

Judicial & Administrative Oversight & Its Role in Protecting the Right to Education in Safe Schools

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Abstract

Control of the constitutionality of laws is the most important legal safeguard to protect the Constitution, thereby protecting the right to education in its security schools; therefore, censorship focuses on the rule that the legislature must respect the rights and freedoms enshrined in the Constitution. Such censorship guarantees the freedom of litigation, the right of defence and the openness of hearings. The judge's work here is to comply with the legal text of the Constitution. Saving the right to education and making schools safe for students is done through a variety of judicial mechanisms and administrative control, which are essential means of protecting and guaranteeing individuals' enjoyment of the right, and for the realization of the characteristics and characteristics of this right, as provided for in national constitutions and domestic laws.

Keywords: *Judicial Oversight, Administrative Oversight, Right to Education, Safe Schools.*

1. Introduction

Stipulating the right to education in safe schools in the Constitution does not constitute an adequate guarantee of this right without the existence of an authority to protect this right by censoring a breach of this right by the legislature or by countering any infringement by the executive or others; Judicial oversight is the real guarantee for individuals, whereby they can resort to an independent authority with the power to revoke, modify or compensate for actions taken by public authorities that are contrary to legal rules (Khamis, 2011, p. 623). This study highlights the importance of highlighting the role of judicial and administrative oversight in providing them with safe schools by demonstrating the protection provided by students and those responsible for the educational and educational process. It also aims to identify deficiencies in educational laws in protecting the right to education in safe schools and to highlight the role of judicial and administrative oversight in providing such protection.

The problem of basic study is identified in the role of judicial and administrative oversight in providing safe schools for students. The problem of study aims to determine whether the applicable educational laws and constitutions have provided adequate protection to students and those responsible for the educational process.

In addition, the report seeks to assess whether judicial and administrative oversight ensured adequate protection for students and those responsible for the educational process. The curriculum adopted in this study is the analytical legal research curriculum,

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which includes the description and analysis of the legal provisions of the 2005 Constitution of the Republic of Iraq and the laws on education in force. In addition, the study used a comparative approach between the Constitution of the Republic of Iraq and the Emirati Constitution and the Qatari Constitution, as well as the educational laws of each State.

The research will be divided into two sections. In the first, we will examine the role of judicial oversight in protecting the right to education in safe schools. In the second, we will examine the role of administrative oversight in protecting the right to education in safe schools.

2. Role of Judicial Oversight in Protecting the Right to Education in Safe Schools.

The right to education, guaranteed constitutionally by the Iraqi Constitutional Law of 2005, and its importance as a basis for the advancement of society in the State, is enshrined in article (34) of the Constitution of the Republic of Iraq of 2005, which stipulates that "Education is a fundamental factor for the advancement of society and A right guaranteed by the State, free education for all Iraqis. Third, The State encourages scientific research for peaceful purposes for the benefit of humanity and fosters excellence and creativity. Fourth, Private and community education is guaranteed and regulated by law ".

In comparing the Iraqi legislature with comparative countries, the subject of our study, namely the UAE legislature, the amended Constitution of the United Arab Emirates of 1971 stipulates that "Education is a fundamental factor for social progress. It is compulsory at the primary level and free of charge at all levels within the Federation. The Act sets out plans for the dissemination and dissemination of education at different levels and the elimination of illiteracy. It provides for the establishment of private schools by individuals and bodies in accordance with the provisions of the law, subject to the supervision and guidance of the competent public authorities." Article 17-18 of the amended Constitution of the United Arab Emirates of 1971.

With regard to the State of Qatar, the topic of ensuring the promotion and protection of human rights, including the right to education, is a strategic option for the State of Qatar. It constitutes the backbone of the State's comprehensive reform policy. The Qatari Constitution guarantees the right to education. (25) of the Qatari Constitution of 2004 that education is a fundamental pillar of society's progress guaranteed by the State. The Qatari Constitution stipulates that the Constitution is one of the fundamental pillars of society's progress guaranteed by the State and sponsored and seeks to disseminate and disseminate it (Article 25 of the 2004 Constitution of the State of Qatar). It has stated that education is the right of every citizen, and the State seeks to compel public education in accordance with the State's regulations and laws (article (49) of the Constitution of the State of Qatar of 2004).

Stipulating the right to education in safe schools in the Constitution does not constitute an adequate guarantee of this right without the existence of an authority to protect this right by censoring a breach of this right by the legislature or by countering any infringement by the executive or others; Judicial supervision is the real guarantee for individuals, by virtue of which they can resort to an independent entity with the power to revoke, modify or compensate for actions taken by public authorities that violate legal rules. The immunity and independence of the judiciary can ensure that governors are subject to the provisions of the law. In the event that the judiciary loses its independence, judicial control loses its meaning and the principle of the State's submission to the law becomes non-existent (Khamis, 2011, p. 623). The role of the judiciary at the outset was limited to the consideration of violations of individuals' rights by the executive branch

(right to education), without the possibility of considering the constitutionality of the law because the rule of law was the origin and Parliament is the supreme body that determines rights because it is the power emanating from the people. However, this has led to abuses by the legislature at the expense of human rights and freedoms (Shoaib, 2010, p. 486).

These constitutions differ between them on the granting of competence for such oversight. One of the constitutions gives this jurisdiction to a Supreme Court as well as its other jurisdictions. Others assign this competence to a specialized constitutional court. This is what most constitutions declare (Abdulwahab, 2007, p. 143). The control of annulment may precede the promulgation of the law, where the law is required to be brought before a judicial body prior to its promulgation, and the control of annulment may be subsequent to the promulgation of the law, thereby having a therapeutic rather than preventive character; all types of judicial supervision through the judiciary, including supervision by means of the original proceedings and the control of annulment, contribute to addressing the provisions of educational and educational laws and regulations that are contrary to the provisions of the country's Constitution and laws.

One application of judicial control over the protection of the right to education in safe schools is what the Federal Supreme Court of Iraq went to in one of its decisions where the court went on to interpret (Discipline) referred to in article (41/1) of the Penal Code in force, which stipulates that: "No offence shall be committed if the act takes place in the use of a right established by law and is regarded as the use of the right to discipline the husband of his wife and to discipline parents and teachers, including minor children, within the limits of what is prescribed by law, law or custom". Not in any way devoted to the concept of violence, but rather to a process of reform and evaluation restricted by the text in question to the limits established by law, legislation and custom, if it exceeds these limits, it involves an act criminalized by penal laws, including the Penal Code. The aim of this process is in conformity with the principles set out in the constitutional articles for the protection of the family and the protection and care of underage students (Federal Court Decision No. 202 of 2021).

In the comparative States in the United Arab Emirates, judicial oversight through original proceedings or revocation control is an offensive way of challenging the text that is directly incompatible with the Constitution before the competent judicial authority. The censorship in this photograph is done by filing a case before a particular court determined by the Constitution and is usually the highest court in the judicial peace of the State. In view of the gravity of the procedure for annulment and its potential for repeal of laws, some constitutions restricted the right to sue only public authorities without individuals; this is what the United Arab Emirates has adopted in accordance with the provisions of article 99 of its Constitution. It is called "originality" because it is already filed without any dependence on an objective claim. The above article explicitly states: "The Supreme Federal Court shall be competent to adjudicate on the constitutionality of federal laws, if challenged by one or more emirates for violating the Constitution of the Federation, and to examine the constitutionality of legislation issued by one of the emirates if challenged by a federal authority for violating the Constitution of the Federation or federal laws." (AL-Tanigi, 2022, p.177).

In Qatar, Chapter V of the Permanent Constitution is devoted to the judiciary. Article 140 of the Constitution stipulates that: "The law shall designate the judicial authority competent to adjudicate disputes concerning the constitutionality of laws and regulations and shall specify their validity, how to appeal and the procedures before them. The law shall also specify the effects of the provision of unconstitutionality." Indeed, on 18 June 2008, the Emir of Qatar promulgated Law No. 12 of 2008, establishing the Supreme Constitutional Court, which is an independent, non-budgetary judicial body based in Doha, article 12 of the Chapter of Competencies and Procedures states that the Court has exclusive jurisdiction over disputes relating to the constitutionality of laws and regulations (Al-Maskari, 2011, p. 41-42). These bodies have been one of the most

important means of achieving justice and public freedoms and ensuring that the right to education in schools is not compromised and can, under their competence, deter the legislature from using its power to enact laws. These laws and regulations do not derogate from the provisions of the Constitution, bring them into conformity with the supreme constitutional principles and achieve the principle of legality in order to ensure that the State authorities abide by its provisions when promulgating laws and legislation; oversight of the constitutionality of laws is crucial to the realization of the rule of law and institutions and guarantees justice, freedom and equality to all students, institutions and authorities in general.

Censorship by invoking unconstitutionality (omission control) This type of censorship is carried out after the promulgation of the law and by which the payment is exercised, not the prosecution, and in case of dispute is before the courts law ", a litigant shall pay after the constitutionality of the law to be applied and the judge shall examine its constitutionality and, if he ascertains that it is unconstitutional, shall refrain from its application and shall remain in force and shall not be abrogated (Boudyar, 2013, 110). As to the authority to rule that a law is unconstitutional, it is relative to any effect on the parties to the dispute. and thus another court may apply the unconstitutional law in respect of which it is prohibited from applying as long as it has not been invoked as unconstitutional by one of the parties to the dispute and may be applied by the same court which has prevented its application in another case because the ruling of unconstitutionality is not binding on the rest of the courts unless it is rendered by the Federal Supreme Court.

In the United Arab Emirates, a subsidiary motion is made on the occasion of the hearing of a particular case before any of the country's courts. If one of the parties to the dispute considers that the text of the law or regulation to be applied by the court to be unconstitutional, the same court hearing the dispute shall claim unconstitutionality of the text of the law or regulation to be applied to the dispute. It sets a time limit for litigants to sue before the Federal Supreme Court. If the litigation was not filed on this date, the litigation was deemed not to be (Athoua, 2021, p. 85-86).

Censorship is the real and effective guarantee of the principle of legality: the conduct of the public authority is subject to judicial control until the State of law system is complete on the one hand, and reinforces the principles underlying it. Schools and students must have an effective weapon to prevent the arbitrariness of the administration or its further arbitrariness after its occurrence. Therefore, the administration's supervision of the judiciary is the most important pillar of the building of the rule of law, Judicial oversight of educational institutions is one of the most important and guaranteed forms of censorship of individual rights and freedoms because of their independence and impartiality and the strength and authority of the judiciary's decisions, which they are committed to implementing and respecting, including administration, and which does not expose the violator to accountability.

3. Administrative Oversight and Its Role in Protecting the Right to Education in Safe Schools.

Administrative oversight is known to be the control under which the Department monitors itself. Therefore, it helps the Department to meet the reasons for the shortcomings in its work and activity both in the face of its employees and in the face of the individuals dealing with them (Al-Ani, 2015, p. 76). Administrative oversight is carried out by the department and on its own initiative by means of ad hoc devices and means. This is the control carried out by the department when examining its work and reviewing it first without interference from anyone or the existence of a request. It is self-moving and automatic control without the administrative authority.

The importance of self-supervision in the provision of the right to education in security schools is demonstrated by the fact that this type of control is one of the most important functions and tools carried out by the competent authorities through its methods and procedures used to follow up the work and not deviate from the pre-established objectives and assess the achievements and accountability of wrongdoers when the main objective for which education in its various institutions arises will be emphasized and the supervision will often be understood only as a response to administrative errors Administrative supervision or oversight of official or state educational institutions such as the Ministry of Education (Al-Hariri, 2003, p. 6).

The importance of oversight and its role in achieving security in schools in that such oversight helps to improve performance is one of the main and lasting objectives of educational institutions and their advancement. Educational and educational processes often require adjustments or improvements in order to increase the flow and continuity of work (Abdul Rahman, 2020, p. 86). The school administration is a means of achieving a number of educational objectives related to administrative and educational aspects and its importance derives from the important role it plays in creating an environment that helps to achieve its objectives and assists its employees to perform their functions and functions. s role, regardless of the administrative, educational and educational possibilities available and the degree of high performance levels and rates (Issa, 2018, p. 5).

In order for the school administration to succeed in restricting the effectiveness of its administrative control in protecting the right to education in security schools, it is necessary to work, detect and correct deviations, and to promote closer relations within the school between administrators, teachers and students, and to strengthen the relationship between the school and the society it serves by participating in its interests in the school's work. The school administration plays an important role in building the student's personality. In this context, the modern school performs an important message that is reflected in the work of raising the child and forming his or her personality in an integrated manner from various aspects of the child's mental, moral, psychological, social and physical personality (Shawabaqat, 2021, p. 22). It is therefore clear that school management is not an end in itself but a means of achieving the educational process's objectives. The Department aims to organize the school on a basis that enables it to achieve its mission and is based on scientific bases, norms and origins that guide the work of the school (Abdul Gavar, 2013, p. 15). A means of administrative control is also the inspection and management reports that explain the performance mechanism of employees, evaluate their performance and conduct of business, are based on several forms of periodic reports, are directed at senior management and are annually, monthly or weekly, or are aimed at identifying employees' achievements, these include workflow reports, screening and daily measurement of workers' efficiency and effectiveness, special reports that complement the overall oversight process, and reports recommending a task or problem solution (Abdul Rahman, 2020, pp. 33-34).

Administrative oversight is an urgent need to provide the right to education in secure schools in that the administrative control of schools seeks to provide comprehensive information on education standards, which will help support the planning of school-level development and the development of appropriate educational policies (Al-Kaddoumi, 2015, 73). Annual school controls include meetings with parents and talk groups, as well as questionnaires targeting teachers, parents and students. The school watchdog also provides oversight services that provide a comprehensive and reliable assessment of educational standards and each school's performance.

In the comparative countries under study, administrative oversight in the UAE through the Emirates Foundation for School Education - Public Schools, the Emirates Institution for School Education was established in accordance with independent powers, by Federal Decree Law No. 15 of 2016. The Foundation works to develop and improve

the quality of all government schools in the country, provide an educational environment for students, based on motivation, innovation, knowledge and skills, establish, manage, operate and close public schools, in addition to training teaching staff and school leaders and achieving the national education agenda. The Foundation has a number of responsibilities, including the functions and responsibilities of all school principals and educational staff in all public schools in the country, the quality of life and care of public school students and the services of their parents. Administering school examinations in government schools and their results, and other operational matters associated with government schools such as uniforms, securing textbooks, transportation, etc. The Authority also develops standards and regulations and issues licenses, activates oversight of public and private nurseries in the country in coordination with the competent local authorities, and works with parents and the community to strengthen their role in early childhood (Decree-Law No. 15 of 2016). In the State of Qatar, the administrative control of Qatar is not different, as in the UAE, where the Ministry of Education develops all the strategies, curricula and support needed for all parts of the educational system with international standards and quality, education system and teachers' licensing, providing curricula to different groups with special needs and gifts.

4. Conclusion

First: Results:

Stipulating the right to education in security schools in the Constitution and laws does not constitute an adequate guarantee of this right without the existence of an authority responsible for protecting this right by censoring the breach of this right by the legislature or by countering it against the executive or other authorities; Judicial control is the real guarantee for individuals, whereby they can resort to an independent authority with the power to revoke, modify or compensate for actions taken by public authorities that are contrary to legal rules. In addition to administrative control and its role in providing security schools by identifying objectives, plans and studies based on individuals' performance, They also include inspection, periodic reports, workflow reports, examination and reports recommending a task or solving a problem.

Second: Recommendations:

We recommend to the Constitutional Legislature the importance of operationalizing the legal provisions on the regulation of judicial and administrative oversight of educational institutions by increasing oversight through the establishment of periodic committees of the school to organize their work, address issues affecting education and punish any failure to achieve the protection of the right to education in safe schools.

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