen intelligence aimed at distorting reality or steering it in their favor. This encounter is not decided by wit or force alone but unfolds through a comprehensive system of deduction, deep analysis, and meticulous inquiry into the essence of truth and falsehood.

The Judge's Insight: The Discerning Eye of the Law A judge is not merely an arbiter of disputes but a seeker of truth and guardian of the scales of justice. Their insight lies not only in mastering legal texts but also in their ability to understand the psychology of the defendant, draw meaning from subtle cues, and link events and facts within a solid logical framework.

An insightful judge knows that the truth rarely presents itself plainly—it is often veiled by defensive illusions, denial tactics, and the allure of misleading rhetoric. Here lies the judge's true role: to pierce these veils through reflection and analysis, ultimately reaching a judicial certainty beyond reasonable doubt.

The Defendant's Intelligence: Between Legitimate Defense and Prohibited Deception

On the other side of justice stands the defendant—armed with intellect—attempting to refute evidence or present an alternative narrative to prove their innocence. While every defendant has the right to defend themselves by all legal means, a fine line exists between legitimate defense and deliberate deception.

An intelligent defendant may not resort to silence or outright denial. Instead, they may manipulate language, present seemingly logical interpretations of the available evidence, or exploit inconsistencies in the prosecution's narrative. They may skillfully leverage investigative gaps or minor contradictions in witness testimony to cast doubt and secure a pathway out of accusation.

The Role of Judicial Discretion in Confronting the Defendant's Intelligence

An insightful judge does not rely solely on acumen but possesses legal discretion that allows for reading between the lines and discerning the true meaning behind every statement and gesture in the courtroom. Judicial discretion is demonstrated in skillful session management, posing probing questions that expose weaknesses in the defendant's account, and constructing a chain of reasoning that denies the opportunity for evasion. A wise judge also understands that a clever defendant may exploit even the slightest evidentiary weakness. Thus, the judge approaches every detail with caution, guided by the principles of justice and fairness to avoid falling into the trap of deceit, The

Role of the Public Prosecution in This Confrontation In this intellectual duel, the public prosecution serves as the front line in confronting the defendant's intelligence. The prosecutor is responsible for gathering evidence, presenting arguments, and laying out the facts before the court in a manner that prevents the defendant from exploiting legal loopholes.

The public prosecutor is distinguished by investigative and interrogation skills, relying on rigorous analysis of evidence and connecting its components to reveal inconsistencies in the defendant's statements. Moreover, the prosecutor's role extends beyond filing charges to ensuring procedural integrity and guaranteeing that the defendant is tried fairly and without defect.

The Battle of Minds in the Courtroom

A silent battle unfolds between the judge and the defendant, with each deploying their intellectual tools to achieve a favorable outcome. The judge relies on intuition and the ability to notice details others may miss, while the defendant utilizes intelligence to construct a narrative that may remove them from the circle of guilt.

In this context, investigation plays a pivotal role. It tests the consistency of the defendant's statements and probes for weak points. Here, the judge's insight proves invaluable—not merely listening to statements but observing subtle changes in tone, hesitations, or inconsistencies when the same question is posed in different ways.

The Insightful Judge vs. the Intelligent Defendant: Who Prevails?

Victory in this confrontation is not for either party alone—it is a triumph for justice itself. An insightful judge does not seek conviction at any cost but rather strives to uncover the truth, whether it leads to acquittal or conviction.

If the intelligent defendant is innocent, their wit may aid in clarifying the truth and dismantling false accusations. But if guilty, they may temporarily obscure facts—yet the discerning judge can distinguish between truth and manipulation, arriving at a decision grounded in evidence, not impressions. Ultimately, justice remains the supreme goal sought by the judge, no matter how skilled the defendant is in evasion.

The insightful judge—armed with wisdom and experience—is capable of discerning between honest claims and clever deceit, ensuring that the scales of justice are tipped solely by the weight of truth.

In this process, roles converge: the judge's discernment in unveiling facts, and the public prosecutor's efforts to close every loophole the defendant might exploit. Thus, the judiciary remains a steadfast bulwark against any attempt to distort reality—where no innocent is wrongfully convicted, and no guilty party escapes rightful punishment.

The Rights of Athletes in Iraq Between Legal Text and Application

In light of the major challenges facing Iraqi sports, the state has sought to legally protect athletes' rights by establishing a safe and stable professional environment. This was achieved through the enactment of the Professional Sports Law No. 60 of 2017, which formed the foundation for regulating the relationship between athletes and sports institutions, and provided Iraqi athletes with a legal framework to safeguard their rights and pursue their ambitions.

■ By Assistant Lecturer Noor Sabah Yasser

This law represents a significant shift in Iraqi sports legislation. Article (2) states that among its objectives is the regulation of contractual relationships between athletes and clubs, and the provision of legal and social protection for them. The law also covers various categories of individuals working in the sports field—such as players, coaches, referees, and administrators—and defines them all as professionals entitled to sign contracts and receive wages and bonuses.

The provisions of the law grant athletes a number of essential rights, the most prominent of which include:

- The right to contract and professional engagement, as stipulated

in Articles (5, 4, and 6), which require a written contract outlining rights and obligations and prohibit unilateral termination without legitimate cause.

- The legal duration of the contract, as provided in Article (8), which states that it must not be less than one season and not exceed five seasons for adults.

- Insurance against injuries, as set forth in Article (18), which obligates clubs to insure athletes against injuries and illnesses and to cover treatment costs and compensation in the event of death.

- The right to transfer and pursue professional opportunities abroad, according to Articles (10 and 11), which

permit local and international transfers under conditions that safeguard the rights of both parties.

Despite the clarity, precision, and comprehensiveness of the aforementioned legal provisions in theory, practical application reveals a clear gap. Many clubs fail to pay dues, and a number of players suffer from the absence of health insurance or are not provided with copies of their contracts. In addition, the committees responsible for dispute resolution sometimes lack effectiveness and promptness in decision-making. Therefore, there is a pressing need for further development and new guarantees, as protecting athletes' rights cannot be achieved through legislation alone—it requires an environment that applies the law with transparency and fairness.

There are genuine calls for the establishment of a retirement fund for athletes to ensure a dignified life after retirement, as well as the need to raise awareness among players about their legal rights and to strengthen the role



of unions and federations in defending them.

Nonetheless, Iraq has taken an important step by enacting the Professional Sports Law, but the real challenge lies in activating these provisions and

ensuring justice on the ground. The Iraqi athlete deserves to be treated as a true professional—not merely as an amateur who bears the nation's flag, only to be left behind when the spotlight fades.

Advertising Harmful or Unreliable Products



“The Iraqi Artists Syndicate issued a directive to artists under its letter No. (819/23) dated (2024/6/9), stating: “It is prohibited to appear in advertisements for any medical or cosmetic product unless it is licensed by the Ministry of Health.”

based on the letter from the Iraqi Pharmacists Syndicate / Office of the President, No. (M.N.94) issued on 2024/6/8. ”

Student:
Mahmoud Adel Mahmoud
(Cohort 49)

This directive came following reports of medications or products used by people (such as herbal remedies) being advertised by well-known public figures and artists, which turned out to be harmful or unreliable and containing side effects, such as weight-loss products or pain relievers and similar items.

In this regard, Article (1) of the Law on Practicing the Pharmacy Profession No. (40) of (1970) stipulates:

“...Special preparations: the preparations or compositions that contain or are described as containing one or more substances with medicinal properties for curing human or animal diseases or for prevention thereof, or for any other medical purpose even if not explicitly stated, and which have been prepared for sale or display for sale or for public use, whether for external or internal use or by injection, provided that they are not listed in the official pharmacopeias

or their appendices. Included among these preparations are fluids and disinfectants not listed in the pharmacopeias, household insecticides, and also food products and cosmetic preparations used solely for medical purposes.”

When this directive is examined closely, a question arises regarding its legal validity—especially when considering that the default assumption is good faith, and that the artist appearing in the advertisement is not obligated to verify the reliability or safety of the product being advertised. Article (18) of the same law states:

“It is prohibited to publish any advertisement about special preparations that offends public morals or misleads the public.”

Article (42) of the same law states:

“The labels on imported or locally manufactured medical preparations, the accompanying leaflets, as well as advertising materials and promotional brochures must indicate their manufacturer, reflect accurately the content of the preparations, truthfully represent their therapeutic properties, and must not contain anything that may mislead the public. The Ministry's approval must be obtained for the content of these brochures and advertisements before publication.”

From the above, it is understood that the Law on

Practicing the Pharmacy Profession prohibits advertisements for any product that misleads the public. This includes any therapeutic product or special preparation as defined by the law—such as weight-loss remedies, pain relievers, or treatments for certain diseases, including chronic ones, as well as cosmetic preparations. This prohibition also applies to those responsible for the advertisement and to the person appearing in it. Some might object, claiming that the aforementioned articles do not explicitly mention those who appear in advertisements, nor do they specify who determines the reliability of the advertised product. However, this objection is refuted, as the provisions in Articles (18) and (42) are general in nature and do not distinguish between the advertising entity and the person appearing in the advertisement—the prohibition is general and unrestricted. As for determining whether the product is reliable or not, the Ministry of Health is certainly the competent technical authority for that purpose.

A further question is raised in this context: is it possible to broaden the scope of the above-mentioned obligation to include other (non-medical) products, thereby prohibiting artists from appearing in advertisements for harmful or unreliable products?

Article (7) of the Consumer

Protection Law No. (1) of (2010) states:

“The supplier and advertiser are obligated to the following:

Fifth: not to promote, by any means of media, publishing, or advertising, any commodity or service that does not meet the approved local or international standards.”

Article (9) of the same law states:

“The supplier and advertiser are prohibited from the following:

First: practicing fraud, deception, manipulation, or concealing the actual components of materials and the approved specifications of all goods and services.”

Based on the above, it is evident that the Consumer Protection Law—which is considered the general framework for matters related to products—prohibits the promotion of any goods that do not conform to local or international specifications. The reference for determining these specifications is the Central Organization for Standardization and Quality Control, according to what is stated in Article (7/Second) of the same law. This applies to the advertising company or product owner as well as to the person appearing in the advertisement, due to the generality of the legal texts regarding this prohibition. Anyone who violates this prohibition is subject to imprisonment or a fine, as stipulated in Article (10) of this law.

The Legal Framework of the Crime of Electronic Blackmail

By Student: Osama Tariq Salem - Cohort 47

As a result of the misuse of the global internet network and modern technologies and communication tools, the virtual environment has become a hub for new forms of crime known as electronic crimes. Among these is the crime of electronic blackmail, a social phenomenon that, in its depth, rings alarm bells as it targets individuals' private lives. Its violations affect both natural and legal persons alike, relying on the internet—by its broad technical definition—as a tool to commit one of the most dangerous and increasingly prevalent and complex forms of crime.

Blackmail can be defined, terminologically, as the perpetrator obtaining confidential information, personal photos, or private videos of the victim and threatening to publish that content unless the victim pays a sum of money or performs unlawful acts.

One of the characteristics of electronic blackmail is that it is a transnational crime, meaning that political or geographical borders do not pose a barrier to its commission. The blackmailer is not hindered by national borders, as the act can be carried out remotely. Due to the development of communication tools and the global internet network, the world has become, as the saying goes, a “small village.” It is possible for the blackmailer to be in one continent while the victim is in another. This trait gives electronic blackmail an international dimension, making it difficult to trace, pursue, or apprehend, and thus requires international cooperation to confront it.

Electronic blackmail is also characterized by the ease of its commission. Unlike most traditional crimes that require physical effort from the perpetrator, this is a “silent” crime that does not require physical exertion or risk to the perpetrator. All that is required are certain capabilities—intelligence, access to the necessary means of blackmail, and the ability to use them.

It is also not physical in nature, as it does not leave visible or material traces, which makes it difficult to prove. What increases its danger is that victims often do not report the crime and prefer to remain silent, which further complicates the detection of internet-based crimes, especially due to the fear of damaging the reputation of the individual or institution.

Electronic blackmail differs from traditional crimes in that it is committed for various motives, such as immoral motives (sexual), material motives (financial), vengeful motives (hostile), and political motives, the latter being the most dangerous among the drivers of electronic blackmail due to its connection with political conflicts and events within the state. A case in point is what happened to the parliamentary election candidate “A.A.” whose private videos were leaked prior to the elections and who was subjected to political blackmail, leading to her disqualification from the candidates list—an example of this type of blackmail.

Electronic blackmail leads to negative consequences and numerous effects, such as the psychological distress suffered by the victim due to the constant pressure from the perpetrator to comply with their demands or face the public exposure of private content. This results in anxiety, persistent tension, and fear of that personal content being published.

Electronic blackmail is among the most dangerous crimes in terms of its negative impact on both the individual and society. For example, when the victim is a woman, who represents the cornerstone of the family, and she is blackmailed or coerced into immoral behavior, the relationship between her and her family—if single—or her and her husband—if married—becomes strained, possibly resulting in a desire for divorce due to the pressures she faces. Moreover, the husband may be consumed by suspicion, pushing him toward divorce due to dissatisfaction with her behavior.

This crime also affects issues of honor and reputation, especially in Eastern societies, where such crimes are considered a social disgrace that tarnishes the family.

Upon reviewing cases of electronic blackmail, it becomes evident that the penal sanctions imposed under Iraqi law vary from one case to another and that there is no unified legal provision consistently applied. This inconsistency is due to the absence of a specific legal text addressing the crime of electronic blackmail.

In some cases, the courts have treated it as a form of threat and applied Article 430 of the Iraqi Penal Code. In other cases, courts have applied Article 452 of the Penal Code to such crimes. Other courts have proceeded with legal action against the perpetrators based on Article 2 of Anti-Terrorism Law No. 13 of 2005.

We hope that the Iraqi legislator will expedite the issuance of a Cybercrimes Law, given its critical role in reducing the incidence of electronic crimes and specifically electronic blackmail.

There is also a need to raise awareness in society in general, and within Iraqi families and among students in schools and universities in particular, by creating an environment that allows individuals to speak about the problems they face without fear of judgment by family or society.

The family must play a key role in monitoring and guiding their children, and there must be hotlines within the Ministry of Interior and the National Security Service to receive reports of electronic blackmail crimes and take prompt action regarding them.

It is also important to form investigative committees composed of female officers and personnel to handle electronic blackmail cases involving women, in recognition of the sensitivity of these cases, as many women refrain from reporting them due to fear of scandal. Finally, users should avoid suspicious or undesirable sites on social media and exercise caution when clicking on shared links, as they may serve as gateways to falling victim to electronic blackmail.

Arab Judicial Precedents

The Status of International Human Rights Treaties in Arab Constitutions (Jordan) as a Model

■ By Noor Salim menati \ Judicial Institute Emp.

A. Constitutional Provisions:

In reality, the Constitution mentions treaties without explicitly defining their status. Moreover, the recent constitutional amendments have overlooked clarifying their standing, which some legal scholars regret, as it was a missed opportunity to address this gap by adopting a provision to clarify this status.

The Jordanian Constitution grants the King the authority to conclude international treaties, which is an inherent prerogative. This is stipulated in Article 33, Paragraph 1 of the Constitution issued on January 1952 ,8, and amended on May 1958 ,4, and September 1958 ,1, as follows:

"The King is the..... and also concludes treaties and agreements."

B. Stages of Conclusion and Ratification:

The Constitution distributes the power of ratifying certain treaties between the King and the legislative authority. Paragraph 2 of Article 33 states:

"Treaties and agreements that entail a burden on the State Treasury or affect the public or private rights of Jordanians shall not be valid unless approved by the National Assembly. In no case shall the secret conditions of any treaty or agreement contradict its public conditions."

These treaties are enumerated exhaustively. It is worth noting that Paragraph 2 of this article was amended in the latest constitutional revision to read as follows: "Peace, alliance, trade, navigation treaties, and other treaties that result in modifications to the state's territory, diminish its sovereign rights, burden its treasury, or affect the public or private rights of Jordanians shall not be valid

unless approved by the National Assembly. In no case shall the secret conditions of any treaty contradict its public conditions." It appears that the range of treaties requiring parliamentary approval has been expanded to include all matters of financial and political significance, similar to what has been adopted by developed nations' constitutions for some time.

Among the treaties specifically listed in Article 33 that require parliamentary approval are those affecting the public or private rights of Jordanians. Treaties related to human rights, as referenced in previously mentioned constitutions, are not explicitly named. However, the term "affecting" has been interpreted in two ways:

1. Treaties that diminish Jordanians' rights.
2. Treaties pertaining to rights in general. The latter interpretation seems more plausible.

From this article, it can be inferred that treaties, as a general rule, are applied in the Jordanian legal system once ratified by the King, or with the approval of the National Assembly followed by royal ratification in the case of human rights treaties and those specifically enumerated in Article 33. This places the Jordanian Constitution closer to a monist system.

It is also noteworthy that the constitutional amendment included the establishment of a Constitutional Court in Article 58, which states:

"A Constitutional Court shall be established by law, headquartered in the capital, and shall be an independent judicial body composed of no fewer than nine members, including the president, appointed by the King."

Article 59 of the amended Constitution defines its competencies as follows:

1. The Constitutional Court shall have jurisdiction over constitutional oversight of effective laws and regulations. Its judgments shall be issued in the name of the King and shall be final and binding on all authorities and individuals. Its decisions shall have immediate effect unless a different effective date is specified, and shall be published in the Official Gazette within fifteen days of issuance.
2. The Constitutional Court shall have the authority to interpret constitutional provisions upon request by a decision of

the Council of Ministers or by a majority decision of either chamber of the National Assembly. Its interpretation shall take effect after publication in the Official Gazette." Thus, the authority to interpret the Constitution has been entrusted to the Constitutional Court, which previously belonged to the Higher Council for Constitutional Interpretation. This is a positive development, as this jurisdiction is now vested in a judicial body rather than a political one.

Although this provision is commendable, it is lacking in that it does not grant the Court jurisdiction over constitutional review of treaties, unlike the Algerian Constitution, which explicitly provides for such authority. This omission leaves the Court's role in this area ambiguous. Observations on this body will be presented in the following section: C. Judicial Applications of the Supremacy Principle:

Judicial practice has tended to affirm the supremacy of treaties over domestic law, which will be discussed.

Decision of the Jordanian Court of Cassation No. 2353 (Case of "A.D.L.M.G. Company" vs. Owners and Charterers of the Ship "H")

Summary of Facts:

A.D.L.M.G. Company filed a lawsuit against the owners and charterers of the ship "H" before the Amman Court of First Instance, claiming compensation of USD 95,414 for receiving goods via the port that were

found, upon inspection, to be missing and damaged. The company also sought to enforce an arbitration clause included in the transport contract between the shipper, carrier (shipowner), and consignee (plaintiff).

The court ruled to reject the enforcement of the arbitration clause, deeming it null and void. The plaintiff appealed the decision to the Court of Cassation, which overturned the lower court's ruling.

Legal Issue:

As previously mentioned, the Jordanian Constitution does not specify the status of treaties. Consequently, this issue arises before the judiciary when a domestic legal provision conflicts with an international convention ratified by Jordan. In this case, the matter was raised in light of Jordan's accession in 2001 to the United Nations Convention on the Carriage of Goods by Sea of 1978, known as the Hamburg Rules. These rules allow parties to a transport contract to refer any dispute related to the carriage of goods to any mutually agreed venue. However, the Jordanian Maritime Commercial Law, in Article 215, limits jurisdiction over such disputes exclusively to Jordanian courts, a matter which was adjudicated by the judges.

Source:

Judicial Precedent in Applying Human Rights Standards in Arab Courts.

Presenting the Identification Card of the Judicial Enforcement Officer When Carrying Out Criminal Procedures

Comparative legislation and criminal justice systems have increasingly tended toward prioritizing the protection of individuals' fundamental rights and freedoms when carrying out criminal procedures. At the forefront of the requirements for implementing this approach is the establishment of a legal rule that clearly defines the scope of the procedure, and that those responsible for executing criminal procedures—whether they are judicial enforcement officers or others acting on a judicial order—are fully aware of the principles and objectives of such procedures. This can be ensured through their participation in training courses and workshops on international human rights conventions and the practical application of constitutional principles and general rules of criminal and civil law.

Asst. Prof. Dr. Imad Yousif Khurshid

It is no secret today that the Code of Criminal Procedure is considered the primary source for applying procedural rules to the accused or to those affected by a crime. It serves as the standard for balancing two fundamental rights: the individual's right to freedom and protection of their safety, and society's right to security and public order. The guiding principle in this regard is: "No criminal should escape punishment, and no innocent should be held responsible for the crime of another." Any negligence in this matter poses a threat to public security and constitutes a violation of individual liberty. This, indeed, is the purpose of procedural criminal law, which the state enforces through the judicial authority.

One point worthy of attention is that comparative legislation and criminal courts

have established a highly important legal rule concerning the protection of people's rights and freedoms, namely: the obligation of judicial enforcement officers and public authority personnel to present identification proving their identity and status when carrying out any action or procedure prescribed by law. For instance, the Egyptian Code of Criminal Procedure No. 150 of 1950, specifically in Article 24, stipulates:

"Judicial enforcement officers, their subordinates, and public authority personnel shall present proof of their identity and status when carrying out any action or procedure prescribed by law. Failure to comply with this duty shall not render the action or procedure invalid, without prejudice to the imposition of disciplinary sanctions."

This article was added to the above law in 1998.

In the same vein, the Algerian Code of Criminal Procedure No. 155-66 dated June ,8 1966, includes a similar provision in Article 44, which was newly introduced under Law No. 22-06 dated December 2006 ,20.

Likewise, in comparative criminal jurisprudence, the U.S. Supreme Court established a principle requiring law enforcement officers to identify themselves when executing legal procedures by displaying badges and presenting identification, as in the case:

Terry v. Ohio, 392 U.S. 1968) 1).

This principle continues to be enforced in American courts to this day.

Turning to the position of the Iraqi legislator, upon reviewing the applicable Iraqi Code of Criminal Procedure No. 23 of 1971 (as amended), we did not find a legal article equivalent to those in the comparative legislation concerning the requirement to identify and present the identity of the judicial enforcement officer during crime-fighting procedures.



Accordingly, we consider it necessary for Iraqi criminal legislation to adopt this legal rule, for the following reasons:

1. Article 15 of the Iraqi Constitution of 2005 (in force) stipulates:

"Every individual has the right to life, security, and liberty. These rights may not be deprived or restricted except in accordance with the law and based on a decision issued by a competent judicial authority."

One form of applying this constitutional principle is by adopting the proposed legal rule below.

2. It constitutes a basic guarantee to reassure citizens and prevent them from being frightened by those carrying out the procedures, considering that they represent the state. It may even encourage citizens to provide information about a crime after

feeling reassured. More importantly, it facilitates identifying the authority that may commit a violation so that a complaint can be filed against the responsible individual, and it allows the public to know whether the authority executing the procedure had proper authorization or not—ensuring that individuals' rights are not violated.

3. This guarantee represents a fundamental principle in a legal state, which seeks to make legal rules a tool of governance and, more importantly, a means for protecting the rights and freedoms of individuals in all their forms—rights that are inspired by the values the society believes in and the interests it seeks to protect.

4. It keeps Iraqi law aligned with comparative legislation and jurisprudence in the area of protecting the fundamental rights

and freedoms of individuals in society. Based on the above, we believe it is necessary for Iraqi criminal legislation to adopt this procedure as a significant human rights safeguard, which would positively affect both judicial enforcement officers and the general public—particularly suspects and defendants. This can be achieved by adding a new paragraph to Article (40) of the Iraqi Code of Criminal Procedure. We propose this addition as Paragraph (c), and in the following wording:

"Judicial enforcement officers shall present their identity and official status when carrying out any action or procedure prescribed by law. Failure to do so shall not render the action or procedure invalid, without prejudice to disciplinary accountability."

The Role of the Public Prosecution in Financial and Administrative Corruption Crimes

The Public Prosecution represents a fundamental element in public right cases before criminal courts, acting as the representative of society in prosecuting public right cases, following up on public lawsuits, overseeing and protecting public order, safeguarding societal interests, preserving state funds, combating financial and administrative corruption, monitoring legality, ensuring rights and freedoms, and protecting the social structure. The Public Prosecution plays an active role in all stages of criminal proceedings, The research problem lies in the multiplicity of oversight bodies addressing corruption crimes on one hand, and the prevalence of these crimes on the other, which raises a legal issue regarding the determination of the Public Prosecution's jurisdiction in overseeing the investigative judge's decisions during the preliminary investigation stage. This research aims to define the role of the Public Prosecution in combating corruption crimes, study the causes leading to the spread of corruption, identify mechanisms enabling the Public Prosecution to address them, highlight obstacles and legislative deficiencies in this subject, and propose legal provisions and solutions to address these issues as follows:

Deputy Public Prosecutor / Ahmed Akel Mazher Nahi

Final Section

The Public Prosecution represents a fundamental element in public right cases before criminal courts, acting as the representative of society in prosecuting public right cases, following up on public lawsuits, overseeing and protecting public order, safeguarding societal interests, preserving state funds, combating financial and administrative corruption, monitoring legality, ensuring rights and freedoms, and protecting the social structure. The Public Prosecution plays an active role in all stages of criminal proceedings, The research problem lies in the multiplicity of oversight bodies addressing corruption crimes on one hand, and the prevalence of these crimes on the other, which raises a legal issue regarding the determination of the Public Prosecution's jurisdiction in overseeing the investigative judge's decisions during the preliminary investigation stage. This research aims to define the role of the Public Prosecution in combating corruption crimes, study the causes leading to the spread of corruption, identify mechanisms enabling the Public Prosecution to address them, highlight obstacles and legislative deficiencies in this subject, and propose legal provisions and solutions to address these issues as follows:

The Role of the Public Prosecution during the Trial Stage

First: The Role of the Public Prosecution in Judicial Investigation

The Code of Criminal Procedure obliges the criminal court, upon receiving the case file, to inform the Public Prosecution of the trial date (1) Clause (Third) of Article (5) of the Public Prosecution Law obliges the public prosecutor to attend sessions of criminal courts except for the Federal Court of Cassation.

Instructions No. (3) of 1986 regarding the organization of Public Prosecution work before criminal courts emphasized that the criminal court must formally invite the assigned or designated public prosecutor in writing when convening to consider all criminal cases. The court session is not considered legally convened without their invitation and attendance. The public prosecutor must attend at the scheduled trial time (2).

Thus, merely inviting the public prosecutor to attend criminal court sessions is not sufficient to proceed with trial procedures, even if done in writing. Absence due to legitimate reasons, such as leave, does not exempt attendance, as the presence of the public prosecutor is a prerequisite for convening those court sessions during the trial stage.

A cassation decision ruled:

"Upon examination and deliberation, it was found that the cassation appeal was filed within its legal timeframe due to the absence of any indication of the public prosecutor's attendance at the trial session and the lack of notification to the Public Prosecution of the two issued convictions and penalties, as required by Article (11/ Second) of the Public Prosecution Law No. (49) of 2017. Therefore, the cassation appeal was accepted procedurally. Upon further examination of the case, multiple procedural errors and omissions were noted during the investigation and trial

stages. The Misdemeanor Court did not record the public prosecutor's attendance in the trial session minutes, nor did the minutes include the prosecutor's signature. Thus, the said session was deemed invalid based on Article (8) of the aforementioned law, which stipulates that sessions of criminal and juvenile courts are not considered convened in the absence of the public prosecutor (3).

Second: The Role of the Prosecution in Trial

The mere presence of the Public Prosecution during the trial stage is not an end in itself. The legislator aims through this to achieve a higher purpose of ensuring a fair trial and the integrity of its procedures, representing the social entity at this stage.

Therefore, the legislator granted the public prosecutor the right to question the parties and direct questions to the accused through the court, according to Article (152) of the Code of Criminal Procedure, as court management and order are entrusted to the presiding judge.

The instructions on organizing Public Prosecution work before criminal courts allow the public prosecutor to question witnesses, direct questions, and interrogate the accused after seeking the court's permission. The court must record in the minutes any refusal to allow a question and state the reasons for the refusal (4).

Thus, the public prosecutor assigned or designated to the trial court exercises legal duties in prosecuting public right cases. For this purpose, they have the right to exercise all powers ensuring the principle of confrontation in presenting and refuting evidence through the court based on its discretionary power in managing and maintaining order in sessions. This includes questioning witnesses and experts, directing questions to the accused, requesting any other measures deemed appropriate to uncover the truth or clarify ambiguities, requesting site inspections or court visits to the crime scene, and more. The prosecutor also submits a formal and substantive memorandum containing requests for acquittal, conviction, release, or other demands (5).

The Role of the Public Prosecution in Appeals against Decisions and Judgments Appeal refers to the right of parties to request a higher court to reconsider a decision or judgment issued by a lower court, following legal procedures through the appeal methods prescribed by law (6). Appeals in criminal judgments are classified into four types: objection to in absentia judgments, cassation, correction of cassation decisions, and retrial, as regulated by Articles (279-243) of the Code of Criminal Procedure.

After a judgment is issued by the competent court at the end of the trial, the appeal stage begins, aiming to correct potential errors in the judgment. The right to appeal is granted to all parties, including the Public Prosecution, which may exercise this right as stipulated by law (7).

Given the importance of decisions and judgments in criminal cases and to reinforce the Public Prosecution's role in safeguarding legality and ensuring proper

application of the law, Paragraph (First) of Article (11) of the Public Prosecution Law grants the prosecutor the right to appeal decisions, judgments, and measures issued by investigative judges and courts in accordance with the law. The Code of Criminal Procedure further specifies the appeal methods applicable to judgments (8) and decisions that the Public Prosecution may pursue in line with the nature of these methods and the prosecution's role in the criminal case.

Regarding objections to in absentia judgments, the public prosecutor does not have the right to appeal through objection to absentia judgments issued in criminal cases, as their absence from court sessions is inconceivable. These sessions cannot convene without their presence. Furthermore, this appeal method is a right granted only to the convicted person who is allowed to object to judgments rendered against them in absentia in criminal cases (9).

However, in such instances, the Public Prosecution must attend objection trial sessions, as they cannot convene without them, and present their opinions, requests, and observations. They may also appeal judgments resulting from objection trials through other legally prescribed methods. Regarding cassation appeals, Article (249) of the Code of Criminal Procedure grants the Public Prosecution the right to appeal judgments and decisions issued during the trial stage.

As for the duration of appeal submission, Clause (Second) of Article (11) of the Public Prosecution Law defines the commencement of the appeal period for the public prosecutor starting from the second day after the judgment is pronounced if present, or from the day following notification if absent.

Cassation is divided into mandatory and optional types. Cases adjudicated by criminal courts involving capital punishment, life imprisonment, or perpetual imprisonment, and criminal cases decided by juvenile courts are subject to mandatory cassation (10) The Public Prosecution examines these cases, submits memoranda, and files appeals accordingly (11).

Conclusion

After completing our research titled "The Role of the Public Prosecution in Financial and Administrative Corruption Crimes," it is appropriate to present the most significant findings and recommendations as follows:

First - Findings:

1. This research has shown that the Public Prosecution in Iraq acts as an accusatory body and does not conduct preliminary investigations except in two specific and exclusive cases: the absence of the investigative judge at the crime scene, and initiating public right cases and financial and administrative corruption cases under specific restrictions.

We have concluded that the Federal Supreme Court, in its decision No. (112/Federal/2021), ruled the unconstitutionality of clauses (Twelfth, Thirteenth, and Fourteenth of Article 5) of the Public Prosecution Law No. 49 of 2017, which pertain to investigating financial and administrative corruption crimes and all crimes related to public office.

2. We have concluded that the Public Prosecution is a body of the judicial authority, based on Article 89 of the Iraqi Constitution of 2005.

3. The objective of the Public Prosecution in criminal cases focuses on achieving public interest, as it seeks both conviction and acquittal, ensuring the correct application of the law. It is not an adversarial party in criminal cases, and its legal role is to oversee legality in the proper application of the law.

4. We found that one of the tasks of the Public Prosecution is to initiate public right cases and financial and administrative corruption cases, attend investigations in

felonies or misdemeanors related to such crimes involving public office. The Public Prosecution is not granted discretionary power to initiate or refrain from initiating criminal cases, indicating that the Iraqi legislator has adopted the principle of obligation in initiating them, justified by the necessity of swift action to prevent crimes, especially corruption crimes.

5. Among the duties of the Public Prosecution is monitoring investigations, collecting necessary evidence, and exercising the powers of the investigative judge in their absence at the crime scene. Article (5/First) of the current law grants the Public Prosecution the authority to initiate corruption cases when the investigative judge is absent, which constitutes a departure from the principle of separation between accusation and investigation adopted in the Code of Criminal Procedure No. 23 of 1971.

6. We concluded that financial and administrative corruption crimes are often surrounded by secrecy, making their detection, investigation, and control difficult for oversight and judicial bodies, including the Public Prosecution.

7. We found that complaints are submitted (to the investigative judge, investigator, police station official, judicial officers, or through reports to the Public Prosecution), and it is incumbent upon the Public Prosecution to initiate and follow up on public right cases and financial and administrative corruption cases.

8. The Iraqi legislator has adopted the principle of obligation in initiating criminal cases and did not grant the Public Prosecution discretionary power in this regard, nor did it impose restrictions that limit this authority (such as requiring permission or request).

9. We found that the Public Prosecution has a role in appealing decisions issued by the Integrity Court's investigative judge under Article 130 of the Code of Criminal Procedure and Article 249/c of the same law. It has the right to appeal judgments issued by all courts in misdemeanors and felonies, whether through mandatory cassation or cassation intervention if procedural errors, evidentiary misjudgments, or sentencing

errors are found.

Second - Recommendations:

1. We believe that the legislative authority should proceed with enacting the Right to Information Law, obligating all state institutions to publish all decisions made and provide detailed statements of all expenditures. This would ensure transparency and facilitate the Public Prosecution's ability to initiate financial and administrative corruption cases.

2. There is a necessity to activate the deterrent measures stipulated in the Iraqi Penal Code concerning financial and administrative corruption crimes and public funds cases, ensuring that perpetrators are held accountable proportionately to the gravity of their offenses. Anti-corruption bodies, such as the Integrity Commission and the Board of Supreme Audit, must be granted sufficient autonomy to perform their duties and responsibilities in accordance with the laws under which they were established, in cooperation with judicial authorities, and submit periodic reports to the Public Prosecution for follow-up and notify investigative courts to open investigations accordingly.

3. We propose amending Article (5/ First) regarding the initiation of public right cases and financial and administrative corruption cases to read as follows: "The Public Prosecution shall initiate public right cases..."

4. We propose amending Article (5/Fourth) concerning the exercise of the investigative judge's powers at the crime scene, specifying these powers explicitly, such as initiating investigations, recording statements of complainants, informants, and witnesses, summoning and detaining suspects, and others, with a provision stating that such decisions are deemed equivalent to those issued by an investigative judge.

5. We recommend amending Article (5/First) regarding the initiation of public right cases, clarifying that the public right case encompasses civil cases as well as criminal cases initiated by the Public Prosecution.

Footnotes:

1. Paragraph (A) of Article (143) of the Iraqi Code of Criminal Procedure stipulates:

"When the court receives the case file, it shall set a trial date and notify the Public Prosecution, the accused, their relatives, and any witnesses deemed necessary, by means of a summons at least one day in contraventions, three days in misdemeanors, and eight days in felonies before the trial date. Notification of the accused's attorney does not substitute notification of the accused."

2. Article (5) of the aforementioned instructions states:

"The court must invite the designated or assigned Public Prosecutor in writing when convening to consider criminal cases. The court session shall not be deemed legally convened without their invitation and attendance. The Public Prosecutor must attend at the scheduled hearing."

3. Decision of the Dhi Qar Federal Court of Appeal in its cassation capacity, No. 108/T.J/2019 dated 2021/5/22 (unpublished decision).

4. See, Article (10) of the aforementioned instructions.

5. See, Abdul Amir Al-Akeeli and Dr. Dhari Khalil Mahmoud, *The Legal System of the Public Prosecution in Iraq and Arab Countries*, Al-Yarmouk Printing Press (no publication year), p. 136.

6. See, Dr. Abdul Wahab Omar Al-Batraoui, *Explanation of the Code of Criminal Procedure in Bahraini Law Compared to Jordanian Law*, 2nd edition, Applied Science University, Bahrain, 2010, p. 224.

7. See, Dr. Saeed Hasballah Abdullah, *Explanation of the Code of Criminal Procedure*, Ibn Al-Atheer Publishing, Mosul, 2005, p. 128.

8. Federal Court of Cassation decision in which the appellant was the Public Prosecutor before the Salahuddin Criminal Court:

"Upon examination and deliberation, it was found that the decision is incorrect and contrary to the law because the facts of the case and its evidence establish that the defendants committed acts in violation of their job duties for the benefit of others at the expense of the state by installing electrical transformers in private farms, contrary to regulations and instructions, and without collecting fees, as confirmed by the representative of the General Company for Northern Electricity Distribution and the defendants' confessions. These are sufficient and convincing evidence for their conviction. Therefore, the decision was annulled, and the case returned to its court for retrial under Article (259/A/8)."

Decision of the Federal Court of Cassation No. (1119/Criminal Board/2023) (unpublished decision).

9. See, Paragraph (B) of Article (243) of the Iraqi Code of Criminal Procedure.

10. See, Article (10) of the Public Prosecution Law.

11. Pursuant to Paragraph (Seventh) of Article (5) of the Public Prosecution Law, the Public Prosecution is tasked with:

"Reviewing cases referred from criminal courts involving penalties of death, life imprisonment, or perpetual imprisonment, as well as cases referred from juvenile courts, and submitting memoranda and appeals in such cases."

Patience, Forbearance, and Judicial Work



By Nihayah Dawood Salloum \ Judicial Institute Emp.

In a quotation from the book "Judicial Code of Conduct" by Judge Abdullah Ghazlan, Judge of the Supreme Court in Palestine, he narrates an incident that took place in 1972 when a simple Egyptian woman, a speaker of the Nile-Saharan Nubian language (commonly referred to as "Nubians"), filed a lawsuit against the government requesting compensation of 300 Egyptian pounds for damages she suffered during displacement. In the session presided over by Judge Nabil Bey Hindawy, the plaintiff appeared, and so did the government's lawyer. The following dialogue ensued:

Government Lawyer:

"I plead the court's lack of jurisdiction to hear this case because its value exceeds the competence limit of the minor court, which was 250 pounds at that time."

Judge:

"Did you hear what the gentleman said? Do you understand what he's saying?"

Plaintiff:

"I heard, but I don't understand anything!"

Judge:

"He says your case involves a large amount of money, so you need to go to the court in Aswan."

Plaintiff:

"Why should I go to Aswan?"

Judge:

"Because your case involves a large amount of money, it can only be handled by the larger court in Aswan."

Plaintiff:

"Why should I go to Aswan?! Isn't this court the same as the one in Aswan?! And aren't you a judge just like the one in Aswan?! So why are you here? Are you here to play around?!"

Judge Nabil Bey had no choice but to rule on the lack of jurisdiction and refer to the case. However, his mind was not at ease. May God have mercy on him, he used to recount this story to everyone he met, about how God bestowed upon him tranquility at that moment, preventing him from feeling insulted when the woman asked, "Are you here to play?" He took the time to explain to

her what the law required from him and from her, assuring her that she would receive her rights in Aswan as soon as possible.

Judicial work is characterized by great hardship and requires highly refined skills for many reasons, most importantly because it involves dealing with individuals from various backgrounds and social classes, each seeking justice for themselves, regardless of the true merits of the case, using different arguments and actions. Since levels of understanding and perception vary from person to person, it is incumbent upon the judge, in all circumstances, to be patient and forbearing, mastering the skills of attentive listening and effective interaction with litigants and their lawyers. Additionally, a judge must possess a strong personality and exhibit courteous behavior inside and outside the courtroom to earn the public's trust in his integrity and in the judiciary system as a whole. Good manners are the key to reaching people's hearts. As God Almighty said in the Holy Qur'an, Surah Al-Imran, verse 159:

"And had you been rude [in speech] and harsh in heart, they would have disbanded from about you,"

highlighting the importance of forbearance and gentleness in dealing with people. These qualities are the attributes of a leader's personality, so how much more important are they when embodied by a judge who also possesses leadership qualities?

Accordingly, we find that a judge, in performing his duties, must observe the following:

1. First, ensure a comprehensive understanding of all factors related to the case, engage with relevant parties, and gather sufficient information needed.

2. Avoid making emotionally charged or sentimentally based decisions, as emotional

thinking clouds judgment and leads to erroneous decisions.

3. Avoid hasty thinking and rely on rational thinking based on facts and evidence rather than emotional reactions.

4. Take sufficient time to make decisions, especially when dealing with significant and critical matters, avoiding any rush.

As for mastering the art of listening, it is a science in itself that requires much training and practice, for it is the key to uncovering many truths that emerge between the lines, whether in judicial work or institutional work, through practicing the following skills:

1. Listening with your whole body by sitting or standing upright and calmly, facing the speaker, looking into their eyes, and avoiding any other activities that might distract you from listening.

2. Listening with your full mind, refraining from thinking about anything else while others are speaking to you, and listening to them deeply and attentively to prevent your thoughts from wandering, which would create a barrier and hinder understanding and communication.

3. Listening with your heart to what others say, recognizing that certain feelings—positive or negative—may arise, but you must set them aside and avoid making hasty, ill-considered decisions based on them.

4. Repeating what the speaker says confirms attentive listening and gives the speaker a sense of being heard and valued, while also providing an opportunity to gather better information.

Let us always remember, when we are overwhelmed by the pressures of judicial work and our eyes meet the reproachful gazes of litigants—perhaps blaming us for something—that those gazes seem to be saying: "Are you here to play around?!"

Temporal and Spatial Partition for Use

Deputy Public Prosecutor :
Ali Jabbar Sukail

These two types of partition express the temporal and spatial arrangement of co-owners for using common property. We will explain their concepts as follows:

First: Temporal Partition for Use

This is a partition where one of the co-owners uses the entire common property for a specified period, then the other co-owner uses it for an equivalent period. It is characterized by alternating the use of the entire shared property, with periods calculated according to the shares. A co-owner may use the entire property for a certain period, then hand it over to the other co-owner for a subsequent period. This type of partition is considered more complete than the spatial partition for use because each co-owner enjoys the entire common property during their turn, for a duration proportional to their share. If the shares are equal, the durations of use are also equal.

The Iraqi and Egyptian Civil Codes did not specify a duration for the temporal partition for use, unlike the spatial partition for use, for which the duration is regulated. Thus, general legal rules apply. An agreement to use the property does not oblige the co-owners to remain in co-ownership for more than five years. An agreement on partition for use exceeding that period is not valid. If no duration is stipulated, it is considered one year, renewable unless a co-owner notifies the others at least three months before the end of the current year of their intention not to renew.

The temporal partition for use ends upon the expiry of its duration, as determined by agreement. Under the Egyptian Civil Code, the temporal partition for use does not convert into a final division regardless of how long it lasts, because it cannot be treated like spatial partition for use. It is a division of use, not ownership. In temporal partition for use, the common property remains undivided; only the time of its use is divided. Therefore, it does not lead to a final division and cannot be transformed into one.

The Iraqi Civil Code does not provide for converting partition for use, whether spatial or temporal, into a final division, unlike the Egyptian legislation regarding spatial partition for use.

Second: Spatial Partition for Use

This occurs when the co-owners agree to divide the common property into parts according to each co-owner's share, so that each one possesses a part equivalent to their share for the purpose of using it. They divide the property among themselves as a division of use only, not a division of ownership. Thus, each co-owner gets exclusive use of a specific part of the property corresponding to their share. The co-owners agree that each of them will have the benefit of a distinct part equivalent to their common share, so that each co-owner enjoys possession of a separate part, independently managing, exploiting, and using it, whether by themselves or through others. This is the spatial partition for use.

The co-owners are not allowed to agree on a partition for use for a duration exceeding five years. If the agreed period exceeds five years, the partition is considered valid only for five years. If no period is specified, its duration is considered one year, renewable for another year, provided that no co-owner notifies the others at least three months before the end of the current year of their desire not to renew.

The co-owners may agree to renew its period after the first agreed duration expires. Under the Egyptian and Algerian Civil Codes, the spatial partition for use converts into a final division if it continues for fifteen years after renewal, unless the co-owners agree otherwise. It only transforms into a final division through the continuous possession of the co-owner of the designated part of the common property for the mentioned period.

The Role of International Organizations in Combating Diseases and Epidemics

International organizations are bodies established through the union of the wills of states, working to support international cooperation in various fields, including the health sector. These organizations are linked to the United Nations through the Economic and Social Council, which regulates their legal relations via agreements of connection, coordination, and liaison. These organizations are classified into general and specialized organizations. One of the most important areas of international work in the health field is combating communicable diseases and epidemics. International organizations play a significant role in eradicating the spread of epidemics and communicable diseases of various kinds, whether global or regional, governmental or non-governmental. In performing this role, they rely on a set of international instruments that stipulate the human right to health and the fight against communicable diseases and epidemics, including the Universal Declaration of Human Rights in Article Three, as well as the International Covenant on Economic, Social and Cultural Rights, effective since 1976, which addresses this right in Article 12, paragraph (c), in addition to the principles and objectives stated in their charters.

By: Mustafa Ali Hameed/ Judicial Institute Emp.

International organizations have succeeded in directing international policies to combat communicable diseases by highlighting the dangers of these diseases and the importance of fighting them. They have also succeeded in urging states to incorporate health culture and its importance in eradicating diseases into their domestic legislation, based on the principles and mechanisms stipulated in international agreements concluded in this regard. Additionally, they have played a prominent role in encouraging states to ratify international agreements related to health protection and combating communicable diseases and epidemics.

The role of specialized organizations is clearly evident in this field. These organizations are defined as entities established by the will of several states, aiming to support international cooperation in a specialized and non-political field or to organize work in an international sector that affects the interests of participating states. There are many specialized governmental and non-governmental international organizations that play a role in combating communicable diseases and epidemics, including the Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Organization for Animal Health, and the United Nations Children's Fund (UNICEF), in addition to non-governmental organizations such as Médecins Sans Frontières (Doctors Without Borders), Doctors of the World, and other non-profit organizations.

All these organizations play a secondary role in combating diseases and epidemics, as they

cooperate among themselves on one hand, and with the World Health Organization (WHO) on the other, through monitoring these diseases and epidemics and providing recommendations to states to prevent their spread. However, the primary role of specialized international organizations in combating communicable diseases and epidemics is carried out by the World Health Organization under the International Health Regulations of 2005, specifically Articles 10 and 11, which define how states should deal with infectious diseases and outline the responsibilities of the World Health Organization regarding combating infectious diseases.

The organization is authorized to use information sources concerning diseases present in member states. In such cases, the organization must inform the concerned country about these unofficial reports and attempt to obtain confirmation from the member state before taking any actions based on such information. Subsequently, this information is communicated to all other member states. Only in exceptional cases can the source of this information remain confidential if there are significant public health risks of international importance resulting from the non-cooperation of some countries. In such situations, the World Health Organization can provide the available information to other member states confidentially and as quickly as possible.

Furthermore, the organization obliges states to exchange information regarding diseases and infections and to submit periodic reports if their spread affects various regions of the country. Member states must not violate the rules



stipulated by the organization in its constitution. The organization's work is not limited to providing recommendations; it also assists countries in implementing them. In addition, it negotiates the conclusion of agreements, which serve as a powerful tool to help reduce these diseases and the fatalities they cause.

The organization also operates a robust surveillance system that maintains data from a group of countries worldwide, shared through the WHO Global Health Observatory. This powerful tool helps countries gain a clear understanding of the populations affected by these diseases, the types of diseases affecting them, and their locations, enabling targeted efforts to be directed to the areas most in need. One of the most prominent recent examples of disease and epidemic outbreaks is the COVID-19 pandemic, which swept across the world. The World Health Organization made significant efforts globally to contain this pandemic and prevent its spread in various countries, including Iraq. Iraq is among the countries cooperating with the World Health Organization, which played a major role in guiding Iraqi authorities to combat this disease.

A high-level technical mission from the World Health Organization visited Iraq to support the Iraqi Ministry of Health's response to prevention and containment measures. The mission, which included experts from the Regional Office for the Eastern Mediterranean and the headquarters in Geneva, held a series of meetings with national health authorities to identify the dynamics of disease detection and vulnerable populations. It also provided guidance on enhancing response measures and controls.

The mission reviewed the ministry's overall preparedness to handle a potential increase in reported cases and emphasized the priority of establishing an Emergency Operations Center to expedite action. Following the declaration of COVID-19 as a global pandemic, WHO experts visited the Central Public Health Laboratory to assess the national laboratory's capacity and the availability of testing kits. They also visited the Communicable Diseases Control Center and designated health facilities in Baghdad to review the ongoing public response and evaluate the technical support needed in the coming period. The World Health Organization provided the Ministry of Health, both centrally and regionally, with sufficient quantities of laboratory test kits and personal protective equipment to enable a rapid response to severe cases. Additionally, the organization worked around the clock to establish three negative-pressure rooms in Baghdad, Erbil, and Basra to accommodate patients who might require more complex medical treatment.

From the above, it is evident that international organizations play an important and essential role in combating communicable diseases, with the World Health Organization at the forefront of performing this role, supported by the cooperation of other organizations, each within its field of expertise. These organizations rely on a wide range of tools and means to perform this role, including reports submitted by countries, disease monitoring, recommendations provided to states to deal with these diseases and prevent their spread, among other methods outlined in the International Health Regulations adopted by member states.

Law No. (24) of 2024 – Agricultural Land Lease Law

Article 1

The Ministry of Agriculture may lease areas of land owned by the Ministry of Finance allocated for agricultural reform purposes to Iraqi agricultural companies, farmers' associations, and Iraqi individuals in areas not exceeding (5,000) five thousand dunams. Any lease exceeding this area shall be submitted to the Council of Ministers for approval. Existing lease contracts for invested or exploited lands concluded prior to the enforcement of this law shall remain valid even if the leased area exceeds (5,000) five thousand dunams.

Article 2

The following shall be observed when leasing:

First: The lease contract duration shall be (25) twenty-five years, renewable for (10) ten years each time with the approval of the Minister or his designee. Renewal does not require the expiration of the original lease term.

Second: The lessee is permitted to:

a. Establish livestock projects in accordance with regulations governing such projects.

b. Establish projects complementary to agricultural activity in both its plant and animal sectors, observing regulations for setting up these projects at the site.

Third: The lessee shall be granted the right of disposition if they cultivate an area not exceeding (10) ten dunams with palm trees, olive trees, sidr trees, or fruit trees after (5) five years from the planting date, provided horticultural and modern irrigation standards are met, with a minimum of (40) forty palm trees per dunam. The cultivated land shall be a single, undivided plot.

Article 3

The lessee must meet the following conditions: First: Must not be an employee, a member of the internal security forces, a military personnel, or tasked with public service receiving salary and allowances from the government. Existing lease contracts concluded with such individuals prior to the enforcement of this law shall remain valid.

Second: Must not be a beneficiary of agricultural reform laws and decisions, and shall not combine more than two lease contracts.

Third: Must not have been convicted of terrorism or drug-related crimes.

Article 4

First: Lands allocated or to be allocated for agricultural investment projects under the investment map in accordance with the amended Investment Law No. (13) of 2006, or any other replacing law, shall be exempted from the provisions of this law, coordinated between the Ministry of Agriculture and the National Investment Commission.

Second: The lessee under this law and its instructions may request from the relevant agricultural departments to be covered by the Investment Law provisions for agricultural sector development, provided the contracted area is not less than (50) fifty dunams. The lease contract shall terminate automatically upon issuance of the investment license.

Article 5

First: Lands covered by this law shall be leased through public auction in accordance with the amended Law of Sale and Lease of State Property No. (21) of 2013, based on the rental rates technical matrix form prepared by the Ministry of Agriculture prior to the public auction, in accordance with instructions issued by the Ministry of Agriculture with the approval of the Prime Minister.

Second: The Minister of Agriculture, by decision of the Opinion Board, may amend the technical matrix of annual rental rates per dunam according to fluctuations in general price levels in Iraq.

Third: Desert lands are exempted from public auction procedures and shall be leased according to their specific regulations.

Article 6

First: The lessee shall be obligated to:

a. Use modern scientific methods in agriculture and irrigation.

b. Maintain irrigation and drainage networks in accordance with the amended Irrigation and Drainage Networks Maintenance Law No. (12) of 1995, or any replacing law.

c. Avoid harming agricultural lands and preserve their fertility.

d. Follow the crop rotation plan set by the Ministry.

e. Cultivate strategic crops essential for agricultural and industrial purposes during specific periods, and other crops as determined by the Ministry of Agriculture.

f. Cultivate palm, olive, sidr, and fruit trees according to the Ministry's plan and relevant implementation instructions.

g. Require companies to insure workers in accordance with the Social Security and Retirement Law for Workers No. (18) of 2023, or any replacing law.

Second: Leased land shall not be exploited for purposes other than those for which it was leased, and it shall not be subdivided under any circumstances.

Third: The lessee has the right to establish temporary irrigation facilities, orchards, livestock projects, and agricultural complementary projects on no more than (%15) fifteen percent of the leased area, as per the lease contract. They also have the right to plant windbreaks along the leased land boundaries. Ownership of orchards and established facilities shall revert to the state upon contract termination for public interest, with compensation to the lessee for their value as-is.

Article 7

The Ministry of Agriculture shall be responsible for monitoring and inspecting contractors under this law regularly to ensure compliance. The lessee must facilitate access for authorized personnel to the agricultural land to perform their duties.

Article 8

First: If the lessee breaches their legal, contractual, or technical obligations, they must rectify the violation within (90) ninety days. The Minister of Agriculture or his designee

may issue a decision to terminate the lease and reclaim the land, acquiring plantations and facilities at their removal value assessed under this law if the violation persists.

Second: If the lessee fails to cultivate the land, they shall bear double the rental value for the uncultivated agricultural land. The contract shall be terminated after two consecutive years of non-cultivation.

Third: In contracts involving two or more partners, if one partner breaches their contractual, legal, or technical obligations, their share shall be terminated following due procedures and offered to the remaining partners for consolidation. If they decline, the share shall be publicly auctioned per the law.

Fourth: For public interest, the Minister of Agriculture or his designee may issue a decision to terminate the lease and reclaim the land, compensating the lessee for incurred damages. Ownership of plantations and facilities shall revert to the state at their current assessed value, with the benefiting entity covering compensation costs.

Fifth: An additional area not exceeding one distribution unit may be added to the contract in cases of vacant areas overlapping with the original contract, provided no disputes exist. Otherwise, it shall be offered through public auction.

Sixth: A committee shall be formed by the Minister of Agriculture to assess the value of plantations, facilities, and compensations mentioned in the previous paragraphs, headed by a representative from the Real Estate Registration Directorate, with membership of an agricultural expert and a financial expert. The benefiting entity shall bear their fees.

Article 9

The Minister's decisions under paragraphs (First) and (Fourth) of Article (8) may be appealed before the competent Court of First Instance within (15) fifteen days of notification.

The court's decision may be further appealed before the Court of Appeal in its cassation capacity within (30) thirty days of notification.

Article 10

The Minister or his designee may approve the following:

First: The lessee's transfer of rights and obligations to another person who meets the legal requirements.

Second:

a. Transfer of the lessee's rights and obligations upon death to heirs named in the official inheritance deed, within (6) six months, provided they meet the legal contracting requirements.

b. If minors come of age and fail to agree on designating one of them to manage the contract, the contract shall be terminated, the land reclaimed by the state, and heirs compensated for existing plantations and facilities.

c. If heirs fail to report the death and complete procedures per subparagraphs (a) and (b), legal action shall be taken to terminate the contract after proper notification as stipulated in this law.

Article 11

First: The Minister of Agriculture or his designee may defer rental collection in cases of extreme necessity. The Minister may also approve installment payments over four equal installments within the year.

Second: The Council of Ministers, based on the Minister's proposal, may approve full or partial rental exemptions or reductions in cases of force majeure, supported by an official report from the provincial agricultural committee and

ratified by the governor.

Third: The Council of Ministers has the authority to amend agricultural land rental rates.

Article 12

First: (%10) ten percent of rental proceeds shall be allocated to address cases arising from natural disasters and agricultural risks through establishing a dedicated fund, governed by instructions issued by the Minister.

Second: (%3) three percent of collected rental revenues shall be allocated to the appraisal committee, collection personnel, supervisory, monitoring entities, and administrative service requirements, in accordance with instructions issued by the Minister.

Article 13

First: The Agricultural Reform Land Lease Law for Agricultural Companies and Individuals No. (35) of 1983 and its amendments shall be repealed. Existing agricultural contracts under it shall remain valid unless legally annulled, and shall be subject to the provisions of this law unless specifically exempted. Existing instructions shall remain effective until replaced or repealed.

Second: The dissolved Revolutionary Command Council Decision No. (44) of 1997 shall be repealed.

Article 14

Agricultural lands located in disputed areas shall be excluded from the provisions of this law until Article (140) of the Constitution is resolved.

Article 15

The Minister of Agriculture shall issue instructions to facilitate the implementation of this law.

Article 16

This law shall enter into force (30) thirty days after its publication in the Official Gazette.

Legal Aid Law No. (7) of 2024

Article 1

The objective of this law is to:

First: Provide legal aid to those covered by its provisions through offering legal advice or representation before courts and administrative bodies.

Second: Promote legal awareness by informing citizens of their constitutional and legal rights.

Third: Support the rights of groups covered by this law by enabling them to resort to the judiciary to obtain their rights and defend their interests.

Fourth: Prepare a legal and judicial aid guide that includes informing citizens of their constitutional and legal rights and promoting legal awareness.

Fifth: Coordinate with national, regional, and international entities and non-governmental organizations to improve the quality of legal aid and provide it more effectively.

Article 2

This law applies to:

First: The following groups without verifying their financial ability, who wish to benefit from legal aid:

a. Beneficiaries of the Social Protection Law.

b. Residents of elderly care homes and orphanages.

c. Persons with disabilities and special needs.

d. Victims of war operations, military errors, and terrorist acts.

e. The martyr's spouse and minor children; students and unmarried daughters are considered minors.

Second: The following groups, if they lack the financial ability to pay legal expenses and wish to benefit from legal aid:

a. Victims of sexual crimes.

b. Victims of human trafficking.

c. Victims of electronic extortion.

d. Displaced persons and internally displaced persons.

Article 3

First: A center called the "Legal Aid Center" shall be established within the High Commission for Human Rights, enjoying legal personality, represented by the Center Director or his designee.

Second: The Center shall have two offices in Baghdad and may open offices at the department level in provincial centers and at the division level in districts.

Third: The Center shall be managed by an executive secretariat chaired by an employee holding at least a bachelor's degree in law, with not less than ten years of actual experience and specialization.

Article 4

First: The Center shall have a council called the "Legal Aid Council" composed of:

a. Deputy Chairperson of the High Commission for Human Rights – Chairperson

b. Director of the Legal Aid Center – Member and Deputy Chairperson

c. Representatives from the following entities, not below the rank of Director – Members:

1. Supreme Judicial Council

2. General Secretariat of the Council of

Ministers

3. Ministry of Finance

4. Ministry of Justice

d. Representative of the Bar Association – Member

e. Representative of non-governmental organizations nominated by the NGO Directorate at the General Secretariat of the Council of Ministers – Member

Second: The Council may invite individuals whose expertise is deemed necessary without granting them voting rights.

Third: The Legal Aid Council shall appoint a rapporteur responsible for notifying members of meeting schedules and agendas, recording minutes, handling correspondence, and following up on council decisions.

Fourth: The Council shall meet at least once a month upon invitation by the Chairperson or Deputy.

Fifth: Council meetings are valid with the attendance of two-thirds of the members, provided that the Chairperson or Deputy is present. Decisions are taken by majority vote; in case of a tie, the side voted for by the Chairperson prevails.

Sixth:

a. Non-governmental members of the Council shall receive a monthly stipend of 250,000 Iraqi Dinars.

b. This stipend may be amended by a decision of the Council of Ministers.

Article 5

First: The Council shall undertake the following tasks:

a. Develop plans and programs to ensure comprehensive, flexible, sustainable, and effective legal aid provision.

b. Set priorities for free legal aid based on available financial resources.

c. Plan and manage the legal aid system and oversee its provision to beneficiaries.

d. Supervise and follow up on securing legal aid requirements.

e. Approve mechanisms for raising awareness of constitutional and legal rights and their exercise and guarantees.

f. Approve plans for developing human resources involved in providing legal services.

g. Engage experts and specialists and keep up with legal developments in all matters related to providing legal aid in accordance with the law.

h. Approve contracts with lawyers and determine their fees.

i. Propose the annual budget project for the Center.

j. Approve receiving donations, grants, and gifts in accordance with the law.

Second: The Council may delegate some of its powers to the Chairperson.

Article 6

First: Legal aid includes the following:

a. Raising awareness of constitutional and legal rights, their exercise procedures, and guarantees.

b. Providing legal consultation.

c. Amicable settlement between disputing

parties.

d. Drafting lawsuits, pleadings, and requests.

e. Representation before courts and other entities.

Second: By exception to paragraph (First) of this article, legal aid does not include:

a. Persons convicted under Anti-Terrorism Law No. (13) of 2005 or any law replacing it.

b. Persons convicted under Narcotics and Psychotropic Substances Law No. (50) of 2017 or any law replacing it.

c. Persons convicted of financial and administrative corruption crimes.

d. Commercial lawsuits.

e. Tax-related lawsuits.

f. Lawsuits excluded by a decision of the Council of Ministers based on its proposal, provided the decision is published in the Official Gazette.

Article 7

First:

a. Contracting with lawyers to provide legal aid to those covered by this law shall be coordinated with the Bar Association.

b. Instructions shall regulate the terms of contracting with lawyers, their remuneration for providing aid, and other matters concerning the relationship between the aid applicant, the Center, the Bar Association, and the lawyer.

c. Contracting with lawyers for legal aid, whether paid or unpaid, is exempt from the provisions preventing lawyers from combining private practice with working for state departments as stipulated in Advocacy Law No. (173) of 1965 or any law replacing it.

Second: Contracting shall be with experienced and competent lawyers, and the Council may require proof of the lawyer's competence and experience through case verdicts or court endorsements.

Third: The Center shall maintain a register recording the names of contracted and volunteer lawyers.

Article 8

The Legal Aid Council may, when necessary, contract with a lawyer to represent a specific case or cases for a fee.

Article 9

The lawyer may be contracted on an annual or monthly fee basis, regardless of the number of cases assigned, or on a case-by-case fee basis.

Article 10

Legal aid may be canceled at any stage of the proceedings in the following cases:

First: If it is proven that the beneficiary possesses resources that negate the lack of financial ability.

Second: If the beneficiary commits fraud or forgery to obtain legal aid.

Article 11

Any contracted or volunteer lawyer who unjustifiably refuses or neglects to provide assigned legal aid shall be subject to disciplinary actions as stipulated in Advocacy Law No. (173) of 1965 or any law replacing it.

Article 12

First: The beneficiary of legal aid, the court, or the Public Prosecution shall inform the Legal Aid Office or Center of any violation committed

by the assigned lawyer.

Second: The Legal Aid Office shall investigate the lawyer's violation, request information from concerned entities, and submit its recommendation to the Council.

Third: The lawyer's contract shall be terminated in case of proven gross misconduct without prejudice to the Center's right to claim compensation.

Article 13

First: If it is proven that a legal aid applicant obtained aid based on false information, the Legal Aid Office shall immediately suspend it and recover the unlawfully paid amounts by a decision issued by the Legal Aid Council, which shall be subject to appeal in accordance with the law.

Second: Paragraph (First) of this article also applies to concluded aid cases.

Third: Unlawfully paid amounts shall be recovered according to the Government Debt Collection Law No. (56) of 1977.

Fourth: The Center shall refrain from paying lawyers' fees for legal aid not provided in good faith, provided incompetently in a specific case, or lacking proof of resolution or continued service.

Article 14

A lawyer may not receive any compensation from the beneficiary for the legal services provided.

Article 15

Lawsuits and transactions covered by this law shall be exempt from stamp duties.

Article 16

The Legal Aid Center shall replace the beneficiary in receiving awarded litigation expenses, provided they do not exceed the amounts paid.

Article 17

The Center's financial resources consist of: First: Allocations from the federal general budget.

Second: Donations, grants, and gifts in accordance with the law.

Third: Expenses awarded to legal aid beneficiaries.

Article 18

The Center's accounts shall be subject to audit by the Federal Board of Supreme Audit.

Article 19

First: Implementing instructions for this law shall be issued based on the Legal Aid Council's proposal and approved by the High Commission for Human Rights.

Second: The internal regulations of the Legal Aid Center, defining its structure and functions as stipulated in this law, shall be issued accordingly.

Article 20

A Member of Parliament may refer requests from groups eligible for legal aid under this law to the Legal Aid Center, which shall consider including them.

Article 21

This law shall be effective from the date of its publication in the Official Gazette.

Glimpses from the Judicial Institute



Interview by: Ali Al-Badrawi

Retired Judge and Lecturer at the Institute:
Mr. Abbas Hassan Jassim Al-Anbaki

■ "How to be free in forming your opinion...
A lesson we learned at the Judicial Institute"

■ "the Judicial Institute seeks today to build
A strong Knowledge Base for it's Students"

The Judicial Institute is rich with specialized professors who possess extensive legal and judicial experience, delivering curricula to its students. Among these esteemed faculty members is retired judge Mr. Abbas Hassan Jassim Al-Anbaki, with whom we had an in-depth conversation covering various aspects, starting with his judicial career until his retirement.

aims for comprehensive knowledge development. I hope it will take further steps to become a center for legal and judicial knowledge through lectures on comparative judiciary, jurisprudence, and logic, as these are integral to judicial decision-making. Judicial reasoning involves matching two premises: the minor premise being the facts of the dispute, which involves analyzing facts after determining their truth, and the major premise being the legal text, which requires interpretation, clarification, and reconciling inconsistencies to reach a judgment. Amidst this, the challenge remains in determining who bears the burden of proof and the means of proof.

*After this judicial journey, what have you learned?

I have learned what I could, yet I continue to seek the hidden knowledge I have not fully grasped. One of the most important lessons is that a judge is not concerned with the abstract term "justice" that everyone utters, but rather with its tangible manifestations that ensure people receive what they are due. Justice, as a mere word, is like happiness or beauty—concepts people perceive differently. However, tangible instances of justice are what give people a sense of fairness. For a judge, justice means that the general jurisdiction of courts in resolving disputes is not hindered by exceptions, such as decisions preventing courts from hearing certain disputes or forming committees to adjudicate others. Judicial justice also means respecting the right to defense, allowing both parties to present their facts and arguments, and managing a neutral dialogue between them, as the truth is only revealed through dialogue—a battle of arguments rather than swords—leading to a victory for both sides by affirming the truth.

Justice requires that judges provide reasoning for their judgments, effectively apologizing to the litigants for ruling according to established facts and applicable law, thus ensuring accountability and subjecting judgments to higher court scrutiny. Another aspect of justice is transparency, avoiding secrecy, and ensuring that judicial proceedings are public. The Iraqi judiciary emphasizes this by starting its session records with "The public hearing has commenced" and concluding with "The ruling has been publicly announced." Justice also demands that the judicial truth declared matches the actual facts of the dispute, aiming for judgments that are procedurally correct and substantively accurate. Hence, litigation procedures are twofold: preventive, assisting judges in avoiding errors, and corrective, represented by appeals mechanisms that rectify judicial mistakes before judgments become binding on the public.

*Returning to your role as a lecturer at the Institute, do you believe the current curriculum suffices, or are there additions you deem necessary?

One of my aspirations is to introduce new subjects into the Judicial Institute's curriculum, such as logic and comparative judiciary, to benefit students from global experiences, especially since disputes have become international in nature.

*Final Words

In conclusion, I would like to extend my respect and greetings to Judge Dr. Faiq Zidan, President of the Supreme Judicial Council, for his patronage of the Judicial Institute, making it an integral part of the judicial institution and ensuring it fulfills its mission to the fullest, including attending the Institute's graduation ceremonies. I also extend my greetings to the Director General of the Judicial Institute, Judge Jalil Adnan Khalaf, who diligently strives to elevate the Institute through his engagement with lecturers and discussions on ways to fulfill its mission. Additionally, I warmly greet my fellow lecturers who exert exceptional efforts in delivering knowledge to students and supervising their research. Lastly, I express my sincere gratitude to the staff of the Judicial Institute for providing the needs of both professors and students.

Between Human Judiciary and Artificial Judiciary



Judge: Ayad Mohsen Dhamad

Just as human cashiers have been replaced by ATMs, and manned aircraft have given way to drones, there are voices calling for the replacement of human judges with automated judges operating under advanced artificial intelligence systems.

In recent years, the scope of digital and artificial intelligence applications in courts and judicial institutions has expanded. Litigation systems in some countries have evolved into remote litigation systems. Documentation systems have been developed, with many cases archived electronically after previously being stored in paper form. Digital computers have facilitated access to judicial precedents to assist in adjudicating similar cases. All of this has been reasonable and acceptable because it helps increase the productivity of judges and courts and expedites case resolution. However, what is neither reasonable nor logical is that some are pushing for the replacement of human judges with digital machines acting as artificial judges to adjudicate disputes, resolve them, and issue judgments after being fed with complete information about the parties and their documents. In this scenario, we would be facing a judiciary without judges.

Proponents of the artificial judiciary justify their view by arguing that the artificial judge is neutral, unbiased, and cannot be swayed or appealed to emotionally by any party to the case, as it lacks emotions and feelings. Additionally, digital machines are characterized by precision and speed in reaching conclusions. In my view, those advocating this direction do not fully understand the nature of the judicial mission, its uniqueness, and the legal and human circumstances surrounding it. All legal systems, in explaining the mechanisms and procedures of litigation and judgment issuance, have made it clear that those who issue judgments are human judges with human and emotional nature. Stripping the judiciary of its inherent human nature is tantamount to stripping judgments of their spirit, justice, and the human aspects that no digital machine can perceive. Criminal and civil laws have granted judges wide discretionary powers in evaluating and assessing evidence and testimonies, determining what is fit to serve as a basis for judgment and what is not.

All legal systems emphasize that courts issue their judgments based on their conscience and conviction derived from the evidence and documents of the case. This conscience and conviction can only be imagined within human beings. Furthermore, resorting to digital machines as a substitute for human judges significantly undermines justice, particularly regarding aggravating and mitigating circumstances, which require human emotions to assess. We have all seen recorded videos of court sessions presided over by the renowned American judge Frank Caprio, known for his humanity, where he exempts defendants from paying fines despite the availability of evidence against them for humanitarian reasons granted to him by law to use in exempting from punishment. The legislator's reliance on the judge's emotions and granting them broad discretionary power is nothing but an acknowledgment that the judge is the closest to the incident and the most capable of balancing judgments according to case circumstances. A good judge will not employ those emotions and feelings except within their proper legal and humanitarian framework.

Announcement of Final Results and Final Grades for
First-Year Students – 48th Session – Judges Course

The Judicial Institute has announced the results of the second semester and the final grades for first-year students of the 48th session (Judges Course).

All students of the aforementioned session have successfully passed all their prescribed courses. The top three ranks were achieved by:

1. Ali Raed Ali Khiyon – First Place.
2. Ahmed Sameer Abdulrahim – Second Place.
3. Malik Ali Hamza Jasim – Third Place.

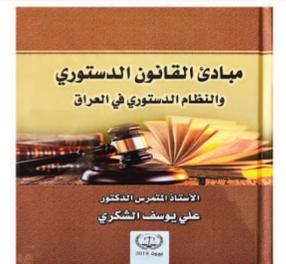
News

The Judicial Institute Participation
in a Scientific Symposium Hosted by
Bayt Al-Hikma

The Judicial Institute, represented by Ms. Nihaya Dawood Salloum, Head of the Training Department, participated in the scientific symposium held by Bayt Al-Hikma on Sunday, April 27, 2025, titled: "Working Women in Judicial Institutions and Means of Empowerment."

The symposium highlighted the critical role played by women across judicial institutions, recognizing their strong legal and administrative skills, as well as essential leadership capabilities in enhancing organizational efficiency and productivity—whether as judges, public prosecutors, administrative

staff in judicial bodies, or as students at the Judicial Institute. It was noted that the number of female Public Prosecution graduates in Cohort 46 reached ten, while two female judges graduated from Cohort 45. Additionally, nineteen female students were accepted into Cohort 49 of the Public Prosecution Program, and three were admitted to Cohort 48 of the Judicial Program. Symposium participants commended the Supreme Judicial Council's efforts to advance its institutional work and its consistent support for women working in the judiciary.

Principles of Constitutional
Law and the Constitutional
System in Iraq

The library of the Judicial Institute is considered one of the prominent scientific and documentary landmarks in Iraq due to its rich collection of books, publications, resources, and valuable legal and scientific works. We have chosen to highlight the latest additions to the library, generously donated by their authors, to enrich its shelves and provide valuable knowledge to students and scholars.

Among these is the book titled "Principles of Constitutional Law and the Constitutional System in Iraq" authored by the esteemed Professor Dr. Ali Youssef Al-Shukri.

The book, which consists of 556 pages, is divided into two main sections: the first dedicated to the study of the theory of the state, and the second focusing on the theory of the constitution.

In the first section, the author discusses the concept of the state, its pillars, origins, forms, and methods of exercising authority, concluding with a study on political parties.

The second section is devoted to the theory of the constitution, exploring the meaning of constitutional law, its sources, the processes of constitution-making, types of constitutions, mechanisms for ensuring their respect, methods of amendment, and circumstances leading to their termination.

From the Judicial Institute Library