

JUDICIAL INSTITUTE



Monthly Newspaper Covers The activities & The news of the Iraqi Judicial Institute

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Third Year - Issue 36 OCTOBER 2025

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The Iraqi Judicial Institute Strengthens Its Arab Leadership by Securing Second Place Among Arab Judicial Institutes in Judicial Training



The Iraqi Judicial Institute has reinforced its distinguished position among Arab judicial institutes by winning second place in the "Arab Judicial Training Excellence Shield" competition, organized by the Arab Center for Legal and Judicial Research in Cairo, with the participation of 23 judicial institutes from across the Arab world. Iraq was represented in this event by His Excellency Judge Jalil Adnan Khalaf, Director General of the Judicial Institute, who also took part in the 33rd Meeting of Deans and Directors of Arab Judicial Institutes, the sessions of which concluded on Wednesday, October 8th 2025 at the headquarters of the League

of Arab States in Cairo. In a statement, the Director General of the Judicial Institute affirmed that "this achievement reflects the progress of Iraq's judicial training system and the Institute's efforts to prepare and qualify judges and public prosecutors according to the most advanced curricula and training methodologies." He further emphasized that "the Institute strives to consolidate Iraq's position as a legal and judicial beacon in the Arab region." Judge Khalaf added that the meeting also discussed the draft guiding manual for building the capacities of judges and public prosecutors in counterterrorism, as well as the criteria for judicial training excellence for the

year 2026. He explained that the agenda included the classification of judicial institutes for the period 2023-2016, and the discussion of recommendations from previous meetings, noting that "Arab participants underscored the importance of continuous professional development for judges and considered it an essential path for enhancing judicial performance." He pointed out that "the recommendations will be submitted for approval following the vote, to be adopted as operational standards for the coming years," adding that "the formulation of the Excellence Shield criteria should be made more specific to ensure objectivity in selection, while allowing institutes room to innovate in research topics that enhance the quality and diversity of judicial training." The Director General concluded by affirming that "this new accomplishment is the result of the continuous support of the Supreme Judicial Council and reflects the bright and progressive image of the Iraqi judiciary on the Arab stage." A formal ceremony honoring the institutes that won the Arab Judicial Training Excellence Shield will be held at a later date at the Arab Center for Legal and Judicial Research, in recognition of their efforts to advance judicial work and promote Arab cooperation in the fields of justice and training.

Director General of the Judicial Institute Meets Representative of UNHCR

The Director General of the Judicial Institute, Judge Jalil Adnan Khalaf, received in his office Ms. Zoya, Head of the Legal Department at the United Nations High Commissioner for Refugees (UNHCR), along with her accompanying delegation.

The meeting discussed ways to enhance joint cooperation between the Judicial Institute and UNHCR, particularly in the areas of training and the exchange of legal and judicial expertise, in a manner that contributes to consolidating the principles of human rights and protecting vulnerable groups, especially refugees and internally displaced persons.

Judge Khalaf emphasized during the meeting the importance of cooperation with relevant international organizations in supporting the judicial and training process in Iraq. He noted that the Institute includes "Principles of Human Rights" as part of its training curricula and qualification programs offered to judges, public prosecutors, and judicial staff, with the aim of embedding the values of justice and equality in judicial practice.

For her part, Ms. Zoya praised the active role played by the Judicial Institute in preparing and qualifying legal cadres, expressing the Commission's readiness to cooperate in organizing joint workshops and specialized courses on human rights and international humanitarian law, and in exchanging expertise between the two parties to further strengthen justice and the rule of law.



Meeting with French Judge Claire Thibault to Discuss Activation of Judicial Cooperation

The Director General of the Judicial Institute, Judge Jalil Adnan Khalaf, received in his office Judge Claire Thibault, Liaison Judge of the French Embassy in Ankara.

The meeting focused on mechanisms for activating the judicial cooperation memorandum signed in Paris on April 2023, 12, between the Judicial Institute and the French National School for the Judiciary (Ecole Nationale de

la Magistrature - ENM), covering areas of training, qualification, and exchange of expertise between the two institutions.

Judge Thibault expressed her readiness to contribute to training programs at the Judicial Institute, particularly on topics related to combating corruption, money laundering, and cybercrime. At the conclusion of the meeting, Judge Khalaf stated:

"This meeting marks an important step toward strengthening cooperation with the French National School for the Judiciary. We look forward to it becoming a valuable addition to the Institute's training and qualification programs, helping to develop the capabilities of Iraqi judges and equip them with sound international experience - especially in the fields of combating corruption and organized crime."

The Opening Article (The Lead)

A Reflection on the Competency Examinations

Throughout his life, a person passes through countless examinations - differing in form yet united in essence: they test his awareness, maturity, and ability to make sound decisions in moments that distill the experiences of a lifetime. In its broader meaning, an examination is not confined to what one encounters on a school bench or in an examination hall; rather, it extends to the trials of daily life - to one's professional and moral responsibilities, and to the measure of one's adherence to the values he believes in when his will is tested in the arena of reality.

These reflections came to my mind as I oversaw, firsthand, the competency examinations for admission to the Judicial Institute - for both the 52nd class (Judges) and the 53rd class (Public Prosecution) - which were held this month in an atmosphere of order, discipline, and fair competition, under the direct supervision of the honorable Supreme Judicial Council, with the generous support of its President, Judge Dr. Faiq Zaidan, and the meticulous follow-up of the supervising judges and examination monitors from our judicial institution. Those few hours during which the examination took place were, for me, a vivid reflection of what justice truly means - in its responsibility, effort, and profound significance. I saw in the faces of the examinees the radiance of ambition, and in their anxious eyes I sensed a deep hope of one day entering the field of the judiciary, carrying the burden of justice and embodying its noble values in real life.

As I walked through the examination halls alongside my fellow supervising judges, I observed a mixture of silence and anticipation - yet behind that silence were intense intellectual and mental battles, as each candidate strove to prove his worthiness to join this venerable institution and to earn, one day soon, the honor of wearing the mantle of justice.

At the Institute's administration, we endeavored to make these examinations a model of integrity, transparency, and precise organization. Our goal was not to test memorization, but rather to place candidates in a real position that measures their readiness to bear the responsibility of judging between people - a trust like no other. Hence, our concern extended beyond academic aspects to the psychological and human dimensions, for each examinee, as he faced the question paper, was a person living a decisive moment, needing reassurance and confidence to reveal his best potential.

Despite the tremendous effort invested in preparation and organization, the true source of satisfaction was that the examinations proceeded smoothly and efficiently, in a manner reflecting the sense of responsibility among all those working at the Judicial Institute - from the organizing and follow-up committees to the supervising judges. This served as further proof of our institution's ability to accomplish its duties with the highest professional standards, befitting the name and dignity of the Iraqi judiciary.

On a personal level, this experience offered me a profound opportunity to reflect on the very essence of judicial work itself. Just as candidates are tested in their pursuit of this path, so too is every judge tested daily in the field of justice. The examination does not end upon passing academic walls; it truly begins when a judge confronts the realities, pains, and hopes of people - when he is called upon to balance between law and conscience, between justice and mercy, between equity and compassion. These are the values we strive to instill in our students from the very moment they enter the Institute.

In the eyes of the examinees, I saw a fusion of ambition and awe, of hope and responsibility - a reminder that this nation remains rich with young minds who believe in the mission of justice and aspire to become part of it. If success in the examination marks a beginning, then true success lies in perseverance along the path of justice, and in upholding the values that make a judge a model and a moral compass within his society.

In closing, I extend my deepest gratitude and appreciation to the honorable Supreme Judicial Council, to the supervising and monitoring judges who embodied a spirit of discipline and responsibility, and to all the staff of the Judicial Institute whose exceptional efforts ensured that the examinations were conducted with the utmost accuracy and transparency. I also express sincere respect to our applicants, sons and daughters alike, who approached this examination with determination and resolve. I wish them success in the stages ahead, reaffirming that the doors of the Institute will always remain open to all who seek to become part of the noble mission of justice.

Editor-in-Chief

Participation in the Judicial Forum on the Role of Judicial Institutions in Strengthening the Rule of Law and Promoting Justice

The Judicial Institute participated in the Judicial Forum titled "The Role of Judicial Institutions in Strengthening the Rule of Law and Promoting Justice," held at the Al-Mansour Melia Hotel in Baghdad over two days, from September 2025, 29-28. The forum was sponsored by the Supreme Judicial Council, supported by UK Aid, and organized by the Investigator Organization for Supporting the Rule of Law and Democracy and the International Rescue Committee (IRC). The forum began with remarks by Judge Nasser Imran, Judicial Supervisor and representative of the Supreme Judicial Council, who addressed in the first session the initiatives launched by the judiciary under the Rule of Law and Justice Consolidation Strategy for 2025-2025.

He outlined several key themes, including developing training programs at the Judicial Institute to prepare judges and public prosecutors distinguished by competence, integrity, and professionalism.

Other main topics included: Strengthening the independence of the judiciary in accordance with Law No. (45) of 2017 on the Supreme Judicial Council, to reinforce public trust in the judicial institution.

• Reforming the organizational structure and enhancing the institutional performance of the Supreme Judicial Council.

• Digitizing judicial processes through the establishment of a unified central system for managing transactions and electronically documenting rulings.

• Enhancing the technical and technological capacities of judicial personnel.

• Improving the professional environment for judges and public prosecutors.

• Developing the judicial investigation system and strengthening the oversight role of the Public Prosecution Service.

• Upgrading the performance of the Judicial Supervision Authority to ensure quality and efficiency.

• Expanding specialized courts and advancing training programs at the Judicial Institute to produce highly qualified, ethical, and professional judicial officers. In the second session, Judge Dr. Haider Ali Nouri, representative of the Federal Supreme Court, spoke about the role of constitutional justice in reinforcing the rule of law, highlighting the Court's position in upholding the principle of legality and safeguarding constitutional rights and freedoms.

Judicial Institute Concludes Competency Examinations for the 52nd and 53rd Rounds

On Saturday, October 4th, the Judicial Institute concluded the competency examinations for admission to its 52nd (Judges) and 53rd (Public Prosecution) rounds, which witnessed broad participation and high-level judicial supervision over two consecutive days.

The examination for the 52nd round (Judges) was held on Friday, October 3rd 2025, at the College of Law, University of Baghdad, with the participation of 1,045 candidates, monitored by 77 judges and members of the Public Prosecution. Meanwhile, the 53rd round (Public Prosecution) examination took place on Saturday, October 4th, with 1,425 candidates under the supervision of 111 judges and public prosecutors. Both examinations, overseen by members of the Judicial Institute Council, were

conducted in highly organized conditions marked by precision and transparency. The Institute's administration provided all necessary logistical and technical arrangements to ensure a smooth and efficient examination process.

Supervising judges expressed their appreciation for the significant efforts made by the Institute's administration in preparing the examination halls and creating a suitable environment, emphasizing that the high level of organization and discipline enabled candidates to perform their exams with confidence and ease. They also commended the candidates' adherence to instructions and praised the active role of the supervising staff, whose dedication contributed to the integrity and success of the examinations.

Details on the last page

IN THIS VOLUME

2

Residential Properties as of 1998/1/1 Between the Civil Code and the Real Estate Lease Law

3

The Role of the Public Prosecution in Protecting Moral Rights: The Case of Cultural Heritage

5

Active Participation of Judicial Institute Staff in Arab Legal Workshops

1998/1/1 Residential Properties Constructed as of Between the Civil Code and the Real Estate Lease Law

The general contractual principles under the Iraqi Civil Code No. 40 of 1951 are founded on contractual obligations arising from the will of the parties, meaning that contractual obligation results from the concurrence of offer and acceptance between the parties. The effects of a contract are therefore determined by what the contracting parties have agreed upon, in accordance with the jurisprudential rule that "the contract is the law of the contracting parties." Article 146 of the Civil Code stipulates that once a contract is executed, it becomes binding and may not be revoked or modified by either party except by virtue of a legal provision or mutual consent. Article 73 of the same Code defines a contract as "the binding of an offer made by one party to an acceptance by the other in a manner that produces legal effect upon the subject matter of the contract." This means that the source of contractual obligations and their nature are determined by the will of the parties. However, the Real Estate Lease Law No. 87 of 1979 (as amended) departs from these general contractual principles. In the case of residential property leases, even after the concurrence of offer and acceptance, the source of the contractual relationship becomes the law itself—not merely the agreement of the parties.

By Student/ Fahd Majid Al-Obaidi - Cohort (50)

In such cases, the obligation is governed by statute rather than by contract, meaning that the explicit agreement of the parties has no legal effect if it contradicts the provisions of the Lease Law, whose rules are of public order and therefore binding. Among these provisions, by way of example, are those related to the duration of the lease (the continuation of the tenancy despite the expiration of the contract, as long as the tenant remains in possession and continues to pay rent), the method of termination, subletting, and the manner of payment.

The Real Estate Lease Law is a special law through which the Iraqi legislator departed from the general provisions governing lease contracts under the Civil Code. It regulates the landlord-tenant relationship in several fundamental matters beyond the ordinary contractual terms of lease agreements. Accordingly,



any condition included in a residential lease contract must conform to the provisions of this Law, as it determines the legal framework governing leases of residential property. No other legal provision applies to residential lease contracts during the enforcement of the Real Estate Lease Law except those specifically exempted by the legislator. The objectives of the Real Estate Lease Law, as stated in its explanatory memorandum, are to prevent property owners from exploiting tenants, and to address the social problems arising from the housing crisis in accordance with principles of justice. The Law was therefore enacted to define clearly the rights and obligations of both the lessor and lessee, establishing a fair balance between them—prohibiting the lessor from exploiting the tenant's need for housing and preventing the tenant from unjustly enriching them at the expense of the lessor.

The Law applies to all residential properties located within the boundaries of Baghdad Municipality and other municipal jurisdictions, subjecting all residential lease contracts to its provisions in accordance with Article (1.1). However, Article (1.2) exempts certain categories of residential properties, such as those leased by the state or public entities to their employees, as well as properties exempted by the Ministry of Finance under specific provisions. These exceptions are listed exhaustively and exclusively within the Law.

Some may assume that residential properties completed on or after 1998/1/1 are exempted from the application of the Real Estate Lease Law and that lease

contracts for such properties are therefore governed by the Civil Code. However, this assumption does not align with the text or intent of the law, which does not exclude such properties from its scope. Rather, the Law introduced two specific exceptions:

1. Under Article (2.3), the law exempts residential properties completed after 1998 from the automatic extension of tenancy beyond the contractual term, provided that the tenant continues to occupy the property and pay rent. In such cases, the agreed contractual term is binding as both the start and end of the tenancy, and the tenant must vacate upon expiration of that term.

2. Under Article (3.4), the Law sets the annual rent increase at 6% for residential properties and 7% for properties leased as rooms for residence.

This interpretation was affirmed by the Al-Rusafa Court of Appeal, acting in its appellate capacity, in Decision No. 591/M/2010 (Notification No. 562, dated 28 June 2010), which stated: "Upon reviewing the appealed judgment, it was found to be incorrect and contrary to the law. Article (2.3) of the Real Estate Lease Law No. 87 of 1979 exempts newly built residential properties completed on or after 1998/1/1 from the provisions of Article (1.3). Therefore, the duration of such leases shall be as agreed between the parties."

The Court reaffirmed this principle in another decision, No. 177 dated 9 March 2010.

These rulings confirm that residential properties completed on or after 1998/1/1 remain subject to the Real Estate Lease Law, provided that the tenancy and occupation are for residential purposes.

The General Rule Governing Invalid Contracts

By Student/ Waleed Hadi Kazem Al-Kallabi - Cohort (50)

There is no doubt that a contract derives its legal force and binding authority from the extent to which it conforms to the provisions of the law. Through this conformity, the contract becomes a legal instrument that binds the will of the contracting parties with its legal effect. Accordingly, neither party may unilaterally dissolve or evade the obligations arising from the contract except by mutual consent to terminate it, in accordance with the principle that "the contract is the law of the contracting parties."

While the contract's legal validity represents the governing principle, there exists an exception whereby the contractual bond loses its binding effect—namely, when the contract is invalid (void) due to its illegality or its content being contrary to the law. Invalidity, therefore, is a legal description that attaches to any contract which violates the law, where one or more of its essential elements or conditions of validity is missing. Consequently, such a contract is deemed nonexistent in the eyes of the law and produces no legal effect.

Building on this foundation, it is evident that the Iraqi legislator has adopted the principle of freedom of will in legal transactions and expanded the scope of consensuality therein. However, at the same time, the legislator did not abolish the requirement of formality, but rather allowed for its existence in many significant transactions between individuals—making it, in some instances, an essential element and a condition for validity.

Hence, the legislator emphasized the need to observe legal formalities through the registration of legal acts among individuals in the competent official authority. Furthermore, the Iraqi legislator introduced a general principle governing all invalid contracts within the theory of invalidity under the provisions of the Civil Code, without specifying the legal consequence of failing to comply with formal requirements in other civil laws, thereby relying on the general rule established in the Civil Code.

Upon review and examination, it becomes apparent that various civil laws—such as the Companies Law, the Law of Notaries Public, and the Real Estate Registration Law, among others—refer to the necessity of registration but do not expressly stipulate the legal penalty for non-registration. This omission leads us to revert to the sanction provided by the Civil Code, specifically Article 138, which applies to all contracts deemed invalid. This article constitutes a general principle that governs all forms of invalid contracts, regardless of their nature or the law under which they fall. Supporting this view, numerous legislative texts in different civil laws reinforce this principle implicitly within their provisions. For example:

- Article (10.1) of the Traffic Law No. 8 of 2019 provides that: "The sale of a vehicle shall not be valid unless it is registered with the competent traffic registration authority in accordance with the law."

- Article (30.2) of the Law of Notaries Public No. 33 of 1998 stipulates that: "Legal transactions concerning machinery shall not be valid unless registered with the competent notary public office."

- Likewise, Article (3.2) of the Real Estate Registration Law No. 43 of 1971 states: "A real estate transaction shall not be valid unless it is registered with the Real Estate Registration Directorate." An initial reading of these texts shows that they condition the validity of the specified transactions upon registration with the competent authority, without explicitly defining the legal consequence of non-compliance. The legislative rationale behind this is clear: the legislator intended that in cases of unregistered transactions, one must revert to Article 138 of the Civil Code, which provides the general legal ruling applicable to all invalid contracts.

Accordingly, it becomes necessary to conclude that this principle encompasses every contract that fails to satisfy its required legal form, rendering it invalid. Consistent with the above, it should be noted that this principle has been clearly and repeatedly affirmed in numerous decisions of the Federal Court of Cassation. One such ruling is Decision No. (2023/Appellate Board - Movables/2024), which held:

"Upon reviewing the appealed judgment, it was found to be correct in result, as the generator subject of the case is subject to registration with the notary public, and legal transactions concerning it are not valid unless registered with the competent notary public office, in accordance with Article (30) of the Law of Notaries Public. Therefore, the contract concluded between the two parties is legally invalid for not being registered with the competent notary public office. Since an invalid contract does not come into existence and produces no legal effect, its invalidity requires that the parties be returned to their pre-contractual state, pursuant to Article 138 of the Civil Code."

From the foregoing, it can be concluded that civil legislation is largely consistent in affirming the general principle of the Civil Code governing invalid contracts across all other civil laws, without exception.

This principle establishes that an invalid contract cannot produce any legal effect, as it cannot be treated as a valid contract. The defect of invalidity, once it affects the contract, extends to all its parts, rendering it legally null. As a result, all rights and obligations arising therefrom are extinguished, and the contracting parties are restored to their pre-contractual position. Either party may invoke the invalidity, and the court may declare it on its own initiative.

Broadcasting Defendants' Confessions on Criminal Television Programs Before Judgment : A Violation of Investigative Confidentiality and a Disruption of Justice

By Student/ Muslim Basim Mohammed (Cohort 49)

In recent years, criminal media has come to play an increasingly significant and often dangerous role in shaping public opinion and influencing perceptions of criminal cases. It has moved beyond merely reporting news or following official proceedings to broadcasting details of criminal investigations and conducting interviews with defendants who are still under investigation or have not yet received a final judicial verdict.

This phenomenon, which has spread across certain television programs, raises serious legal and ethical issues and provokes fundamental questions regarding the limits of media freedom and its commitment to the principles of criminal justice and the rights of the accused.

The first concern in this context relates to investigative confidentiality. Iraqi law explicitly stipulates, under Article 57(A) of the Code of Criminal Procedure No. 23 of 1971 (as amended), that investigations shall be confidential, and no one other than those involved or their representatives may attend proceedings except with the permission of the investigating judge or investigator. This provision establishes a fundamental rule that the preliminary investigation stage must remain confidential and shielded from public exposure to prevent external influence or pressure. The purpose of such confidentiality is to protect the evidence, preserve the impartiality of the investigation, and ensure the discovery of truth through objective means.

However, when certain television channels broadcast defendants' confessions, they effectively violate this principle, opening the door to unlawful interference that may result in some offenders escaping justice. Punitives, for example, may watch these programs, learn what is being said about them, and then alter their plans or conceal incriminating evidence—thereby undermining the investigation

and weakening its objectives.

Moreover, showing a defendant on television deprives them of one of the most fundamental constitutional guarantees: the presumption of innocence. Article 19(V) of the Iraqi Constitution clearly states that "the accused is innocent until proven guilty in a fair legal trial." This principle is not a mere procedural formality; it lies at the core of criminal justice, placing the burden of proof on the state and prohibiting the treatment of any person as guilty before the issuance of a final judicial verdict. When the media airs confessions, however, it effectively conveys to the public that these individuals are already guilty, thereby creating a hostile public opinion even before the trial begins. Such portrayals damage the reputation of the defendant and their family, affect the course of the investigation, and may place indirect pressure on investigators and judicial authorities.

Furthermore, any confession made in front of television cameras carries no legal value, as it does not meet the procedural requirements established by law. Under such circumstances, the accused is more likely to withhold or distort facts out of fear of public exposure, leading to contradictions between their official statements and those made during televised interviews. These inconsistencies complicate the judicial process, forcing the court to distinguish between statements made truthfully and those influenced by public pressure or fear of disgrace. From another legal perspective, the law clearly distinguishes between the investigation stage and the trial stage: investigations are confidential, whereas trials are public. This distinction is emphasized in Article 152 of the Code of Criminal Procedure, which provides that trials shall be public unless the court decides otherwise to protect public order or morals. The purpose of public trials is to allow citizens and the media to follow court proceedings after the investigation has been completed and the case is ready for adjudication—thereby promoting

transparency and reinforcing public trust in the judiciary.

Investigations, on the other hand, remain confidential to prevent tampering with evidence and influencing witnesses or suspects. Consequently, when television programs broadcast details of ongoing investigations, they invert this principle, making what should remain secret public and concealing what should be transparent—the trial itself.

The danger of this phenomenon extends far beyond the mere violation of legal provisions; it undermines the very philosophy of criminal justice, which is built upon a delicate balance between society's right to prosecute crime and the defendant's right to a fair trial. When one of these rights outweighs the other, the entire system collapses. Media outlets that prioritize ratings and sensationalism over the rights of the accused contribute to the creation of "popular trials" parallel to official judicial proceedings—trials based not on legal evidence but on emotion and perception. Such practices pose a direct threat to the authority and independence of the judiciary.

Therefore, it is imperative that the judicial authorities and the Communications and Media Commission intervene to regulate criminal media practices, issuing clear directives that criminalize the publication or broadcast of any material relating to defendants' confessions or investigative details before the investigation concludes and a final judgment is issued.

Media professionals must also be made aware that their true mission lies not in defaming defendants, but in educating society about the dangers of crime and the means of prevention.

In essence, criminal media should be a partner to justice, not an adversary. Its purpose should be to promote awareness and convey accurate legal information, not to shape premature convictions. A defendant may be declared innocent by law, yet remain condemned in the eyes of society if their image has been distorted by the media before trial.

Representative Authority in Civil Law

By Prof. Dr. Adnan Najm Aboud \ Lecturer - Judicial Institute

In Arabic, the term *wilayah* (ولاية) derives from *waliya al-shay'*—meaning to possess authority over something and to have the right to act upon it. In jurisprudential terminology, *wilayah* refers to a legitimate legal authority over the person or property of another, giving validity to actions taken concerning them under the law.

When *wilayah* is vested in a person over their own person or property, this is called self-representation (*wilayah dhā'iyyah*), or personal capacity, since it pertains to the individual's own acts, contracts, or legal dealings. *Wilayah* may also extend to others, in which case it is termed representative authority (*wilayah muta'addiyah*). Self-representation exists when a person possesses full legal capacity, meaning they are of sound mind, mature, and prudent. Under Article 106 of the Civil Code, the age of majority is 18 full years, at which point the individual acquires full authority over all personal and financial affairs.

The validity of such acts is limited only by the prohibition of harm to others. For instance, if an act causes harm to another—such as a debtor's actions prejudicial to creditors—its validity is suspended pending the approval of the injured party. Similarly, the sale of mortgaged property by a debtor is suspended until approved by the mortgagee if the debt remains unpaid.

As for representative authority over others, it may be original or derived (delegated). Original authority arises naturally from kinship, such as the authority of a father or grandfather over a minor. They derive this authority directly from the law, not from the minor, as the latter has no capacity to confer it. The law grants this authority as a necessary protection due to the minor's incapacity. Article 102 of the Civil Code provides:

"The guardian (wali) of a minor is his father, then the executor of his father's will, then his grandfather, then the executor of the grandfather's will, then the court or the guardian appointed by the court."

- The second form is delegated representative authority, which arises through appointment or delegation—as in the case of a guardian (*wasī*) or an agent (*wakīl*). The guardian derives authority from the person who appointed him, as mentioned in Article 102 above, while the agent derives authority from the principal (*muwakkil*) who confers it.

Accordingly, *wilayah* may be either self-representative, confined to the individual, or representative, extending to others. The latter may be original, as with paternal guardianship, or delegated, as in contractual agency.

Agency (*wakālah*) is defined in Article 927 of the Civil Code as:

"A contract by which one person authorizes another to act on his behalf in a lawful and specific transaction."

Litigation Capacity of Minors and Those Deemed as Such

■ By Judge: Qusay Asi Dhahad

The interests of a minor are among those most deserving of legal protection, since the status of minority represents an exception to the general rule of litigation capacity. For individuals who are minors or considered as such, the law has established specific conditions for their involvement in lawsuits. While the general principle is that every person who possesses legal capacity may be a party to a case they initiate or that is filed against them, the situation differs when the person is a minor, such as a child, an insane or mentally incompetent person, a prodigal, a person of weak judgment, or an individual sentenced to imprisonment or execution, as stipulated in Articles 97 and 98 of the Penal Code. The law does not permit such individuals to appear personally in lawsuits filed by or against them; rather, they must be represented by their legal guardians or by court-appointed representatives such as a guardian, custodian, or curator.

Despite the importance of litigation involving minors, procedural laws have not sufficiently addressed the procedural protection of their rights, which is no less significant than the substantive civil protection that has been clearly regulated.

Given that judicial proceedings are dynamic by nature, Article (4) of the Iraqi Civil Procedure Code No. 83 of 1969 sets forth the fundamental conditions for initiating a lawsuit, the most notable of which is that the defendant must be a legitimate party against whom a ruling may be issued or obligations imposed, should the claim be proven. Nevertheless, litigation is valid when brought by a guardian, custodian, or curator on behalf of a minor, incapacitated person, or absentee, as well as by trustees of endowments or by any person whom the law recognizes as a party in cases where their acknowledgment would otherwise have no legal effect.

From this, it can be inferred that the legislator treated minority as an exception to the general principle of litigation, without providing a specific definition of it, choosing instead to set forth its legal provisions. In

examining the meaning of "minor," legal scholars have differed—whether it refers to intellectual incapacity or age-based incapacity. However, upon reconciling the various opinions, it becomes clear that a minor is any person who has not attained full legal capacity due to immaturity of age, or one who has reached the age of majority but is affected by an impediment to capacity, such as insanity, idiocy, prodigality, or feeble-mindedness, or by an obstacle such as absence or disappearance.

Linguistically and jurisprudentially, the term "minor" relates to age-based incapacity, referring to a person who has not yet reached the age of majority. However, under the Law on the Care of Minors No. (78) of 1980, the term has acquired a broader meaning. It no longer includes only those under legal age but also encompasses others who are considered equivalent to minors by virtue of a judicial decision, due to special circumstances leading to a deficiency or total loss of capacity. Article (3/Second) of that law provides:

"For the purposes of this law, the term 'minor' includes the child, the unborn, and any person whom the court determines to be partially or fully incapacitated, as well as the absentee and the missing person, unless the evidence indicates otherwise."

Furthermore, confusion is often found between the concept of legal standing in a lawsuit and capacity to litigate. Upon examination, these two are distinct. Legal standing in a lawsuit expresses the connection between a person and the subject matter of the case, and is established only for one who claims a right or a legal status against another. Capacity to litigate, on the other hand, refers to the competence of a person to perform procedural acts in a lawsuit.

Thus, it may be impossible for a person with standing in a lawsuit to conduct litigation personally, allowing another to represent him in proceedings—as in the case of a guardian or custodian representing a minor. The procedural or legal representative does not possess standing in the lawsuit itself, but rather the capacity to litigate.

Research has also shown divergent judicial

rulings concerning a minor who has reached the age of fifteen and married with the court's permission. Some courts hold that such a minor attains full capacity only in matters of personal status, while others rule that capacity extends to both personal and financial matters. It appears more appropriate to conclude that a person who has reached fifteen and married with the court's authorization should be considered fully competent in personal, financial, and commercial matters alike. This view is supported by Article (3) of the Law on the Care of Minors, which is general and unrestricted. Had the legislator intended otherwise, it would have been expressly stated.

Upon further examination, capacity in legal proceedings can be divided into two types:

1. Capacity to be a party to litigation, which applies to both minors and adults. This capacity is essential for establishing a party's legal standing; its absence negates one's status as a litigant. It corresponds to what is known as legal capacity of obligation.

2. Capacity to conduct litigation, which is recognized only for a natural person with full capacity. It is a prerequisite for directly engaging in procedural acts. A minor cannot litigate on his own due to the absence of this capacity, and therefore must litigate or be litigated against through a representative who possesses full legal capacity to act.

It has been concluded that a person with dual impairments (e.g., deaf and mute) is not devoid of capacity, nor even partially incapacitated, because his faculty of discernment remains intact, and his acts are thus legally valid as those of a fully competent person. However, the appointment of a temporary guardian may be permitted when such a person is unable to express his will. In such cases, the guardian's appointment serves solely to convey the individual's intent, not because of diminished capacity but due to inability to communicate. Hence, appointing a guardian for a person with dual impairments constitutes a form of legal protection designed to assist in expressing his will, not a recognition of incapacity.

Normativity in Criminal Law

By Judge: Nasser Omran

The public prosecution bodies in Iraq perform broad supervisory tasks imposed by the laws in force, including those related to monitoring the conditions of prisons and detention centers. The term "visit" has become commonly used to describe the tasks performed by members of the public prosecution when entering these facilities. However, this term does not accurately reflect the legal nature of the work of the public prosecution, nor does it align with its role as a supervisory and legal oversight authority. This necessitates a reconsideration of the terminology used in reports and official communications.

First: The Legal Framework of the Public Prosecution's Jurisdiction

The Iraqi Public Prosecution Law No. (49) of 2017 regulates the tasks entrusted to members of the public prosecution. Among the most prominent are what is stated in Article 5/Second: monitoring investigations of crimes and collecting the evidence necessary for investigating them and taking all that leads to uncovering the features of the crime.

And Article 5/Ninth: supervising and inspecting detention centers, the departments of the Iraqi Correctional Service, and the Juvenile Correction Directorate, and submitting monthly reports about them to the relevant authorities.

It is clear that the word visit does not accurately describe the supervisory function carried out by the public prosecution, which goes beyond the ordinary or touristic sense of the word. A member of the public prosecution does not enter the prison as a visitor, but rather as a judicial oversight authority vested with legal power.

Second: The Inaccuracy of the Term "Visit" in Describing the Work of the Public Prosecution

The term visit is characterized by generality and superficiality, and does not reflect:

1. The legal status of the public prosecutor as the representative of society working to ensure legality.
2. The purely supervisory objective of his action, which includes monitoring the prison administration's compliance with the law, receiving complaints, and reviewing the conditions of detainees.
3. The potential legal consequences that may result from the report, such as initiating a criminal case or submitting a recommendation to the competent authorities.

Based on this, the use of alternative terms that are more precise and connected to the true role of the public prosecution has become a legal and professional necessity.

ing the relevant authorities and enforcing recommendations.

3. The protection of procedures from appeals or challenges of illegality or mischaracterization. Using the term "visit" in Public Prosecution reports concerning detention centers, the Iraqi Correctional Service, and the Juvenile Reform Directorate does not fulfill the legal purpose. Rather, it diminishes the real role of the public prosecutor as the supervisory authority entrusted with ensuring the legality of procedures. This necessitates the adoption of precise terminology that reflects this supervisory role, aligning with the spirit of the law, and preserves the Public Prosecution's authority and legal standing.

Legitimacy of Money Derived from Money Laundering

By Student: Aws Jasim Mohammed - Cohort (51)

Can money generated from a crime ever become legitimate? Can an economy absorb such money, digest it, and reproduce it as seemingly lawful investments? These questions lead us into a gray area where law intersects with economics, raising issues that go beyond mere criminal conduct to touch the very essence of justice.

This is where the crime of money laundering emerges — not as a simple financial trick, but as one of the most dangerous transformations through which crime infiltrates the formal economic system from the shadows. The process always begins with a predicate offense, usually part of an organized criminal activity such as drug trafficking, corruption, human trafficking, or even terrorism financing. These crimes generate massive illicit profits that cannot be spent or introduced into the financial system directly, since their sources are clearly illegal. Thus arises the need to "launder" the money — to disguise its origin and convert it into "clean" funds that appear to come from lawful sources.

The criminal seeks not only to escape punishment but to enjoy the fruits of crime without accountability. At this stage, the crime takes on an economic form, moving from the periphery to the center, from secrecy to visibility, penetrating and distorting the economic structure itself.

The laundering process unfolds through three interlinked stages:

Placement — introducing dirty money into financial institutions or converting it into negotiable instruments, then Layering — the core of the operation, involving complex transactions that separate the funds from their illegal origin through bank transfers, fictitious investments, and shell companies, and Integration — reintroducing the funds into the formal economy as legitimate investments such as real estate purchases, financing startups, or participating in public auctions.

Thus, the transformation is complete: from criminal proceeds to seemingly lawful investments, from illegality to

legality in appearance, from a hidden threat to an open menace.

The danger of money laundering extends far beyond the original crime. While the underlying offense may remain confined to a certain sphere, laundered money becomes a tool for perpetuating and funding new crimes. It creates an unjust environment, undermines fair competition, and enables criminals to buy influence and infiltrate decision-making circles, even within sovereign states.

Historically, the term "money laundering" dates back to the 1920s and 1930s, when U.S. mafia gangs led by Al Capone faced the challenge of justifying their illicit profits. Their solution was to purchase laundromats and mix illegal earnings with legitimate business revenues. These laundromats were often unprofitable but provided a plausible cover story, convincing authorities that the funds came from lawful activity. Hence the expression "money laundering," which later entered legal literature.

Money laundering is inherently transnational, crossing borders with ease. Funds move between continents in seconds, involving offenders in one region, banks in another, and predicate crimes committed elsewhere. As such, combating this crime requires international cooperation, not merely local legal tools.

Recognizing its gravity, the Iraqi legislator enacted Law No. 39 of 2015 on Money Laundering and Terrorism Financing, aligning with similar efforts such as Egypt's Law No. 80 of 2002. Both acknowledge that money laundering is not an isolated act but an extension of the original crime, demanding a global, coordinated response. Yet this understanding faces challenges — particularly when illicit funds dissolve into large-scale investments or complex economic cycles managed by multinational entities.

Although money laundering may appear to overlap with illicit enrichment, the two differ fundamentally. Money laundering always presupposes an underlying crime whose proceeds are concealed, whereas



illicit enrichment occurs when a public official's wealth is disproportionate to their lawful income, even without a specific predicate offense. While money laundering threatens the financial system and obstructs the detection of crimes, illicit enrichment erodes public trust and undermines equal opportunity. The relationship between the two is not one of identity but of intersection, requiring nuanced legal understanding. The threat of money laundering extends beyond law to the very fabric of the economy and society.

• Economically, it distorts markets, inflates speculative bubbles, undermines tax revenues, and strengthens the shadow economy.

• Financially, it compromises the integrity of the banking system, exposing it to international sanctions and reputational damage — even risking economic isolation for entire nations perceived as safe havens for illicit capital.

• Socially, it redistributes wealth unjustly, eroding social justice and spreading the belief among younger generations that wealth stems from crime rather than effort or competence. Worse still, laundered funds often build networks of unlawful influence, reshaping public life around private interests — a "state within a state."

• Internationally, being listed on a "gray list" or labeled as a money-laundering hub can devastate investor confidence,

depress development indicators, and tarnish a nation's global standing. Once a state loses control over its financial integrity, it risks not only its credibility but also a portion of its sovereignty. In conclusion, money laundering is not merely a financial crime; it is a test of a state's ability to uphold justice, safeguard its economy, and preserve transparency within the international community. Combating it is not the task of a single institution but a multi-front battle legal, economic, and moral alike. For when money is laundered, it is not only the trace of crime that is erased, but also the trace of justice itself, leaving reality reshaped upon illegitimate foundations.

The Law Amending the Personal Status Law No. (1) of 2025 Between Application Hypotheses and Practical Controversies

At first glance, personal status cases — namely those heard before the Sharia (family) courts — may appear distinct from other civil cases. The Federal Court of Cassation often accepts appeals in such cases even if filed beyond their statutory period, given that they concern matters of “lawful and unlawful (ḥalāl and ḥarām)” and thus fall under the principle of ḥisba (public moral accountability).

Since the enactment of the Personal Status Law No. 188 of 1959 and its subsequent amendments, the Iraqi legislator has sought to preserve the integrity of the family unit, the sanctity of marriage, and the social and moral consequences arising from it — all of which profoundly affect both individuals and society at large. The law’s preamble explicitly states that it was promulgated in harmony with the principles of Islamic Sharia compatible with the spirit of the age, and accordingly, Article (1) refers to those principles as a guiding source.

Following extensive debate, especially from women’s rights organizations opposing amendments intended to align the law more closely with Sharia principles, the legislator enacted the Law Amending the Personal Status Law No. (1) of 2025, published in the Iraqi Gazette No. (4841) on February 2025, 17. This amendment reflects Article (41) of the 2005 Iraqi Constitution, which guarantees individuals the freedom to manage their personal status in accordance with their religious, sectarian, or ideological beliefs.

By Student: Haider Ali Hussein Al-Okbi – Cohort (50)

Under Article (1-3/A) of the amendment, Muslim Iraqi couples contracting marriage and registering it before the competent court are given the option to apply the Ja’fari (Shia) school of jurisprudence to all matters of personal status concerning themselves and their minor children. Once this choice is made, it is irrevocable. The rationale, in the legislator’s view, is to maintain the seriousness and stability of family law, preventing fluctuating preferences that might undermine consistency in rulings. As for marriages concluded prior to the amendment’s entry into force, either spouse may petition the personal status court to

apply the Ja’fari rules to their marriage and minor children, provided that the original marriage was conducted in accordance with the Ja’fari rite.

In practice, most petitions invoking this provision have been submitted by followers of the Ja’fari school seeking rulings in child custody disputes. The amendment obliges the courts, pending the promulgation of a comprehensive Code of Ja’fari Personal Status Rules, to consult the Scientific Council of the Shia Endowment Office for advisory opinions in relevant cases, treating the council’s opinion as expert evidence on Sharia matters (Article 3-2nd/Z).

This mechanism has helped reduce inconsistencies among courts regarding application, particularly under the supervisory role of the Federal Court of Cassation, the highest judicial authority under Article (12) of the Judicial Organization Law No. (160) of 1979 (as amended). The Cassation Court has repeatedly directed personal status courts to seek the Council’s opinion — for example, in a case before the Al-A’zamiyyah Personal Status Court (July 2025, 16), which awarded custody of the children to their father based on the Council’s opinion that custody of a child aged seven years or older belongs to the father.

Similarly, the General Panel of the Federal Court of Cassation, in its ruling No. (8/ General Panel/2025) dated June 2025, 29, reversed a decision of the Karrada Personal Status Court that had dismissed a woman’s claim to establish the paternity of her daughter — born of a temporary marriage (mut’ah) contracted before a cleric — on the ground that the marriage’s validity had not yet been proven. The Cassation Court held that the lower court’s reasoning was erroneous, emphasizing that such cases — involving lawful lineage and matters of ḥalāl and ḥarām — require prior consultation with the Scientific Council of the Shia Endowment before judgment, and that the Deputy Public Prosecutor’s opinion must also be obtained.

Interestingly, many parties to marriages conducted under the Hanafi rite have also sought to shift to the Ja’fari framework, usually in custody cases or when their offspring consist only of daughters. Thus, while theoretical ambiguities in applying the amendment remain limited, differing judicial interpretations largely

stem from the law’s novelty. These issues are expected to subside once the Ja’fari Personal Status Code is issued and under continued oversight from the Federal Court of Cassation, which unifies judicial directions.

As for practical controversies, many are unfounded. For example, if a divorced husband chooses to apply the amendment, it extends only to himself and his minor children, not to his former wife unless she separately opts in. Courts handling divorce, will execution, or inheritance cases therefore apply the choice of the initiating party — the divorcing spouse, testator, or decedent — as provided in Article (1/Second-H) of the amendment. The application of the Ja’fari rules to the requesting party and their minor children does not depend on the consent of the other party.

Those claiming that this constitutes an impermissible “modification of the marriage contract” overlook that the law itself may modify contractual effects pursuant to Article (1/146) of the Civil Code, which states:

“When a contract is executed, it becomes binding, and neither party may revoke or modify it except by a provision of law or by mutual consent.”

Furthermore, a husband’s selection of the Ja’fari rules through a court-issued certificate of approval does not affect the ex-wife’s right to her deferred dowry, valued in gold, since such a certificate applies only to the petitioner and their minor children, not to a former spouse whose marital bond ended prior to the amendment’s enactment. This principle was affirmed by the Al-Rusafa Personal Status Court in its decision No. (828/Sh/2025) dated July 2025, 10.

In addition, the Federal Court of Cassation, in its ruling No. (11534/Personal Status Chamber/2025) dated August 2025, 18, clarified the non-retroactive effect of the amendment. It overturned the Al-Baghdad Al-Jadida Personal Status Court’s decision No. (4947/Sh/2025) dated July 2025, 16, which had revoked a divorced woman’s right of residence in a property granted by prior judgment. The Cassation Court reasoned that the right of residence, established under Law No. (77) of 1983 (as amended), remains valid pursuant to Article (3/160) of the Civil Procedure Code until the court-ordered term expires. Since Article (2/ Second) of the Amending Law specifies that it applies from the date of publication in the Official Gazette, and Article (10) of the Civil Code No. (40) of 1951 prohibits retroactive application, the woman’s housing right stands unaffected.

In conclusion, while application hypotheses may persist temporarily, they will fade with the issuance of the Ja’fari Personal Status Code and the continued scrutiny of the Federal Court of Cassation, which ensures consistency and legality in all personal status rulings.

As Judge Khalida Kuli Ka’at’a, of the Al-Sadr City Personal Status Court, noted: “So far, no major obstacles have hindered the implementation of Law No. 1 of 2025, apart from the heavy influx of applications requesting registration under the Ja’fari rite. The absence of the codified Ja’fari rules has delayed adjudications, as courts must consult the Scientific Council of the Shia Endowment for each case. Moreover, many citizens lack familiarity with the specific Sharia provisions applicable to their circumstances.”

The Role of the Public Prosecution in Protecting the Moral Public Right (Cultural Heritage as a Model)

The Public Prosecution undertakes the duty of defending the public right, as it has rightly been said that it is the best representative of society as a whole. Its role emerges whenever an infringement occurs upon the rights of the community, ensuring the enforcement of law and the realization of justice, regardless of whether the violated right is material or moral.

The moral public right encompasses everything of tangible existence owned collectively by society and possessing symbolic or moral value. It is equal in importance and protection to material rights. Examples include folklore, popular traditions, and cultural expressions, which together form an integral part of a people’s intangible cultural heritage — encompassing stories, traditional attire, expressive arts, and various creative manifestations transmitted across generations.

By Student: Mahmoud Adel Mahmoud – Cohort (49)

However, cultural heritage and folklore are often subject to violations, whether through imitation, distortion, or unauthorized commercial use. The question arises: how can such heritage — a rightful possession of the Iraqi people — be legally protected, particularly when an individual cannot bring a lawsuit over an infringement upon a collective right belonging not to a single person but to the community?

Article (6) of the Iraqi Copyright Protection Law No. (3) of 1971 provides that protection extends to “collections of works that have passed into the public domain.” Furthermore, Article (476) of the Penal Code stipulates that “without prejudice to any severer penalty provided by law, anyone who infringes upon an intellectual property right protected by law or by an international agreement to which Iraq is a party shall be punished with a fine, and the infringing materials shall be confiscated.”

From these provisions, it follows that cultural heritage, as collective property belonging to society, enjoys

legal protection despite the absence of an identifiable author. Folklore is characterized by its collective authorship and by being part of the public domain, yet its protection does not lapse with time. Consequently, the popular heritage can be safeguarded against any form of violation, distortion, or unlawful exploitation, including commercial misuse or representations that harm its dignity or cultural identity — whether affecting society as a whole or a specific group within it.

Regarding jurisdiction to initiate criminal proceedings in such cases, the Public Prosecution constitutes the competent authority to bring and pursue actions involving the public right, both material and moral, through to the final judgment. This authority derives from Articles (2) and (5) of the Public Prosecution Law No. (49) of 2017.

Despite this solid legal foundation, further reform remains necessary. The Iraqi Copyright Law should explicitly recognize cultural heritage as a protected form of intellectual authorship owned by the Iraqi people, while mandating the Ministry of Culture to officially register such works to prevent unauthorized commercial use or distortion. Moreover, every violation against the national cultural heritage should be reported to the Public Prosecution, as the judicial body responsible for protecting public rights, both material and moral, by instituting and following up on legal proceedings until a final judgment is rendered.

A Vital Role in Safeguarding Public Interest and Moral Rights
In this regard, we spoke with Judge Nasser Imran, who stated:

“The Public Prosecution plays a pivotal role in initiating complaints related to moral rights, as it represents the collective social body. Its primary function is to protect the democratic system and the public right — both material and moral. Law No. 49 of 2017, according to Article (1), aims to ‘protect the state’s system, security, and institutions; ensure the application of laws; uncover crimes and prosecute offenders; contribute to the prompt resolution of cases; and uphold the principles of legality within the state.’ This provision grants the Public Prosecution the authority to intervene in all matters affecting public order, even



in the absence of a private complainant. Such intervention extends to the moral public right, defined as the collective interest society and the state strive to preserve due to its connection with public order. It includes non-financial rights related to personal, intellectual, or ethical dimensions — such as moral authorship rights, privacy rights, and similar intangible interests.”

Judge Imran further explained that the Public Prosecution is empowered by Article (5) of the law, which outlines the duties of its members as follows:

1. Attend primary and final investigations in criminal cases and civil proceedings involving the state.
2. Monitor investigative authorities and ensure proper application of the law.

3. Initiate criminal complaints for offenses affecting the public right.
4. Intervene in cases deemed to affect the public interest.

Moreover, Articles (5/5, 4/5) grant the Public Prosecution the power to initiate cases independently when the public or moral right is at stake, and to intervene in ongoing cases when it deems that the public interest has been compromised. Thus, the Public Prosecution is not merely a supervisory body, but an active judicial institution vested with legal authority to initiate proceedings to protect moral rights — as reinforced by Article (6), which provides that members of the prosecution may “request the initiation of criminal proceedings, institute or join civil actions, and intervene as necessary.”

This includes:

- Filing complaints in crimes affecting the public interest, without needing a private complainant.
 - Intervening in cases touching public order, state prestige, or public morality.
 - Overseeing investigative authorities to safeguard the rule of law and community rights.
 - Demanding the correct application of law during investigation and trial stages.
 - Representing society’s collective moral interest before the courts.
- Through these powers, the Public Prosecution plays a decisive role in protecting the public interest and moral rights, which together form a vital component of Iraq’s intellectual and civilizational heritage.

Active Participation of Judicial Institute Staff in Arab Legal Workshops

Baghdad/Judicial Institute: Last September witnessed the active participation of staff from the Judicial Institute in two scientific workshops held remotely.

On the 9th and 10th of September, they took part in a workshop organized by the Judicial Training Institute of the Ministry of Justice in the United Arab Emirates, titled "Named and Unnamed Contracts." The workshop was delivered by Dr. Ali Abdul-Munem Al-Yamani, Director of the State Lawsuits Administration, and discussed "Types of Contracts, Their Elements, and Conditions for Termination." The objective of the workshop was to enhance the participants' legal knowledge regarding the distinction between named and unnamed contracts in terms of their legal characteristics and legislative framework.

The lecturer also addressed the subject of legal capacity as it relates to the element of consent in contracts, discussing the following main points:

First: Capacity under the UAE Civil Transactions Law No. 5 of 1985 and its Effect on Contracting

According to this law, legal capacity is defined as a person's competence to acquire rights, bear obligations, and undertake legal acts.

There are two main types of capacity:

- Capacity to Have Rights (Ahliyat al-Wujub): the ability of a human being to possess rights and duties, established at birth, even if the person is not yet capable of discernment.

- Capacity to Act (Ahliyat al-Adā'): the ability of a person to perform legal acts independently and validly. This depends on age, discernment, and mental ability. The legal age of majority is 21 full Gregorian years, provided the person is of sound mind.

The law also defines special cases such as:

- The prodigal (Safih): one who squanders his wealth irrationally or contrary to religious norms.

- The simple-minded (Dhū al-Ghafa): one who can be exploited due to naivety or lack of experience.

Protective restrictions may be imposed on both.

Degrees of capacity according to the law are as follows:

- Incapable persons: those who are under seven years of age or are insane or mentally impaired. Their acts are void and have no legal effect.

- Persons with limited capacity: those

who are discerning minors (over seven but under 21), as well as the prodigal and simple-minded. Their acts are voidable or require approval from a guardian, curator, or court, except for acts purely beneficial to them.

- Persons with full capacity: those who have reached 21 full Gregorian years and are of sound mind; they may perform all legal acts independently.

Second: Capacity under the UAE Federal Personal Status Law No. 28 of 2005 and its Effect on Contracting

This law addresses capacity and related matters such as minors, the discerning and non-discerning, the insane, and those lacking capacity, as well as guardianship and trusteeship.

It distinguishes between:

- The non-discerning minor (under seven years old),

- The discerning minor (seven years old but not yet of age),

- The insane or mentally deficient,

and defines who represents them (guardian, trustee, or curator), and when transactions require the guardian's or court's approval.

Regarding the effect:

Non-discerning minors and the insane are deemed completely incapacitated, and their contractual acts are void except as provided by law, with their legal representative acting on their behalf.

A discerning minor is considered to have limited capacity; some of his acts may be valid with the guardian's consent or a court's approval—for example, financial transactions that require authorization or judicial confirmation to be effective.

The law provides mechanisms (specific articles) enabling a discerning minor to manage certain assets with permission from the guardian or court. It also regulates cases where a guardian's unjustified refusal allows the court to intervene to protect the minor's interest.

Recovery, Confiscation, and Management of Assets Derived from Organized Crime and Terrorism

On the 17th of the same month, Judicial Institute staff also participated in another scientific workshop organized by the Jordanian Judicial Institute, titled "Recovery, Confiscation, and Management of Assets Derived from Organized Crime and Terrorism." The event included two

sessions.

In the first session, presented by Ms. Hind Al-Gharaibeh from the Central Bank of Jordan, discussions focused on asset recovery and confiscation from the perspective of the Central Bank and financial supervision in combating money laundering and terrorism financing. The topics covered included:

- Raising awareness of the risks of money laundering and terrorism financing, emphasizing the dangers posed to the state such as international sanctions and weakening of the private sector.

- Defining the concept of asset recovery, its importance, and the detailed roadmap consisting of nine key steps.

- Highlighting the role of financial institutions—such as banks and exchange companies—in anti-money laundering efforts, the preventive measures and operational protocols they follow, and the role of supervisory and judicial authorities in this field.

- Discussing challenges to asset recovery efforts, including time constraints, technological limitations, lack of resources, absence of transparency, and legal and

judicial obstacles.

In the second session, delivered by Customs Attorney General Judge Hatem Abu Azzam, the discussion addressed the international legal framework for the recovery, confiscation, and management of proceeds of organized crime. Key points included:

- The purpose and significance of asset recovery, confiscation, and management—namely depriving offenders of their illicit gains, achieving deterrence, helping combat other crimes, compensating victims, and enhancing international cooperation to prevent organized crime.

- The concept of confiscation in international law and the relevant international conventions, particularly the UN Convention against Transnational Organized Crime and the UN Convention against Corruption, along with international standards and types of confiscation.

- Asset recovery, confiscation, and management under Jordanian law, including an overview of legal provisions and reference to the Sudanese experience in this field.

The Judicial Institute Hosts a Workshop on "Developing Judges' Leadership Skills"

On Saturday, September 20, 2025 the Judicial Institute hosted a workshop titled "Developing Judges' Leadership Skills," organized by the Central Team for Women's Development at the Supreme Judicial Council.

The workshop was held in the Judicial Institute's theater hall, in collaboration with Basmat Group Company, and was attended by a number of judges and members of the Public Prosecution Office in Baghdad as well as the presidencies of the Courts of Appeal. The session was delivered by international trainer Mr. Ammar Shihab.

The aim of the workshop was to enhance the leadership capabilities of judges and public prosecutors, equipping them with modern methods in administration and decision-making, in line with the Supreme Judicial Council's strategic plan and the judiciary's leading role in managing judicial institutions with high efficiency.

For his part, Judge Jalil Adnan Khalaf, Director General of the Judicial Institute, stated:

"Hosting the workshop on Developing Judges' Leadership Skills, organized by the Central Team for Women's Development at the Supreme Judicial Council, aligns with our mission to support all initiatives that contribute to advancing judicial capabilities and strengthening the administrative and leadership skills of judges and members of the Public Prosecution Office. The Institute is committed to providing an active scientific and training environment in cooperation with relevant authorities and international experts, recognizing that building a judge who is both administratively and leadership-wise competent is the cornerstone of the judiciary's success and the efficient realization of justice. We remain dedicated to adopting and organizing such specialized initiatives that positively contribute to the development of the judicial system in Iraq."



Justice Ensured by the Judiciary... and Fortified by the Public Prosecution Service

(From pain to hope... justice ensured by the judiciary) — a slogan launched at the memorial conference marking the eleventh anniversary of the genocide committed against the Yazidi component, organized by the National Center for International Judicial Cooperation in collaboration with the American University. We were directed by the administration of the Institute, along with our colleagues in Classes (50 and 51), to attend the conference accompanied by the Director General of the Judicial Institute, to participate in view of the importance of the subject of study and the commemoration of this authentic Iraqi component and what it suffered at the hands of the ISIS terrorist gangs, from crimes of genocide and crimes against humanity, as described in the Yazidi Survivors Law No. (8) of (2021).

By Student: Marwa Hassan – Cohort (51)

The mentioned slogan, the themes of the conference, and the experience presented by a Yazidi survivor ignited the mind, moved our human feelings, and raised many problems and questions from the standpoint of responsibility and duty about the role of the Public Prosecution Service in protecting society in general and minorities (the Yazidi component as a model) in particular. And if it does have such a role, where are its manifestations? And if we say that the Public Prosecution Law No. (49) of 2017 lacks a text on the social role of the Public Prosecution Service, does that constitute a deficiency or a legislative flaw that should be addressed, or does the legal and functional nature of this Service complement the deficiency and correct the legislative flaw?

The social functions of the Public Prosecution Service appear in parallel importance alongside the judicial functions. While the latter embody the supervisory aspect of legality, the social functions represent the preventive and remedial aspects of social problems and the monitoring of criminal phenomena. The social functions of the Public Prosecution Service are manifested as follows:

Article (1/2) of the Public Prosecution Law No. (49) of 2017, which states: (This law aims

to:

1. Protect the state system and its security and safeguard the higher interests of the people...). This article represents the legal framework of the social role of the Public Prosecution Service. The state system is the political and administrative structure that defines how the state is managed and organized and includes several elements represented by the constitution, the three authorities, the political system, the administrative system, and laws and legislation. As for state security, it is the internal and external protection and stability of the state, which includes several important aspects such as internal, external, and national security, political stability, as well as social, cultural, and economic security. As for the higher interests of the people, they are the public interest that benefits society as a whole, achieving justice and equality, ensuring rights and freedoms, and achieving economic and social development and cultural heritage.

- 2 - Article (5/2) of the Public Prosecution Law, which indicated that one of the objectives of the Public Prosecution Law is to contribute to monitoring the phenomenon of crime and disputes and to provide scientific proposals to address and reduce them.

- 3 - Article (7/2) of the Public Prosecution Law,



which states: (Contributing to evaluating the current legislation to know the extent of its conformity with the evolving reality). If the duties of the judge are to apply the law and achieve justice, then the duties of the public prosecutor are legal, judicial, and social. And if the judiciary embodies and ensures justice, the Public Prosecution Service surrounds justice with an impregnable wall. From here emerges the role of the Public Prosecution Service in preserving the rights of minorities as part of the fabric of society and the social security of the state through:

- 1 - Contributing to directing social policy

through media, social, and educational awareness of the components of Iraqi society as stipulated in the Iraqi Constitution in Article (2/Second) guaranteeing full religious rights for all individuals in freedom of belief and religious practice, such as Christians, Yazidis, and Sabean Mandaeans, and Article (125), which states: (This Constitution guarantees the administrative, political, cultural, and educational rights of the various nationalities such as Turkmen, Chaldeans, Assyrians, and other components... to ensure that the experience is not repeated. 2- Contributing to monitoring manifestations of incitement to hatred as criminal

phenomena that threaten national cohesion and social fabric, and taking legal measures according to what is drawn by the Public Prosecution Law.

- 3 - Contributing to directing legislative policy through evaluating current legislation, monitoring deficiencies and legislative flaws, and providing proposals to address them.

- 4 - Studying social problems and what the crimes of ISIS left behind from social, legal, and economic problems, and relying on the scientific statistics issued by the Supreme Judicial Council when conducting studies and research to find effective and successful solutions and remedies.

Arab Judicial Jurisprudence in the Application of International Human Rights Conventions

The Moroccan Constitutional Council as a Model

By Noor Salim menati \ Judicial Institute Emp.

Constitutional review in Morocco began with the establishment of the Constitutional Chamber within the Supreme Council in 1962. In the 1992 Constitution, this chamber was replaced by the Constitutional Council, until the promulgation of the new Moroccan Constitution in 2011. The latter, under Title VIII (Articles -129 134), provided for the establishment of the Constitutional Court, which was entrusted with jurisdiction over the validity of elections to the House of Representatives, referendum processes, and the conformity of organic laws, internal regulations of the House of Representatives and the House of Councillors, ordinary laws, and Morocco's international commitments with the Constitution. Accordingly, this study will examine selected rulings issued by the Moroccan Constitutional Council, with the aim of highlighting the role of constitutional oversight exercised by the Council in applying international human rights conventions. This will be presented through the following key themes:

1. Freedom of Opinion and Expression Decision No. 36-94, issued by the Moroccan Constitutional Council, stands among the most significant rulings affirming the constitutionally and internationally protected right to freedom of opinion and expression. This decision arose in the context of reviewing the constitutionality of a law imposing a tax on satellite antennas designed to receive broadcasting signals. In response to a referral submitted by members of the House of Representatives, the Constitutional Council ruled that the law was unconstitutional due to procedural irregularities – specifically, the government's failure to comply with the prescribed parliamentary procedures for submitting such legislation. This ruling reinforces the protection of freedom of opinion and expression by invalidating a law that contravened constitutional requirements and

procedural conditions for its enactment. In essence, this aligns with international legal standards safeguarding the right to freedom of opinion and expression, particularly as articulated in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which affirms that "everyone shall have the right to hold opinions without interference; everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." This represents an implicit application of international human rights standards within Moroccan constitutional jurisprudence. Guarantees of a Fair Trial Article 14 of the International Covenant on Civil and Political Rights (ICCPR) laid down essential foundations for defining the guarantees of a fair trial, a principle also reinforced by the Universal Declaration of Human Rights and the Arab Charter on Human Rights through numerous provisions. These instruments, along with the constitutional and statutory guarantees enacted by the Moroccan legislator in criminal proceedings, establish a framework derived from the inherent rights of human beings and intersect with them. The concept of a fair trial is comprehensive in nature, encompassing all guarantees related to the constitutional process as a whole, and among its most fundamental elements is the right to defense. In this regard, the Moroccan Constitutional Council conferred constitutional protection upon the right to defense, recognizing it as one of the most important guarantees of a fair trial safeguarded by both the Moroccan Constitution and international human rights law. This right was at the core of the debate that arose when the Council reviewed Law

No. 129.01, which amended Article 139 of the Code of Criminal Procedure. The amendment granted the investigating judge the authority—either on their own initiative or upon the request of the public prosecutor—to prohibit the delivery of copies of reports or other case documents, in whole or in part, if the interests of justice so required, particularly in cases related to crimes specified under Article 108 of the Code of Criminal Procedure, or offenses of bribery, influence peddling, embezzlement, misappropriation, abuse of office, or money laundering. The Moroccan Constitutional Council ruled this law unconstitutional, citing that the right to defense is guaranteed under Article 120 of the Constitution. The Council emphasized that this right constitutes a fundamental one and is inseparable from other rights associated with the guarantee of a fair trial. It arises from the moment an accusation is brought against an individual and continues until a final judgment is rendered. In its reasoning, the Council also invoked the principle of equality of arms between the public prosecution and the defense, stressing that defense attorneys for the accused and lawyers representing civil parties must enjoy the same conditions and timeframes to prepare their cases. The decision further underlined the necessity of providing the highest possible level of protection for the right to defense and other fair trial guarantees—particularly concerning the time limits for granting access to case files to defense counsel or civil party representatives. Such guarantees ensure a balance between the proper conduct of criminal investigations and the protection of defendants' procedural rights. This reflects the Constitutional Council's implicit application of international standards in safeguarding fair trial guarantees—especially the right to defense and related

rights—demonstrating the significance of constitutional oversight in enforcing international human rights conventions within Morocco's judicial practice. The Right to Political Participation The right to political participation stems from the right to equality and non-discrimination, as enshrined in international conventions—particularly Article 26 of the International Covenant on Civil and Political Rights (ICCPR). This right is closely intertwined with several others, most notably the right to hold public office, the right to vote and stand for election, and the right to form political parties and exercise related freedoms. The Moroccan Constitutional Council has made significant progress in protecting the right to political participation, largely due to the many electoral challenges brought before it. Among the most prominent forms of constitutional protection afforded to this right is the safeguarding of the right to run for office. However, the Council's efforts did not stop at recognizing this right in isolation; it also linked it to other fundamental rights, such as equality before the law. This is clearly demonstrated in the Council's ruling of January 2007 23, which examined the constitutionality of the requirement set forth in Article 20 of the Organic Law on the House of Representatives. The provision imposed a condition that candidates or their political parties must have obtained at least 93 of the votes in previous elections for their nominations to be accepted. The Constitutional Council found that this requirement, along with similar related conditions, constituted a violation of individuals' rights to equality before the law among all candidates. It thus conflicted with Article 5 of the Constitution, as well as with the right to stand for election—one of the most essential political rights of Moroccan citizens

to be represented through political parties. This condition also violated Articles 3 and 8 of the Constitution, as it infringed upon the rights of political parties to participate in elections, represent citizens, and compete freely—thereby undermining the spirit of pluralism and equality among parties. Consequently, the Council deemed these conditions unconstitutional, as they contradicted the constitutional framework governing political organizations and the principle of equality among parties. The ruling further emphasized that these restrictions undermined the constitutional system of political pluralism, which rejects the notion of a one-party system and instead rests upon constitutionally enshrined principles such as multiparty democracy, freedom of competition, and party autonomy in internal governance. The Moroccan Constitutional Council reaffirmed this position in another ruling issued on October 2011 13, concerning the Organic Law on the House of Representatives. In conclusion, the jurisprudence of the Moroccan Constitutional Council reveals that it has adopted two main approaches in its application of international human rights standards:

1. An implicit incorporation approach, through which it internalizes the principles of international human rights treaties within its constitutional reasoning.
2. An expansive interpretive approach, whereby it broadens these principles in harmony with the Moroccan Constitution to achieve a constitutional balance between domestic provisions and international obligations.

Source: Judicial Jurisprudence in the Application of Human Rights Standards in Arab Courts.

Interview

President of the Civil Cassation Panel at the Presidency of Al-Karkh Court of Appeal
Judge Salah Duraib :
Practical Procedures for Executing Judicial Rulings — From Filing with the Enforcement Directorate to Closing the Case File



After a judicial ruling is issued, it is deposited with the Enforcement Directorate for the purpose of execution. A court judgment, by itself, does not provide sufficient protection for the right it upholds unless the public authority intervenes to ensure its enforcement. Legal protection is not limited to granting a person the right to file a lawsuit—it must also guarantee that person the ability to obtain what the judgment has awarded. The primary purpose of resorting to the judiciary is to attain justice; the plaintiff's right is not realized until a ruling is issued obligating the defendant to fulfill it and that ruling is duly executed. The enforcement of judicial decisions, therefore, constitutes the ultimate objective of the judicial process—it is through enforcement that rights are restored to their rightful owners.

While courts issue judgments and decisions guaranteeing individuals their rights, the Directorate of Enforcement plays a critical role in transforming those rulings into tangible results and ensuring that the rights established therein are effectively delivered.

God Almighty has commanded His servants to submit to and obey the judgments rendered by judges. In Surat al-Nisa, verse (65), He says: "But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission."

Obedience and compliance can only be achieved through the execution of judicial rulings, for enforcement is an integral part of the judiciary, and without it, the act of judging holds no real value. The establishment of justice occurs in three stages: proof, judgment, and enforcement. A ruling without execution is meaningless, and judicial decisions have no worth unless they are treated with care, attention, and respect. It is, therefore, one of the duties of the State to ensure the enforcement of judicial rulings.

For this reason, the legislator, through the Law of Enforcement, meticulously outlined the procedures to be followed from the moment a judicial decision or an enforceable instrument is deposited with the relevant directorate until the file is closed after the rights it establishes or contains have been fully satisfied. However, several issues may arise following the issuance of a judgment by the competent court and its enforcement by the Enforcement Directorate. Some of these issues pertain to the judgment itself, while others relate to the right established therein.

Although the law has granted the Enforcement Officer a number of powers through which he may compel the debtor to fulfill the obligation, he nonetheless remains bound by the limits of the judgment being enforced and the rights it contains. The Enforcement Officer, therefore, has no authority to debate the issued judgment or to entertain any argument that would undermine the binding authority of the matter already adjudicated. In this regard, we met with Judge Salah Duraib, President of the Civil Cassation Panel at the Presidency of the Karkh Court of Appeal, to discuss the Enforcement Officer's powers in examining judicial rulings.

legal dispute in accordance with the provisions of the Civil Procedure Code.

As a general rule, rulings subject to enforcement are those issued in civil, commercial, and personal status cases. As for judgments rendered by criminal courts, Enforcement Directorates are not normally competent to execute them. However, the legislator has permitted criminal courts to consider civil claims arising from the criminal act. Consequently, if a criminal judgment includes a decision on the related civil claim, that civil portion of the ruling becomes enforceable by the Enforcement Directorate, unless the law provides otherwise. An example is Article (83) of the Juvenile Welfare Law No. 76 of 1983, which stipulates that a fine imposed on a juvenile shall be collected under the provisions of the Law of Enforcement if the convicted person fails to pay it—even though it is a criminal penalty rather than a civil ruling.

What are the conditions and characteristics of an enforceable judicial ruling? According to Article 9 of the Law of Enforcement No. 45 of 1980 (as amended), domestic judicial rulings may be enforced in accordance with its provisions. As for foreign judicial rulings, they are not enforceable unless recognized as such under the Law on the Enforcement of Foreign Judgments No. 30 of 1928 or applicable international treaties enforced in Iraq, as stated in Article 12 of the same law.

Therefore, any judgment issued by a foreign court, including courts of Arab countries, cannot be executed in Iraq unless the competent Iraqi court issues a decision permitting its enforcement pursuant to the Law on the Enforcement of Foreign Judgments or relevant international agreements such as the Riyadh Arab Convention for Judicial Cooperation, ratified by Law No. 110 of 1984.

Although the Law of Enforcement does not explicitly define the nature or conditions of enforceable judicial rulings, general legal principles require that any judgment submitted for enforcement must meet the following conditions:

1. The judgment must be issued either by an Iraqi court, or by a foreign court whose ruling has been authorized for enforcement by the competent Iraqi court (the so-called "execution order").
2. The judgment must have been rendered by a court competent in subject matter, in accordance with the Judicial Organization Law, the Civil Procedure Code, and other applicable laws.
3. The judgment must be free of forgery.
4. The judgment must have been issued in compliance with the procedural formalities required by law. For example, a ruling that lacks the judge's signature is deemed procedurally invalid.
5. The judgment must impose an obligation—such as the delivery of a specific thing, the performance of a specific act, or the abstention from a specific

act. Any ruling that does not impose one of these obligations cannot be enforced.

6. The judgment must be clear and unambiguous.

7. The judgment must not be conditional, as addressing conditions lies beyond the jurisdiction of the Enforcement Officer.

8. The judgment must not have become time-barred under Article 114 of the Law of Enforcement.

What are the procedures stipulated in the Law of Enforcement for executing judicial rulings? The legislator outlined the enforcement procedures in Part Three of the Law of Enforcement No. 45 of 1980 (as amended), divided into four chapters: voluntary enforcement, compulsory enforcement, physical coercion (imprisonment for enforcement), and suspension or delay of enforcement.

These procedures apply to all enforceable instruments, whether they are judicial rulings or other enforceable documents recognized by law. When a judgment is submitted to the Enforcement Officer, it must first be referred for fee assessment and registration. The officer then issues a decision either accepting or rejecting enforcement. Upon acceptance, the authorized employee prepares an enforcement record containing the data specified in Article (2-15) of the Law, after which the debtor is served with an enforcement notice.

The legislator set time limits for voluntary enforcement, exempting the debtor from collection fees if compliance occurs within that period. The duration varies according to the debtor's legal status: seven days for natural persons or private legal entities whose address is known, fifteen days if the address is unknown, and sixty days for government and public-sector entities.

If the debtor fails to comply voluntarily within the specified time, compulsory enforcement measures are initiated under the Law to recover the debt recorded in the enforcement file.

Does the Enforcement Officer have the authority to refuse the enforcement of a judicial ruling? Article (1-15) of the Law of Enforcement provides that a judicial ruling shall be presented to the Enforcement Officer for enforcement, who shall refer it to fee assessment and registration, then decide whether to accept or reject enforcement.

This means that the legislator allows the Enforcement Officer to reject enforcement, though it does not specify the criteria for doing so. As explained earlier, certain conditions must exist for a ruling to be enforceable.

Thus, if a ruling was issued by a court lacking subject-matter jurisdiction (e.g., a misdemeanor court imposing alimony), or if it was issued by a foreign court without an Iraqi decision permitting its enforcement, or if it violates legal procedures (such as lacking the judge's signature), or if it does not impose any obligation (delivery, act, or omission), or if it has become time-barred—the

ruling is unenforceable, and the Enforcement Officer may reject its execution.

Does the Enforcement Officer have the authority to discuss or interpret the ruling being enforced? The Enforcement Officer is bound to execute the judicial ruling according to its operative part once it meets the legal requirements. He has no authority to debate or reinterpret its content, pursuant to Article(3-160) of the Civil Procedure Code No. 83 of 1969 (as amended), which states: "A judgment rendered by the court remains valid and binding unless annulled or modified by the same court, or vacated or reversed by a higher court through lawful procedures."

What procedure is followed when the ruling contains ambiguity?

Article 10 of the Law of Enforcement addresses the situation of ambiguity in a ruling under execution, granting the Enforcement Officer the right to request clarification from the court that issued the ruling. Should a decision be necessary, the concerned parties are informed to approach the court accordingly, without prejudice to the enforcement of the clear portions of the judgment. Are the decisions of the Enforcement Officer subject to appeal? What are the consequences of appeal? What is the penalty if the Enforcement Officer interferes with a judicial ruling?

Article 118 of the Law of Enforcement allows for appeal of the Enforcement Officer's decisions through objection (petition) and cassation. However, opinions differ—both judicially and doctrinally—regarding whether such decisions can also be appealed through a petition for correction of the cassation decision.

One view holds that correction is impermissible because Article 118 expressly lists the available remedies and does not include correction of cassation decisions.

The opposing view maintains that such correction is permissible, citing Article 1 of the Civil Procedure Code No. 83 of 1969 (as amended), which provides that this Code serves as the general reference for all procedural laws unless they explicitly conflict with it. Since the Law of Enforcement does not explicitly prohibit correction petitions, the legislator is presumed to have allowed them—especially since exceptions to appeal rights must be stated expressly, as seen in Resolution No. 1198 of 1977 (as amended), the Lease Law No. 87 of 1979 (Article 22), and the Expropriation Law No. 12 of 1980 (Article 61).

Interview conducted by the Student: Zaman Adel Jumaa Al-Tha'alibi - Class (50)

For this reason, the legislator, through the Law of Enforcement, meticulously outlined the procedures to be followed from the moment a judicial decision or an enforceable instrument is deposited with the relevant directorate until the file is closed after the rights it establishes or contains have been fully satisfied. However, several issues may arise following the issuance of a judgment by the competent court and its enforcement by the Enforcement Directorate. Some of these issues pertain to the judgment itself, while others relate to the right established therein.

Although the law has granted the Enforcement Officer a number of powers through which he may compel the debtor to fulfill the obligation, he nonetheless remains bound by the limits of

the judgment being enforced and the rights it contains. The Enforcement Officer, therefore, has no authority to debate the issued judgment or to entertain any argument that would undermine the binding authority of the matter already adjudicated. In this regard, we met with Judge Salah Duraib, President of the Civil Cassation Panel at the Presidency of the Karkh Court of Appeal, to discuss the Enforcement Officer's powers in examining judicial rulings.

Are all judicial rulings enforceable? Judicial rulings constitute the most significant type of enforceable instrument, forming the majority of the Enforcement Directorates' workload. The judicial ruling subject to enforcement must be one issued by a properly constituted court in a valid

Impressions of a Student at the Judicial Institute

Between Idealism and Realism... A Common Ground Called the Judicial Institute

By Student : Hayan Ibrahim Al-Khayyat – Cohort (51)

First: Administration and Staff Relations with Students

A few months after joining the Judicial Institute, the picture gradually became clearer. It was no longer merely a matter

me with respect and trust, instead of the rigidity and bureaucracy we often encounter elsewhere.

This simple gesture—and many others like it—reflects how staff members here see us not as ordinary individuals, but as future judges and prosecutors, and treat us accordingly. Even in cultural aspects, I have

but aspiring judges and prosecutors being prepared to assume the same noble responsibilities that our instructors hold today.

Third: What We Are Meant to Become After Graduation

The question remains: why all this care, this refinement in treatment, this intensive



of spirit or adherence to an academic schedule; I found myself within an institution managed by a mindset quite different from that of ordinary state institutions. From the very first day, it was evident that the Institute's philosophy was not built on formality or distance between professor and student, but on a shared sense of belonging.

The Director's address to us was not a routine ceremonial speech; rather, it overflowed with the word "brothers," which he repeated several times to affirm that we are not merely students, but partners in a great academic and professional enterprise.

This spirit of mutual respect extends beyond the administration to the staff, who treat us with notable courtesy and professionalism. I recall a personal incident when I faced a problem while applying for the competency exam due to a missing document. Determined to abide by the pledge I had signed, I submitted a request to extend the deadline. At the reception desk, the employee relayed my issue by phone to a colleague inside, and the spontaneous, genuine response came back:

"Professor, go study for your exam and don't worry about anything else. Complete your paperwork at your convenience and bring the missing document anytime—we're here for you."

He didn't know me, nor had we met before—in fact, I wasn't even a student at the Institute yet—but he chose to treat

felt the same warmth and encouragement from those managing the Institute's newspaper and magazine, who invited us to write and contribute. That invitation gave us a genuine sense of belonging to an academic and professional community that nurtures growth and engagement.

Second: Teaching and Faculty Relations with Students

The academic side of the experience has been equally distinctive. Those who stand before us in the classroom are not ordinary lecturers; they are towering judicial and academic figures—judges of the Federal Cassation Court, seasoned prosecutors, and university professors who rank among the finest experts in their fields.

What sets these professors apart is that their lectures are never detached from real life; they share the essence of their daily courtroom experiences, blending the legal text with the living reality of judicial practice.

Even more remarkable is how they treat us—not as novice students still awaiting their first exams, but as colleagues in preparation, being groomed to one day join their ranks. What fills us with pride is that they precede our names with the title "Professor."

And how does it feel to be addressed with such a title by a distinguished judge or a renowned academic? I can think of no word more fitting than "pride." Their way of addressing us reflects a deep belief that we are not mere recipients of knowledge,

preparation, and these abundant resources dedicated to us? The answer lies in the ultimate goal — to prepare distinguished judges and public prosecutors.

This institution was not established to grant a traditional academic degree, but to cultivate legal professionals capable of practicing one of the most sensitive and demanding professions in the State—where decisions directly affect people's freedoms, property, and rights.

What we receive here in terms of knowledge, experience, and disciplined administration is not an educational luxury, but an investment in the judicial future of the country. For a judge is not shaped by legal texts alone, but by experience, values, and practical application. Likewise, a public prosecutor is not formed merely by statute, but by the principles instilled in him by his instructors—the defense of public funds and the preservation of the public right.

Thus, what I see in the Institute is neither a dreamy idealism nor a dry realism, but a rare fusion of both within one space called the Judicial Institute. Here, we learn to be realistic without losing our ideals, and idealistic without detaching ourselves from the realities of society.

In that lies the true value that moves me to write these words with deep gratitude and sincere pride—not as praise or flattery, but as a genuine acknowledgment of what I have witnessed and experienced firsthand.

**Public Speaking and Oratory
A Judicial Tool Influencing Judicial Work**

By Nihaya Dawood Salloum – Department of Instructions – Judicial Institute

Throughout my years of work at the Judicial Institute, and during the training of students for the graduation ceremony, I often noticed that some top students would excuse themselves from reciting the oath before their peers, citing illness, while others would make linguistic errors out of nervousness before the audience.

Although the essence of judicial work lies in understanding legal facts and reasoning judgments properly, the skill of oratory and public speaking remains among the most essential abilities a judge or public prosecutor needs in performing their duties—skills that cannot be acquired through study alone, but through training, practice, and mastery of delivery.



Their professions depend on persuasion, clarity, and the effective presentation of legal arguments. Indeed, courtrooms across the world are filled with stories where judges' speeches have affected not only their personal image but the course of justice itself.

For instance, adopting a mechanical tone in reading legal provisions without persuasive expression may make victims' families feel that the court is not serious, granting defendants an opening to diminish the gravity of the proceedings and eroding public confidence in the judiciary—even when the judgments are legally sound. Likewise, speaking too softly or unclearly may force lawyers to request repetitions, wasting the court's time and undermining the judge's authority. Hesitation or stammering during the reading of a decision, or pausing frequently to rearrange papers, creates the impression of poor preparation and raises doubts about the soundness of the judgment.

Using excessively complex legal language that the public cannot understand gives the impression that the judiciary is "hiding the truth behind words," thereby distorting the image of justice in the eyes of society.

The importance of oratory and public speaking in judicial work can be summarized as follows:

First: For the Judge

1. Managing Court Sessions: The judge has the authority to maintain order in the courtroom, which requires a calm yet firm tone to manage dialogue between parties and prevent disorder.

2. Delivering Judgments: When pronouncing a ruling, the judge's words must be clear and formal, reinforcing the dignity of justice and ensuring respect for the decision.

3. Effective Communication: The ability to convey meaning precisely and clearly to lawyers, defendants, witnesses, and the public.

4. Persuasion and Clarification: In certain cases, the judge must explain the reasoning and legal foundations of the judgment; good oratory facilitates the acceptance of the decision.

Second: For the Public Prosecutor

1. Presenting Evidence: The prosecutor introduces the case before the judge and the court panel, and powerful delivery strengthens the impact of his evidence.

2. Persuading the Court: Effective speaking enables the prosecutor to convince the judge or jury of the justice of his position through logical and compelling argumentation.

3. Psychological Influence: Strong oratory leaves a deep impression on the court and the public, reflecting sincerity and devotion to justice.

4. Responding to the Defense: The prosecutor needs a confident and articulate presence to rebut defense arguments and dismantle them with clarity and authority.

5. Gaining Public Trust: In high-profile cases followed by the media, the prosecutor's clear and composed address enhances public confidence in the justice system.

In conclusion, oratory and public speaking are not merely skills—they are fundamental judicial tools that enable both judges and public prosecutors to fulfill their mission of upholding justice and convincing parties of the fairness of the court's decisions. A clear and powerful word can, at times, be as compelling as physical evidence itself.

Recognize the noble rank bestowed upon him by the nation, and to uphold the trust placed in his upright person and sound conscience. He must respond with noble character and sincere integrity.

Glimpses from the History of the Iraqi Judiciary

The Law of Ur-Nammu, the oldest recorded legal code discovered to date, predating the Code of Hammurabi by three centuries. The Code of

Hammurabi dates back to the 18th century BCE, while the Law of Ur-Nammu emerged in the 21st century BCE in ancient Iraq. It also predates other legal codes such as the Laws of Urukagina and Lipit-Ishtar.

The code is named after the Sumerian king Ur-Nammu, who established it and founded the Third Dynasty of Ur. Ur-Nammu assumed power after defeating the Sumerian ruler Utu-Hegal, thereby founding a new Sumerian dynasty. He ruled for 17 years, approximately between 2112 and 2095 BCE. The first copy of this law was discovered inscribed on clay tablets, which remained buried under the sands for millennia until fragments were unearthed by chance. The first discovery consisted of two tablets found in Nippur (Nuffar), located in the Middle Euphrates region (in today's Al-Qadisiyah Governorate).

The American Sumerologist Samuel Kramer translated these fragments in 1952. They are now preserved in the Istanbul Archaeological Museum. Due to the tablets' poor condition after centuries of burial, Kramer was able to translate only the preface and five legal articles, as the remainder was too damaged to distinguish. Later discoveries near the ancient city of Ur in 1965 allowed scholars to reconstruct about 31 of the original 57 laws. A further version was later found in Sippar, containing minor variations.

Prepared by: Ali Al-Badrawi

The Oldest Recorded Legislation in History

The Laws of Eshnunna

The Law of Ur-Nammu was written in the Sumerian language and begins with a preface praising the king and emphasizing his divine mandate to rule. It commends his achievements in establishing justice, eradicating oppression, and combating economic corruption such as the theft of crops, livestock, and property. It also set monthly temple expenses to prevent fraud, waste, and embezzlement.

The code emphasized equality among all individuals and the protection of the weak. The king succeeded in realizing justice and freedom throughout Sumer, declaring that

"the orphan is no longer delivered into the hands of the rich man, nor the man of a single shekel into the hands of the man of a mina." Ur-Nammu also established a system to standardize weights and measures. The law consists of 57 articles, of which only 31 have survived. The recovered sections address social and family issues such as divorce, and criminal matters such as murder, theft, adultery, and rape.

Some Articles from the Law of Ur-Nammu

1. Rights of a divorced woman if the marriage was not formally contracted.
2. Accusation of a man against another man's wife of adultery.
3. The act of a slave woman leaving the city walls without permission.
4. Punishment of a slave woman who equates herself with her mistress.

5. Penalty for false testimony.
6. Punishment for flooding another man's cultivated field.
7. Neglect of farming a leased field.

Definitions

- Mina: An ancient unit of weight and measurement.
- Shekel: A unit of weight based on barley, used in Mesopotamia around 3000 BCE.

Examples of Recovered Articles

Articles 12-4 dealt with personal status laws such as divorce, marital infidelity, and engagement.

1. If a woman committed adultery with another man, she would be executed, while her lover would go unpunished. (Article 4)
2. If a man raped a slave belonging to another man, he must pay compensation of five shekels of silver. (Article 5)

3. Articles 7, 6, and 8 specified the conditions of divorce. For instance, if a man divorced his first wife, he was required to pay her one mina of silver (1 mina = 60 shekels).
4. Article 11 dealt with accusations of adultery and the means of proof, as well as the punishment for false accusation.

5. Article 12 granted the right of compensation to a suitor who had given gifts to his fiancée and her father, if the father later married her to another man. The compensation equaled double the value of the gifts he had presented.

Articles 23-13 addressed assault and injury

cases, including harm to free persons and slaves, and slaves' offenses against their masters:

1. The escape of slaves (Articles 13 and 14).
2. If a man committed murder, he was to be executed.
3. If a man committed theft, he was to be executed.
4. If a man kidnapped someone, he would be imprisoned and fined 15 shekels of silver.
5. If a slave married a freedwoman, his wife's freedom did not extend to him.
6. If a man raped another man's wife, he was to be executed.

7. If a man deliberately broke another man's limb with a club, he had to pay one mina of silver. (Article 16)

8. If a man cut off another man's nose with a knife, he had to pay two-thirds of a mina of silver. (Article 17)

9. If a man broke another man's tooth, he was fined two shekels of silver per tooth. (Article 19)

Articles 25 and 26 addressed the crime of false testimony.

The penalty for perjury was a fine of 15 shekels of silver. However, if a person testified in a case and refused to take an oath, he was required to pay a fine equal to the value of the disputed claim.

The remaining articles dealt with offenses against agricultural lands and matters related to farming and property.

The Spirit of Ur-Nammu's Law

Ur-Nammu's code was based primarily on financial penalties (compensation) imposed on the offender and payable to the victim, rather than on physical or custodial punishment. This distinguishes it from



Hammurabi's Code.

For example:

- Hammurabi's Law (Article 200): "If a man knocks out the tooth of another man of equal rank, they shall knock out his tooth."
- Ur-Nammu's Law (Article 19): "If a man breaks another man's tooth, he shall pay two shekels of silver for each tooth."

This demonstrates the shift from physical retribution to monetary compensation in earlier Sumerian law.

Summary of Later Legal Codes Following Ur-Nammu

The Law of Ur-Nammu remains the earliest known recorded legal code discovered to date, preceding all later Mesopotamian and Near Eastern legislations.

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Amid Judicial Commendation and Exemplary Organization

The Judicial Institute Concludes the Competency Examinations for Classes (52) and (53)



of transparency and fairness, under the direct supervision of the Honorable President of the Supreme Judicial Council and members of the



Public Prosecution overseeing the examinations were cohesive and fruitful, contributing to the smooth and orderly completion of the process without any recorded violations affecting order or fairness among the candidates."

He concluded by affirming that: "This level of organization and supervision presents an honorable image of both the Judicial Institute and the Supreme Judicial Council, reflecting their shared commitment to selecting candidates of high intellectual and moral caliber for the judicial service."

Collaboration That Yielded Success
For his part, Professor Dr. Ali Al-Hilali, Dean of the College of Law at the University of Baghdad, expressed his pride in hosting this important academic and judicial event, saying:

"The collaboration between the College of Law and the Judicial Institute in organizing the competency examinations reflects the complementary relationship between the two institutions in preparing and qualifying legal professionals. We are proud to be part of this joint effort aimed at strengthening justice and the rule of law in Iraq."

Dr. Al-Hilali concluded by emphasizing that the organizational success achieved demonstrates the high level of coordination between the College of Law, the Judicial Institute, and the Supreme Judicial Council.

Purposes and Aspirations
Through this meticulous organization and direct judicial supervision, the Judicial Institute continues to affirm its standing as a prestigious academic institution dedicated to preparing judges and public prosecutors who are academically and professionally qualified—combining legal knowledge with ethical integrity—in service of justice and society.

Prepared by: Ali Al-Badrawi

Friday, October 2025 ,3, at the College of Law, University of Baghdad, with 1,045 candidates participating under the supervision of 77 judges and members of the Public Prosecution Service. The following day, Saturday, October 4, the Class 53 (Public Prosecution) examination took place, with 1,425 candidates supervised by 111 judges and prosecutors.

All stages of the examinations were conducted in accordance with precise organizational procedures, which the candidates strictly adhered to. Judicial oversight was thorough and continuous, ensuring transparency and integrity throughout the process.

Director General of the Judicial Institute
In a special statement to the Judicial Institute, the Director General of the Judicial Institute, Judge Jalil Adnan Khalaf, affirmed that the Institute's administration was committed to conducting the examinations with the highest standards

Institute's governing board.

He added: "For weeks, we have worked to prepare all necessary technical and logistical requirements to ensure that the examinations proceed smoothly—from distributing candidates across suitable halls to providing appropriate monitoring tools and ensuring that all procedures flow efficiently, without compromising the principle of equal opportunity for all."

Judge Khalaf expressed his deep appreciation for the remarkable efforts of the supervising judges, members of the Public Prosecution, and administrative staff, all of whom contributed to the success of the examinations. He also commended the dedication of the Institute's employees for their adherence to administrative directives, reflecting their commitment to the

smooth conduct of the process. He concluded by noting that results will be announced in accordance with established legal procedures.

Commendation for High-Level Organization
In a related context, one of the supervising judges praised the outstanding level of organization and discipline observed among candidates, stating:

"Throughout the examination days, we witnessed remarkable discipline from the applicants and clear diligence from the Institute's administration in upholding standards of fairness and transparency at every stage—from preparing examination halls to submitting answer booklets to the Supreme Judicial Council."

The supervising judge added: "The efforts of the judges and members of the

The Judicial Institute Announces the Launch of Its Comprehensive Guide

The Judicial Institute has announced the release of its Comprehensive Guide, which consists of 16 chapters detailing the functions of the Institute's various departments and divisions.

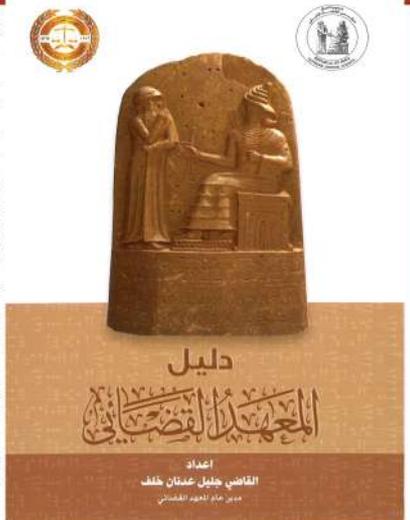
In his remarks, Judge Jalil Adnan Khalaf, Director General of the Judicial Institute and the author of the guide, stated:

"Driven by a deep belief in the importance of institutional documentation and the need to provide a comprehensive administrative reference that would assist future administrations of the Judicial Institute, the idea of preparing this guide emerged as a pioneering initiative. We have laid its foundation as a solid cornerstone upon which upcoming administrations can build, ensuring the continuity of the Institute's academic, professional, and administrative mission."

He added that the guide serves as a comprehensive roadmap designed to enhance the efficiency of academic and administrative work, and to foster a clear and effective educational and organizational environment that advances the goals of the Judicial Institute.

Judge Khalaf emphasized that the guide is the product of collective effort aimed at preserving the Institute's administrative memory, strengthening the principle of continuity, and ensuring the smooth transfer of institutional knowledge between successive administrations. He further noted that this work supports the Institute's mission to provide an educational environment that keeps pace with scientific developments and cultivates the research capacities of judges in their respective fields—through engagement with international and local expertise and experiences—while building a distinguished academic institution characterized by the integration of theoretical study and practical training.

He concluded that the Institute's vision remains focused on preparing and qualifying competent judicial cadres who practice the profession with professionalism and uphold the values of judicial independence and the rule of law.



New Legal Publication:

Monitoring and Recording Telephone Conversations
A Comparative Study
(The United States of America, England, Selected European Council States, and Selected Arab Countries)

Published by Al-Ahram Publishing House for Legal Publications and Distribution, Cairo.

This newly published book presents an in-depth and contemporary study on a complex and modern subject. It is considered the first work in Iraqi criminal jurisprudence to address legislative shortcomings and analyze the judiciary's position on the topic under discussion, in comparison with Latin and Anglo-Saxon legal systems and those influenced by them.

The study focuses on the major and rapid technological advancements that have transformed the world, leading to the emergence of new means and tools for communication and message exchange among individuals—such as landline telephones, mobile phones, emails, and social media platforms. These tools have become an integral part of private life, facilitating communication and meeting daily needs. However, this same technological progress has been misused by criminals and organized crime groups, who exploit phones and social media applications for illegal activities, resulting in harm to victims and society as a whole.

To confront this category of crimes, the need arises to monitor and track the channels through which such offenses are committed—most notably, the monitoring and recording of telephone conversations, in order to identify and apprehend offenders. Yet these measures place the criminal legislator before a difficult dilemma: achieving a balance between society's interest in maintaining security and stability on one hand, and protecting fundamental rights and freedoms, particularly the right to privacy, on the other.

Achieving this balance requires the enactment of precise legislation that permits interference with privacy only in exceptional cases, within a very narrow and well-defined scope, and only to the extent necessary to uncover the truth in crimes that have occurred or are imminent. Such actions must be governed by strict legal safeguards to ensure that the rights of innocent persons are not infringed upon during investigation and evidence collection.



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