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Administrative Judge and Constitutional Judge: Broad Potential and Mutual Influence in The Field of Protecting the Rights of Individuals (A Comparative Study)

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Abstract

This research addresses the issue of the mutual influence between the administrative judge and the constitutional judge using a comparative analytical approach. In the beginning, the researcher discusses the role of the administrative judge in protecting the rights and freedoms of individuals by presenting the basic elements that prove the effective implementation of this control, such as proportionality and disciplinary decisions. The research also discusses the primary constitutional issue in France, or what some call the review of raising the issue of the unconstitutionality, to demonstrate the strengthening of the role of the judge and his involvement in reviewing the constitutionality of laws. Then the research discusses the role of the constitutional judge in protecting the rights and freedoms based on the achievements of the French constitutional judge, starting with his decision on freedom of association (1971), in which he enshrined the constitutional value of the preamble of the 1958 constitution. What gives the decisions of the Constitutional Council the utmost significance is their compulsory as they are imposed on the judiciary and administration automatically (the power of the case). Then the research addresses and analyzes the positive mutual impact between the constitutional judge and the administrative judge, so it first presents the confirmed influence of the administrative judge, as he turns into a miniature constitutional council through his role in reviewing the unconstitutionality. The researcher also presents the position of the jurist Bernard Stern, who believes that the administrative judge is the one who does not want to violate the authority of the Constitutional Council while he can enforce strong and violent control over the work of the Constitutional Council. Even though the issue of mutual influence between the administrative judge and the constitutional judge is fluctuating, the harmony and cooperation between them remain the master of the situation.

1. Introduction

This research discusses two main fields: judicial review and mutual influence. Administrative judicial review has evolved leading to grant authority to the administrative judge to impose sanctions on arrogant administration, whether in administrative disciplinary decisions related to employees or in ordinary administrative decisions in various fields. Nowadays, the administrative judiciary enforces stern control when it suspects any deviation in authority or a manifest error in judgment. The administrative judge also exercises his power in the cases regarding unconstitutionality, and here it is said that he is acting as a constitutional judge.A constitutional judge is responsible for protecting the constitution from any authority that exceeds its powers, therefore, the constitutional judiciary invalidate laws or approve laws based on supreme texts,which were established by the French constitutional judge, as we will see in the following sections.

In discussing the issue of mutual influence between the administrative judge and the constitutional judge, we will demonstrate the confirmed influence of the administrative judge, as the administrative judge became a monitor of the laws (even partially) and an interpreter of the constitution, but the constitutional judge is still the one that can revoke the law. In this research, we aim to show the mutual influence first in the texts, where the foundations of the administrative law are based on the constitutional provisions, and in contrast, there are many texts in the administrative law on which the constitutional judge relies. Here, it is worth noting the ethics of the administrative judge, as he does not aim to exercise superiority over the constitutional judge, but rather committed himself to his limits in respect of the prevailing legal system.

This research aims at demonstrating the reality of the control exercised by the administrative judiciary over the decisions of the administration and the constitutional judiciary over the laws, and then to show the mutual

influence between the constitutional and administrative judges which will assist us to understand the nature of the relationship between them to improve it and eliminate the disagreement that sometimes mars the relationship between the two, for the benefit of the prevailing legal system and the rule of law.

The importance of this study lies in its explanation of the nature of the relationship between the administrative judiciary and the constitutional judiciary, in a manner that benefits everyone involved in the law, including judges, lawyers, and students. In fact, the issue of the relationship between the administrative and constitutional judges وas far as we know has not been discussed in legal studies. The importance of researching this topic also lies in the fact that it highlights the reality of the required interaction between the constitutional judiciary and the administrative judiciary and ceasing the prevailing misconception which tries to portray them as two separate systems in the area of law.

In fact, there are two problems that this research has tried to address: The first problem: To what extent has the development of administrative and constitutional judicial control contributed to protecting the rights and freedoms of individuals. The second problem is to what extent has the mutual influence between the administrative and constitutional judiciary contributed to protecting the rights and freedoms of individuals.

Chapter One

The role of the administrative and constitutional judiciary in protecting the rights and freedoms of individuals

This topic includes two sections, the first section addresses the role of the administrative judge in protecting the rights and freedoms of individuals, and in the second demonstrates the role of the constitutional judge in protecting the rights and freedoms of individuals.

Section One:The role of the administrative judge in protecting the rights and freedoms of individuals

The first section discusses protecting the rights of individuals by the administrative judge, and the second section is devoted to the issue of administrative judge control and the primary constitutional issue, a mechanism that has been developed in France since 2008.

A. The administrative judge and the protection of the right of individuals

The administrative judiciary review has developed significantly in recent times especially in disciplining employees. The administrative courts considered that judicial review could not affect the legal discretion made towards an act and the validity of the charges brought. Today, it deems that if in disciplinary proceedings, the administrative court does not have the right to consider the appropriateness of the penalty, that does not preclude the administrative judge from reviewing the appropriateness of the punishment in the event of discretion of a manifest error. Therefore, the judge can repeal the claimed penalty if there is a discrepancy or disproportionate between a severe punishment and a minor offense committed by the employee.Which does not mean that judicial review may contribute to the imposition of proportionality between the punishment and the crime committed. We also note the confusion that administrative courts sometimes create because of failing to distinguish between the manifest error and the disproportionate review.

For example, the famous French decision that established the concept of human dignity in administrative jurisprudence: the decision of "Morsang-sur-Orge". The decision to ban the game of lancer les nains violates the law, because this game does not violate any component of the administrative control (health, safety, security, and good order, le bon ordre). However, the administrative judge saw otherwise: he believed that harming the dignity of the dwarf in this game, even with his consent, violates the principle of respecting the dignity of human beings.

Following the issuance of this French Consultative Council decision, some conservatives criticized the French administrative judge, who by doing that added a fifth component to the components of the administrative police. Many other opinions welcomed the bold decision because it preserved the rights and the dignity of individuals and affects the course of the decisions of the Constitutional Council. In our opinion, this refutes the saying, the regular judge is the only one who protects individual freedoms.

B. The development of administrative judge control and the primary constitutional issue

In the past, French jurisprudence criticized the authority of the administrative judge to exercise any control over the constitutionality of laws, and this was the position of leading jurists such as Maurice Horio and Carrie de Malbert. Today, according to Vincent Chnebel, the situation has completely changed as this fact became out of date because the powers of the administrative judge have become very significant: it is true that he refused at first to be a reviewer of the laws, but he gradually turned to become the protector of fundamental rights.In addition, the priority issue of the constitutionality of laws (the 2008 law) allowed the French administrative judge to play the role of "sorter", which he did not aspire to in the past because it puts him in the position of review of the law.

Since the French constitutional amendment in July 2008 Article 61-1 of the constitution states: Considering a specific case before a judicial court, if one of the litigants claims that a legislative act violates the rights and

freedoms guaranteed by the constitution, the case may be brought before the Constitutional Council based on a referral from the State Council or the Court of Cassation, and the Council must issue its decision within a certain time.Then, on December 10, 2009, an organic law was passed in France that defined the conditions for implementing this article. He created what might be called the constitutional priority issue. Some jurists call this mechanism "the plea of unconstitutionality. "

This issue allows each opponent to criticize the constitutionality of a legislative text while considering an administrative or regulatory case if it is considered that this text violates the rights and freedoms guaranteed by the constitution. The issue of the constitutionality of the law can be brought up at any time after publishing the law. All laws issued before the 1958 constitution falls within the framework of this mechanism, except for some texts such as the Parliamentary Assembly Regulations or some specific laws. Naturally, all administrative decrees and decisions cannot be the subject of a constitutional issue because the best one to consider is the State Council.

However, what is the rights and freedoms guaranteed by the constitution? Just as in the case of reviewing the constitutionality of previous laws, the constitutional rules that can be advanced as a constitutional issue are very numerous and fall into all areas. They are all the rights and freedoms existing in the Constitutional Block, which includes the preamble to the French 1958 constitution and the texts that refer to it (the Universal Declaration of Human Rights of 1789, the preamble to the Constitution of the Fourth Republic, and the Environment Charter).

It is expected that appeals through the preliminary constitutional issue in the issue of the environment will flourish in France, especially after environmental issues have been incorporated into the constitution. Consequently, the importance of the administrative judge in protecting people's rights will be strengthened.Who can raise the constitutional issue? They are disputants of a lawsuit. A judge cannot raise the issue of constitutional priority. However, the Public Prosecution in criminal cases can. The issue can be raised at any time during the hearing of the lawsuit: in the beginning, appeal, or cessation. There is an exception: the matter cannot be brought before the Criminal Court. In criminal cases, the constitutional issue is raised before the investigating judge before the trial, or after the trial in appeal or cassation .The issue of constitutionalism is raised in writing, that is, an independent notification, even if the procedures are oral. The request must also be justified. There are three conditions for raising the constitutional issue before the Constitutional Council, namely:

-The legislative text must be applied to the dispute, to procedural principles, or to form the content of prosecutions.

-The legislative text should not have been previously declared violating the constitution by the Constitutional Council.

-That the matter is new and sober. The decision here is up to the Court of Cassation or the Shura Council.

Can the constitutional issue be raised directly before the Constitutional Council? The answer is that the issue cannot be brought directly before the Constitutional Council, but it must always be filed while a lawsuit is judged. The only exception to this rule is when the Constitutional Council itself is the judiciary concerned with governance, and this is what usually happens regarding parliamentary elections. For example, the Constitutional Council, in its Resolution No. 2011-4538, as an election judge, accepted to review a constitutional issue directly before it on the issue of Senate elections. When the constitutional issue is raised, the judiciary may suspend the procedures pending the decision of the Supreme Court (cassation or shura) or pending the decision of the Constitutional Council if it is raised directly before the latter.

The judge shall consider the matter with the necessary speed if the matter is related to the seizure of freedom. And when the matter is brought before the Constitutional Council, it should take its decision within three months. If the Constitutional Council decides that the text is compatible with the constitution, the judiciary must apply the text unless it is deemed contrary to the texts issued by the European Union or a treaty.If the Constitutional Council decides that the text is unconstitutional, then this has two consequences:

- The application of the text in the existing lawsuit is excluded.
- The text is canceled either directly or starting from a date determined by the council. Decisions of the Constitutional Council do not accept any form of appeal.

Section Two: Constitutional judge and safeguarding the rights and freedoms of individuals

In the first part, we address the leading role of the constitutional judge, based on the achievements of the French Constitutional Council, and in the second part, we focus on the mandatory decisions of the Constitutional Council.

A. The leading role of the constitutional judge: based on the achievements of the French Council

First: An overview of the constitutional advancement of rights and freedoms

What the French constitutional judge has established has been adopted by many constitutional councils around the world, because its philosophic and legal foundations are the same as those embraced by many states, including many Arab countries, and here we can not ignore the importance of the Universal Declaration of Human Rights, since its decision on July 16, 1971 (on freedom of association), in which it

enshrined the constitutional value of the preamble of the 1958 constitution, based in turn on the preamble of the 1946 constitution and the principles of the French Revolution, the French Constitutional Council has become the protector of rights and freedoms.

The French Constitutional Council adopted the principle of equality in 1973. It then established the principles of the French Revolution, beginning with freedom of opinion, equality before the law, taxation, the principle of non-retroactivity of criminal law, the principle of proportionality between penalties, and the principle of property as a fundamental right. In addition to the freedoms stated in the Universal Declaration of Human Rights, the French Consultative Assembly gave a constitutional value to the "essential principles" confined in this text-only in the preamble to the 1946 constitution and not mentioned in detail, thus granting the administrative judiciary broad freedom to create other rights and freedoms: freedom of assembly and association, freedom Education, independence of university professors, respect for defense rights, etc. In addition to the freedoms set out in the Universal Declaration of Human Rights, the French Consultative Assembly gave constitutional importance to the "basic values" found only in that phrase in the preamble to the Constitution of 1946 and it did not mention them in detail. Which granted the administrative judiciary broad freedom to create other rights and freedoms: freedom of assembly and association, freedom of education, independence of university professors, respect for defense rights, etc.

The French Constitutional Council protected another category of principles, which are constitutional principles also included in the preamble to the 1946 constitution, which are economic, social, and political principles.Some jurists controverted these concepts of constitutional power, but the Constitutional Council, by its decision of 15 January 1976 on abortion, has made them constitutional.as it included these principles within the constitutional material, stating that the right to health is a constitutional right. After that, several other values have risen to this standard, such as the principle of equality between men and women, the principle of the right to strike, the right to asylum, freedom of association, and even the right to work.

Development proceeded as the Constitutional Council grounded principles and goals of constitutional value to distinguish them from the first category of principles. For example, the principle of the continuity of public facilities and the principle of respect for the dignity of the human person, and this last principle was discovered or inspired by the 1946 constitution, the introduction of which states the following: “On the day after the victory of free peoples over the regimes that tried to enslave and destroy a man ...”. However, the debate about the contradiction of several constitutional principles and the necessity to reconcile them have emerged, For example, individual freedom on the one hand must be reconciled with freedom of movement and the principle of maintaining public order on the other hand.

Accordingly, in addition to the effort made by the Constitutional Council to guarantee the best possible rights and freedoms, the issue of reconciling standards have risen: How do we reconcile freedom, security, property, the right to housing, the right to life, and the freedom of women, while these rights and freedoms may contradict each other: abortion, for example, Contradicts the right to life.

It is worth noting that the Constitutional Council has never established a formal hierarchy between the various rules that constitute constitutional principles. Consequently, he does not apply the rule which means that the new law cancels the old, as he considered that all these rules or principles, whether stipulated in the constitution or inspired by previous texts, have the same value and this is a tremendous development towards respecting the rights and freedoms of citizens. For example, it did not distinguish between the principle of continuity of public utilities that is not explicitly stipulated and the principle of the right to strike that is explicitly stipulated.

Second: The need for a constitutional judiciary

Guaranteeing freedoms and protecting rights is the highest established in the constitutions, and there is no way to guarantee this except with the approval of supreme authority (the constitutional judiciary) whose its review works to protect the principles of the constitution, support its pillars, and achieve the integrity of constitutional enforcement, and this constitutional review is a consolidation of the principle of the supremacy of the constitution and confirmation of legal legitimacy.

Montesquieu claimed in his book (The Spirit of Law) that "every man invested with power is apt to abuse it, and that "power should be a check to power". He clarified that this is achieved through the separation of the executive, legislative, and judicial powers of government. If different persons or bodies exercise these powers, then each can check the others if they try to abuse their powers. But if one person or body holds several or all these powers, then nothing prevents that person or body from acting tyrannically; and the people will have no confidence in their security. Therefore, the best guarantee to stop the legislative authority at the limits of the constitution without overriding its provisions is that another authority should have the right to control the constitutionality of laws.Thus, Legislation does not become an instrument of arbitrariness in the hands of the authority in an era in which there is a proliferation of legislation with an increase in state intervention in all political, social, and economic fields. In a matter of fact, the fear of the expansion of state intervention has

increased, which may lead to a contraction of the basic principle underlying constitutional law, which is the principle of legitimacy and restricted government.

The most important foundation of a democratic state is its compliance with the rule of law in all its actions and all its relations with others. One of the most significant characteristics of being subject to the law is the gradation of this subjection: "The Hierarchy of Laws." The regulations issued by the executive authority are subject to the higher law than they are in order, and the two (law and system) are subject to what is higher than them, which is the constitution, which is considered as a general restriction of the rulers 'authority, as it defines the public authorities in the state and defines the limits of the competencies of each of them, which requires adherence to it.

What makes the Constitutional Council a true protector of rights and freedoms is that it is not bound by the legal texts that bind it, but rather that the possibility of interpretation it holds is broad, this makes it closer to be a "government des judges." Truly, the danger lies in the fact that the decisions of the Constitutional Council may tend to be political.

In this regard, we mention the position of French President Francois Hollande, who expressed his plan to bring about a radical change in the structure of the Constitutional Council, specifically the termination of membership of old presidents.

B. The decisions of the Constitutional Council are obligatory

First: The enforceability of Constitutional Council Decisions

What strengthens the protection of rights and freedoms by the constitutional judiciary, and what validates the effects of the Constitutional Council's decisions on the Shura Council, is that the decisions of the Constitutional Council have enormous power because they are imposed on the judiciary and administration automatically and because they are decisions that are final, enforceable and binding. However, this issue is the subject of a debate that continues to rage. Is it only the subject matter of the decision, or is it also its spirituality and lessons that it teaches?

The French Court of Cassation decided in its famous decision "Prescher" that the decisions of the Constitutional Council are imposed not only in its ruling clauses but also in its basis, but despite this text, the jurisprudence decided that these decisions are not imposed on the public authorities and the judiciary except concerning the particular case brought before the Council Constitutional.

In fact, what the French Court of Cassation said is a natural matter, because the French Court of Cassation decided in its famous decision "Prescher" that the decisions of the Constitutional Council are imposed not only in its ruling clauses but also in its basis, but despite this text, the jurisprudence decided that these decisions are not imposed on the public authorities. And the judiciary, except for the specific case brought before the Constitutional Council.

In fact, what the French Court of Cassation stated is a natural matter because the concept of the relative strength of the res judicata effect is nothing, but the interpretation given to Article 62 of the French Constitution. Unsurprisingly, the Court of Cassation position is a reflection of the position of the French Constitutional Council, which adopted this interpretation in its several decisions.On the other hand, Professor Olivier Duzolne stated that the clerical hierarchy to which the French system belongs, whereby the Constitutional Council remains outside the judicial hierarchy, all this contradicts the fact that the decisions of the Constitutional Council are imposed on everyone.

Second: Appeal of Unconstitutionality

If it is recognized that it is not permissible for any judicial body to exercise control over legislative acts of any kind by declaring the nullity of these acts in the absence of an explicit provision regarding specialized supervision, except that there is indirect control that takes place through the appeal of unconstitutionality.

In Jordan,the Jordanian constitutional amendments issued on 01/10/2011 approved a chapter on the establishment of the Constitutional Court in Articles 58, 59, 60 and 61, and Law No. (15) of 2012 was issued on 6/10/2012, Article (58) of the constitutional amendments stipulate that " A Constitutional Court shall be established by law in Jordan, to be located in the capital, and it shall be considered an independent judicial body composed of at least nine members, including the president, appointed by the king." His Majesty the King, in his directives to the Royal Commission to amend the constitution, was keen on ensuring that it plays an important role in the reform process, and is a major step for strengthening the principle of separation of powers.Article (4) of the law establishing the Jordanian Constitutional Court stipulates that the court shall have the authority to review the constitutionality of laws and regulations in force and to interpret the provisions of the constitution. The right to appeal directly belongs exclusively to the Senate, the House of Representatives, and the Council of Ministers.

Chapter Two

Promoting the protection of rights through positive mutual influence between the constitutional judge and the administrative judge

In this chapter, the researcher addresses two issues, the first one the affirmative effect of the administrative judge, although this assertion does not enjoy the approval of all jurists, and the second issue is the collaboration between administrative and constitutional judges.

Section One: the affirmative effect of the administrative judge

In this first section, we deal with the analysis and the interpretation of some of the primary points to confirm this influence and examining Bernard Stern's position on the issue of mutual influence.

a) Initial points

In France, as indicated previously, after 2008 the administrative judge became a reviewer of the constitutionality of laws and then an interpreter of the constitution. The French administrative judge reviewed the constitutionality of laws indirectly. For example, in the Cuaz decision where he decided that financial penalties were not "disproportionate, which means that he considered that the law should be applied because it was not tainted by a lack of proportionality and we know that the review of proportionality is carried out by the constitutional judge. Hence, the administrative judge considered that the law that was objected to is constitutional." Because it conforms to Article (13) of the Universal Declaration of Human and Citizen Rights of 1789 (the principle of equality before public burdens).

Despite the mutual influence between the constitutional judge and the administrative judge, the constitutional judge remains the only one capable of abolishing the law, while the administrative judge is limited in his power to interpret laws and sometimes the constitution, but it remains that the constitutional judge has the authority to issue decisions that enjoy the absolute power of the matter judged, while theadministrative judge issues decisions that are limited to some cases.

Some have debated that the power of a French administrative judge to accept or reject the plea of unconstitutionality is a review of the constitutionality of laws. But the truth is that actual review is the power that can void the law, and this authority is only represented in the Constitutional Council. However, the administrative judge’s decisions to refuse or accept the claim of unconstitutionality has a great impact on other administrative courts that will not hesitate to follow the same path, and certainly on the Constitutional Council as well.It is clear that the influence of the administrative judge has exacerbated in parallel with the development of his control, Whereas in the past it protected the administration from itself and individuals, today it is protecting citizens from the administration's excesses.

In France, the administrative judge for a long time could not easily get rid of his role as state counsel. After the decision of Jaques Vabre that was issued by the Court of Cassation and then the decision of Niccol from the French Consultative Assembly, where the administrative judge confirmed the primacy of treaties over the law. It is worth noting that the decisions of the administrative judge when it gives superiority of the treaty over the laws a superior influence on the constitutional judge, who, like the administrative judge, is always keen to ensure that there is no divergence between the two courts, to preserve the integrity and unity of the internal legal system.

b) The position of Bernard Stern and the creative role of the administrative judge

In this last section we deal with the issue of the superiority of the administrative judge and the required cooperation between the administrative and constitutional judges, and in the second section, we emphasize the increasing importance of the administrative judge, even within the required cooperation.

1. **Despite the dominance of the administrative Judge, the collaboration between the two judges is a master of the situation**.

Legal principles were the cause of a raging disagreement between the administrative judiciary and the constitutional judiciary, especially on the issue of the legal force of general legal principles. It can be seen that the Constitutional Council, has proven itself, has begun to differentiate itself from the Shura Council, and has declined to adopt all the principles laid down by the Shura Council. General legal concepts have been a golden opportunity to spark this debate.

The Constitutional Council also used the concept of general legal principles, which prompted some jurists to talk about two types of general legal principles: the constitutional ones and the administrative ones˙ General legal principles have a power that exceeds all administrative work, regardless of their degree, but they remain without laws. There is no difference between a principle that has constitutional value and another that does not have this value, because the law obscures the constitution and imposes itself on the administration. After the Constitutional Council began to use the phrase, the following question was raised: Does the Constitutional Council mean the same general legal principles that the administrative judge discovered, or are they separate and belong to a higher degree. Then the situation worsened, according to Professor George Fodel, when the Constitutional Council resorted to another concept, which is the concept of "general principles by which the laws of the Republic are recognized "

Brigadier General Vaudel admits to the Constitutional Council the lack of rigor and accuracy sometimes in his style. In fact, Vaudel believes that when the Constitutional Council uses the term general legal principles, it does not mean at all the principles that an administrative judge discovers during his multi-source jurisprudence (texts, decisions, purely philosophical principles), but rather a linguistic use. What we want to shed light on in our presentation is the always possible disagreement between the constitutional and administrative judges and the

need to find solutions. This matter happened in France, and it will certainly happen in Arab countries despite the newness of the Constitutional Court in our Arab world.
The administrative judge belongs to the legal world, while the parliament and the shura belong to the political world. Hence, he does not want to take part in the world of politics because he feels that reviewing laws drives him into politics. However, we must not forget the role of the Administrative Court or the Shura Council as an advisory body to laws and, consequently, as a participant in setting laws. As Professor Henrion de Bancy says: The administrative judge participates in the administrative judgment because he judges the laws through their application, and this means that he participates in the legislative work.
Despite everything, and in the end, the Constitutional Council remains the only judicial authority capable of exercising oversight over laws, and adherence to this rule is the most faithful to the letter of the constitution and this conviction helps impose respect for the hierarchy of legal rules.

2. The increasing importance of administrative judge and require cooperation

When a constitutional judge decides the compatibility between law and the constitution, he does so basely on a strict interpretation of the constitution. Under the law-blocker rule, the administrative judge does not have the right to discuss the constitutionality of a law. Rather, he must apply the administrative decision that is consistent with the law, even if this law is unconstitutional in order not to exceed his limits and enter the court of the constitutional judge.
We have seen that the judicial decision issued by the Constitutional Council is binding on the administrative judge. But the strength of this res judicata effect does not include everything issued by the Constitutional Council. Yes, there is the power of the res judicata effect being explained, therefore, the difference of views in interpretation between the administrative and constitutional judge is still present, even if it is rare. An example, from French jurisprudence about the tacit rejection resulting from the silence of the administration. According to a constitutional judicial decision issued in June 1960, the administration silence that leads to an implicit rejection is a general legal principle. However, the Shura Council reaffirms, in a decision issued on February 217, 1970, the "municipality of Bozas" that the refusal decision resulting from the silence of the administration is not a general legal principle. Then the French legislator followed the path of consultation when issuing the law of April 12, 2000, considering that the silence of the administration does not always lead to an implicit rejection, but the silence of the administration can sometimes lead to a decision to accept. This means that the influence of the administrative judge on the legislator was stronger than the influence of the constitutional judge.
Finally, on the issue of treaties, the administrative judge is the guardian of the constitution because he rejects the acts of the treaty if it violates the constitution. Today, the administrative judge gives priority to the treaty over the domestic laws until the subsequent. However, since the treaties stipulate general philosophical principles amenable to several interpretations, the opportunities for disagreement and conflict between the constitutional judge and the administrative judge will be abundant in the future. The Arab states (Jordan, Lebanon, Egypt ...) have concluded hundreds of treaties, and their unconstitutionality has not generally been challenged so far in respect of international obligations. But certainly, upon implementation, the matter will differ, and again the differences between the administrative judge and the constitutional judge will appear.
Undoubtedly, the possibility of raising the issue of unconstitutionality in Jordan increases the importance of the administrative judge (the Jordanian for example) as a judge who interferes in the constitutional space. The French constitution notes in Article (39) an important role for the Consultative Council in the field of draft laws, studying them, and its role in constitutional amendments.
The French Constitutional Council recognized the role of the administrative judiciary and its authority to consider state decisions and its independence, in two decisions issued on July 22, 1980, and January 22, 1987, and in a decision issued on July 28, 1989, where it refused to grant the judicial judge the authority to consider the decisions of the governors related to deportation.Judge Bernard Stern's position, who pointed out that "administrative law has been covered up and that constitutional law has been" administered "(indicating that it has become administrative).
We also see that the administrative judge played a role in constructing a large number of established principles: In old decisions, government commissioners were building new concepts and thus supporting the role of the administrative judge in extracting constitutional principles derived from the republican tradition: Tradition républicaine: for example the French decision of Heyriès of 1918 The one who established the theory of exceptional circumstances is the one who established Article 16 of the French Constitution, which granted exceptional powers to the President of the Republic, as well as many decisions issued by the Constitutional Council that nullified laws that did not take into account the theory of exceptional circumstances.
On the other hand, the influence of constitutional councils on administration administrative judiciary is evident by defining these constitutions for administrative frameworks or administrative frameworks: from administrative divisions (creating new governorates) to patterns of appointing administrative councils, passing through the powers of regional councils (municipalities).

Constitutions devote important space to the regulatory authority and its decisions and regulate the rules for signatures (signature of the Prime Minister and the competent ministers, etc.). It is the constitutional jurisprudence that set the boundaries between centralization and decentralization.More and more, there is also a meaningful dialogue between the constitutional councils and the administrative courts, and this matter contributes to strengthening the unity of public law.Many were afraid of the issue of inconsistency between the administrative and constitutional courts because these two institutions have to face the same issues, such as defining the fields of law, regulations, and electoral work or applying and interpreting the constitution's rules and preamble principles. Soon, the concerns expressed by more than one party dissipated and gave the opportunity to a harmonious agreement between the constitutional judge and the administrative judge, far from competing. Despite the distinction between constitutional law and administrative law, the Constitutional Council and the administrative courts are working together to lay down the same rules on at least two main issues, namely, on the one hand, the protection of fundamental rights and human rights, and on the other hand, laying the foundations for coordination between the various constitutional courts in the Arab world.

Conclusion

From the aforementioned, we conclude the significance of the independence of the judiciary. As the state of the law does not exist except when it has an independent judiciary. We notice this from the tremendous authority both the administrative judge and the constitutional judge exercises if they tend to enforce their review over the state's actions.We mentioned previously the primary constitutional issue or the issue of unconstitutionality, as a procedural mechanism that allows the administrative judge to intervene in the control of laws, even partially. He is the one who will draw the attention of the Constitutional Council to a defect in the law.

The same is said regarding the constitutional judge, if he tends to review the legislative authority, he must have complete independence. Therefore, even in France, the democratic state par excellence, there are projects to amend the law establishing the French Constitutional Council on the agenda today because many consider it completely independent, and among these is the former President of the French Republic, Francois Hollande.

Recommendations

- Activating laws related to the independence of the judiciary and new texts should be issued to strengthen this independence.
- Issuing legislative texts that reinforce the authority of the judge in accepting the plea of unconstitutionality, as if the multiplicity of cases where acceptance of plea is binding on the civil and administrative judiciary, and by extension the constitutional judiciary.
- Conducting more specialized studies to demonstrate the influence of the ordinary judge on the constitutional judge. The constitutional judge is closer to authority than the ordinary judge. The most important legal principles that protect the rights of individuals are the creation of the civil judge and the administrative judge. All that the constitutional judge has done is to seize these principles and sometimes considering them as his creation.

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