Natural Resources for Human Health
eISSN: 2583-1194

Original Research

Received 26 July 2026
Revised 25 Aug 2026
Accepted 09 Sep 2026

Natural Resources for Human Health 2026, Vol. 6 (21s): 216–226

KEYWORDS:
Jurisdiction, Head of the Administrative Unit, Regulatory Authority.

The Legal Framework of the Regulatory Authority of the Head of the Administrative Unit (A Comparative Study)

Reham Hatem Ajami, Prof. Dr. Zainab Karim Sawadi

Al-Qadisiyah University, College of Law, Iraq
Law.stp.24.17@qu.edu.iq

ABSTRACT: The head of the administrative unit (governor – district chief – subdistrict director) exercises many powers regulated by the Iraqi legislator and in comparative laws in several jurisdictions. Perhaps one of the most important of these powers, which he exercises within the framework of maintaining public order within the administrative unit, is the regulatory authority. This research revolves around the aspects of the regulatory authority of the head of the administrative unit, both under Iraqi and comparative law, by explaining how this authority is administratively organized and the extent of its exercise under normal and exceptional circumstances.

INTRODUCTION

First: The Idea of the Research

It is well known that the head of the administrative unit is the principal driver of administrative work within the administrative unit, being responsible for implementing laws, regulations and orders. He is the authority in the unit to which specific tasks have been entrusted under the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, among them the regulatory authority. It was therefore necessary to examine the authority that the law expressly vests in the head of the administrative unit (the governor, the district chief [qaimmaqam], and the subdistrict director), and hence our concern to research this topic. We shall accordingly focus our effort on clarifying that authority by analysing the legal texts in Iraqi and comparative legislation.

Second: The Importance of the Research

The importance of the research emerges from the practical reality embodied in the regulatory authority that the head of the administrative unit (the governor, the district chief, the subdistrict director) exercises as drawn up for him by law, and from the problems raised in applying the authority granted to him.

Third: The Research Problem

The problem of the topic lies in determining the effectiveness of the legal texts that regulate the regulatory authority of the head of the administrative unit in Iraqi and comparative legislation, and in identifying the aspects of legislative deficiency on the part of the Iraqi legislator.

Fourth: The Research Methodology

We shall rely on two methods, namely the analytical method and the comparative method, by treating the topic in Iraqi law and in comparative law (Egyptian and Lebanese), analysing the legal texts related to the topic in Iraqi and comparative law and reviewing the opinions of administrative jurisprudence and the rulings of the constitutional and administrative judiciary, so that we may identify the gaps that afflict those texts.

Fifth: The Structure of the Research

In light of the foregoing, the research will be addressed in two sections: in the first we define the regulatory authority of the head of the administrative unit, and then, in a second section, we address the legal regulation of the regulatory authority of the head of the administrative unit.

Definition of the Regulatory Authority of the Head of the Administrative Unit

In order to determine the meaning of the regulatory authority of the head of the administrative unit in the field of administrative law, we must pause to state its definition, because this contributes to grasping the subject of the research and brings out the concept that administrative law seeks to determine. We have therefore divided this section into two subsections: the first is devoted to the linguistic meaning of the regulatory authority of the head of the administrative unit, while the second is devoted to its technical (terminological) meaning, as follows:

Subsection One: The Linguistic Meaning of the Regulatory Authority of the Head of the Administrative Unit

The term (the regulatory authority of the head of the administrative unit) consists of several lexical items whose meanings merit study, so that we may obtain the full meaning of the term under research, accordingly:

The word *ikhtisas* (jurisdiction): from *khassa*: he singled him out for the thing (*khassahu bi-l-shay'*), *yakhussuhu khassan wa khususan wa khususiyyatan*, the form with *fatha* being the more eloquent; likewise *khasisa*, *khassasahu* and *ikhtassahu*: he set him apart with it to the exclusion of others. One says: so-and-so *ikhtassa* the matter or *takhassasa* for it, when he is alone in it; and he singled out another and favoured him with his kindness. One says: so-and-so is *makhsus* to so-and-so, that is, particular to him, and has a special connection (*khussiyya*) with him. It denotes the designation of the specialist to a rank in which he stands alone to the exclusion of others, as mentioned by al-Harali; and al-Raghib said that it is the standing apart of a part of a thing by what the whole shares with it. The *ikhtisas* of the attribute (*al-na'it*) is the particular relation by which one of two related things becomes an attribute of the other and the other becomes that which is described by it, the attribute residing in it and the described being its locus, like the relation between the colour white and the body, which entails that whiteness is an attribute of the body and the body is described by it, so that one says "a white body." As for *al-dabti*, it comes in the sense of mastering a thing and perfecting it.[1]

Ra'is (head): *ra'is al-qawm* is the elder of the people, the plural being *ru'asa'* and *riyasa'*. Ali said: in my view there is no ground at all for *riyasa'* unless the *hamza* in *ru'asa'* was replaced by a *waw* with a sound replacement (not on the pattern of *juwan*), then the *waw* was turned into a *ya'* for no reason other than seeking lightness, then the *damma* was turned into a *kasra* in place of the *ya'*.[2]

As for *al-wahda* (unit): *al-wahda* is isolation or being alone (*infirad*); *wahida yawhadu wahadatan wa wahdatan*, and *wahida* likewise;[3] *wuhdatan* and *hidatan*: he remained alone, like *tawahhada*. *Wahhadahu tawhidan*: he made him one, and this proceeds up to ten. A man may be *wahad* and *ahad* (both with vowelled middle letters), *wahid*, *wahid* and *mutawahhid*, meaning solitary; and she is *wahida*. *Awhadahu lil-a'da'*: he left him to the enemies — and God left him to himself, that is, he remained alone; and he made so-and-so the unique one of his age; and the ewe gave birth to a single one, being *muhid*.[4] As for *idariyya* (administrative): it derives from the verb *adara*, which means to take charge of a matter or to direct it.[5]

We conclude from this that the linguistic meaning of the regulatory authority of the head of the administrative unit corresponds to the meaning that the legislator intended in determining the regulatory authority of the head of the administrative unit.

[1]Abu al-Hasan Ali ibn Muhammad al-Sharif al-Jurjani, *al-Ta'rifat* (Definitions), Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2024, p. 42; al-Sayyid Muhammad Murtada ibn Muhammad al-Husayni al-Zabidi, *Taj al-'Arus min Jawahir al-Qamus*, vol. 1, Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2011, p. 367.

[2]Abu al-Hasan Ali ibn Isma'il Ibn Sida, *al-Mukhassas*, vol. 1, Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2008, p. 188.

[3]al-Sahib ibn 'Abbad al-Taliqani, *al-Muhit fi al-Lugha*, vol. 1, Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2010, p. 244.

[4]Majd al-Din Muhammad ibn Ya'qub al-Fayruzabadi, *al-Qamus al-Muhit*, vol. 1, 1st ed., Dar al-Ghad al-Jadid, Egypt, 2014, p. 328.

[5]Abu al-Fadl Jamal al-Din Muhammad ibn Mukarram ibn Manzur, *Lisan al-'Arab*, vol. 5, Dar Sadir, Beirut, Lebanon, 2021, p. 567.

Natural Resources for Human Health
eISSN: 2583-1194

Subsection Two: The Technical (Terminological) Meaning of the Regulatory Authority of the Head of the Administrative Unit

For the purpose of studying the technical meaning of the regulatory authority of the head of the administrative unit, it is appropriate to state it in the fields of legislation, the judiciary and jurisprudence, so that we may identify the true content of this term. It will be addressed in three paragraphs:

First: In the Field of Legislation

It must first be noted that Iraqi and comparative legislation have not provided us with a definition of the term "regulatory authority of the head of the administrative unit." However, within the scope of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, the legislator clarified what is meant by "head of the administrative unit," in Article (1), stating: (Head of the administrative unit: the governor – the district chief [qaimmaqam] – the subdistrict director). Iraqi law has thus identified the categories of head of the administrative unit without clarifying its concept in a broad manner. The Egyptian law did not proceed in this direction: it adopted a five-tier division of administrative units (governorate, *markaz*, city, district, village),[6] and defined the administrative unit, stating: (The units of local administration are the governorates, *markazes*, cities, districts and villages).[7] The Lebanese legislator followed a two-tier division of administrative units (governorate, *qada'* [district]),[8] departing from the path of the Iraqi legislator in that respect.

Accordingly, the Iraqi legislator defined the governor by saying: (The governor ... is the highest executive official in his administrative unit and on its staff, and is subject to the provisions of the Civil Service Law as regards the job and its rights, insofar as this does not conflict with this law).[9]

As for the district chief and the subdistrict director, the Iraqi legislator clarified them in Article (39/first) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended: (First: The district chief and the subdistrict director are the highest executive official in their administrative unit, who is elected in accordance with what is stated in Item (3) of Articles (8) and (12) of this law).[10] What we understand from the preceding text is that the Iraqi legislator did not set a definition of the district chief and the subdistrict director, but rather sketched a general concept of them, regarding the district chief and the subdistrict director as the highest official in the administrative unit, given the importance of this post, which is equivalent to the post of governor; the law set conditions for candidacy to this post, among them the necessity that the candidate hold a university degree or its equivalent, in order to ensure the availability of the necessary qualifications.[11]

Second: In the Field of the Judiciary

The Iraqi administrative judiciary has not referred to a definition of the regulatory authority of the head of the administrative unit,[12] because setting specific definitions for such cases is not within the jurisdiction of the judiciary. Nevertheless, we find that the Iraqi State Council has set out a definition of jurisdictions (*ikhtisasat*), distinguishing them from powers (*salahiyyat*), as

[6]Article (1) of the Egyptian Local Administration System Law No. (43) of 1979. We note that the French legislator did not define the prefect (governor); rather, it changed his title to Commissioner of the Republic at the governorate level, introduced changes in favour of local councils, and reduced central interference by curtailing the powers of the central authority's representatives in the regions and governorates. Before 1982, prefects stood at the head of the administrative apparatus in the governorates, administrative units were then confined to governorates and municipalities only, and the prefect held wide powers in the governorate because he represented the central authority there. This situation changed after the issuance of Decree No. (389) of 10 May 1982. See: Dr. Usama 'Uthman, *al-Mawsu'a al-Qada'iyya fi Amlak al-Dawla al-'Amma fi Daw' al-Qada' wa al-Fiqh* (The Judicial Encyclopaedia of Public State Property in Light of Case Law and Jurisprudence), Mansha'at al-Ma'arif, Alexandria, Egypt, 2004, p. 37.

[7]The first part of Article (1) of the Egyptian Local Administration System Law No. (43) of 1979.

[8]Article (1) of the Lebanese Administrative Organization Law No. (116) of 1959.

[9]Article (23) of the Governorates Not Incorporated into a Region Law No. (21) of 2008.

[10]Article (39/first) of the Governorates Not Incorporated into a Region Law No. (21) of 2008.

[11]Article (5) of the Governorates Not Incorporated into a Region Law No. (21) of 2008.

[12]We find that the constitutional judiciary in Iraq has considered the governorate to be one of the components of the federal system, and the governorate is therefore an administrative unit. Federal Supreme Court decision Nos. 89, 91, 92 and 93/Federal/2017, dated 20/11/2017, unpublished.

its opinion states: (Jurisdiction is the legal rules that determine the capacity of particular persons and bodies to exercise the authorities granted to them in accordance with the law, whereas powers are the actual exercise of these authorities, which appears through the issuance of administrative orders, decisions and instructions in conformity with the objectives of the bodies granted these jurisdictions in accordance with considerations of the public interest; and since jurisdictions in this sense are broader and more comprehensive than powers, because jurisdiction includes the power to exercise the authority granted by law).[13]

Here we should disclose why the term (jurisdictions) is used in place of the term (powers) that appears in Article (122/second) of the Constitution of the Republic of Iraq of 2005, which provides: (Governorates not organized in a region shall be granted broad administrative and financial powers ...).[14] We find that the term (jurisdictions) accords with the essence of what the Constitution granted when it said (broad administrative and financial), for an unrestricted grant ("broad") is not consistent with the term (powers).[15]

In addition, some judicial rulings and decisions contain several references to the jurisdictions of the head of the administrative unit, relying on the legal articles to which we referred earlier. Among such rulings, by way of example, is the legal principle of the Iraqi State Council: (The governor is considered the competent minister for the subsidiary departments in the governorate).[16]

As for comparative rulings and decisions, we found no judicial approach defining the regulatory authority of the head of the administrative unit, neither in the Egyptian judiciary nor in the Lebanese judiciary.

Third: In the Field of Jurisprudence

Jurisprudence, including administrative-law jurisprudence, is a field for providing definitions and clarifying legal concepts. It is noticeable, however, that there is a jurisprudential deficiency in providing a clear and precise definition of the regulatory authority of the head of the administrative unit, in national and comparative jurisprudence alike. It is worth mentioning, though, that jurisprudence has undertaken to clarify what is meant by the administrative unit itself. One trend in administrative jurisprudence, the classical trend, defined the administrative unit as: (one of the persons of public law, extending to certain territorial limits which it does not exceed).[17] Another trend, the modern one, holds that what is meant by the administrative unit is: (a defined geographic area inhabited by a group of people to whom legal personality is granted under legislation).[18] Jurisdiction, for its part, is defined as: (the competence and capacity to undertake administrative acts in the manner recognised by law, where the jurisdiction of each administrative member is determined by legal texts and regulations, and that defined jurisdiction therefore may not be exceeded; otherwise the legal act issued by that employee is considered void and liable to annulment before the administrative judiciary).[19]

In light of the foregoing, the regulatory authority of the head of the administrative unit may be defined as: (that jurisdiction which is granted to the person responsible for managing and following up a specific administrative unit within the organizational structure of a governmental body, and for meeting the essential needs that fall within the scope of his jurisdiction).

The Legal Regulation of the Regulatory Authority of the Head of the Administrative Unit

To clarify this, we shall divide this section into two subsections. In the first we address the legal regulation of the regulatory authority of the head of the administrative unit in Iraqi legislation, and in the second we address it in comparative legislation.

---

[13]See State Council decision No. 6/2020, dated 21/1/2020, unpublished.

[14]Text of Article (122/second) of the Constitution of the Republic of Iraq of 2005.

[15]On this opinion see: Dr. Ghazi Faisal Mahdi, *Maqalat fi Majal al-Qanunayn al-'Amm wa al-Khass* (Articles in the Field of Public and Private Law), part 3, 1st ed., Dar al-Masla, Baghdad, Iraq, 2022, p. 174.

[16]Iraqi State Council decision No. 89/2022, dated 4/10/2022, unpublished.

[17]Dr. Muhammad Zuhayr Jarana, *Mabadi' al-Qanun al-Idari al-Misri* (Principles of Egyptian Administrative Law), Maktabat 'Abdullah Wahba, Cairo, Egypt, 1944, p. 26.

[18]Ja'far Qahtan 'Abd al-Karim, "Jurisdiction of Local Units (An Analytical Study)," research published in the *Journal of the Iraqi University*, issued by the College of Law and Political Science, Iraqi University, Baghdad, vol. 71, no. 2, 2024, p. 45.

[19]Dr. Najib Khalaf Ahmad al-Jubouri, *al-Qanun al-Idari* (Administrative Law), 1st ed., Dar al-Masla for Printing, Publishing and Distribution, Baghdad, 2022, p. 269.

Subsection One: The Regulatory Authority of the Head of the Administrative Unit in Iraqi Legislation

As regards the regulatory authority granted to the head of the administrative unit, it is an authority that extends from the functional jurisdiction. Administrative policing is a necessary and neutral function of the functions of the public authority, which aims at safeguarding public order in society by coercive means under the law. The function of administrative policing is a social necessity: a society characterised by organisation cannot exist unless there is policing.[20] The function of policing aims to protect public order and at the same time regulates the use of public freedoms so that they are not abused. On this basis, administrative policing is subject to the rule of law, meaning that administrative policing operates under the umbrella of the law, and within this framework it relies, in implementing laws and preserving public order, on the means of the public authority.[21] We believe that this is what justifies granting heads of administrative units regulatory jurisdictions: on the one hand, they implement the law in the local administrations and are responsible for order and security therein, and on the other hand, they represent the public authority within the governorate. We therefore do not exaggerate if we say that heads of administrative units are the holders of the supreme regulatory authorities in the administrative unit.

We find that the Iraqi legislator has granted heads of administrative units regulatory jurisdictions in several respects. Among them, the governor may order an investigation to be conducted in accordance with the law, which is a criminal regulatory jurisdiction[22] granted to the governor by law; he may also order the security agencies to preserve security and public order within the governorate.[23] The district chief has likewise been granted regulatory jurisdictions that do not differ from those granted to the governor, namely the criminal regulatory jurisdiction relating to ordering the police to conduct an investigation and refer the matter to the investigating judge, as well as preserving security and public order and protecting the rights, lives and property of citizens; he may also order the temporary formation of police posts and detachments in the district in order to preserve security if necessity requires.[24] The subdistrict director has the same regulatory jurisdictions with regard to the criminal regulatory jurisdiction and the ordinary regulatory jurisdiction, in order to protect public security and public order within the subdistrict.[25]

On this basis, **the question arises:** is it within the power of the district chief and the subdistrict director to exercise the authority of a misdemeanour judge in order to impose the penalties stipulated in the Wild Animals Protection Law? We find that the Federal Supreme Court has held Article (10) of the Wild Animals Protection Law No. (17) of 2010 unconstitutional; that article provides: (The district chief and the subdistrict director shall be granted the authority of a misdemeanour judge to impose the penalties stipulated in this law). The decision of the Federal Supreme Court states: (The district chief and the subdistrict director have no right to exercise the judicial jurisdictions that are the preserve of the courts; therefore the provision in the Wild Animals Protection Law granting them the authority of a misdemeanour judge is suspended, for its unconstitutionality and its contravention of Article (87) of the Constitution).[26] We do not agree with what the decision of the Federal Supreme Court

[20]Dr. Jasim Kazim Kabbash and Dr. Hussein Talal Mal Allah, *Sultat al-Dabt al-Idari fi al-Muhafaza 'ala al-Dhawq al-'Amm* (The Authority of Administrative Policing in Preserving Public Taste), Dar al-Kitab for Printing, Publishing and Distribution, Baghdad, Iraq, 2021, p. 20.

[21]Dr. 'Abd al-Ra'uf Hashim Basyuni, *Nazariyyat al-Dabt al-Idari fi al-Nuzum al-Wad'iyya al-Mu'asira wa al-Shari'a al-Islamiyya* (The Theory of Administrative Policing in Contemporary Positive Legal Systems and Islamic Sharia), 1st ed., Dar al-Fikr al-Jami'i, Alexandria, Egypt, 2008, pp. 27–30.

[22]Criminal regulatory authority means the penal function granted to officials, including heads of administrative units. It takes two forms. The first is granting administrative bodies the ability to detain and to take criminal measures against offending individuals; the second is the administrative bodies' requesting the police to carry out criminal procedures to protect public security and refer the papers to the investigating judge. Since the first form contravenes the Constitution, because this task is performed by the judiciary and the criminal justice agencies alone, it was abolished from the Iraqi legal system; the second form still exists and lies at the core of the jurisdiction of heads of administrative units, as stated in the Governorates Not Incorporated into a Region Law of 2008, as amended. See: Dr. Akram Karim Khudayr, *al-Maslaha al-Mu'tabara fi Jara'im al-Mukhalafat (Dirasa Falsafiyya fi Gha'iyyat Jara'im al-Mukhalafat)* (The Recognised Interest in Contravention Offences: A Philosophical Study of the Purpose of Contravention Offences), 1st ed., al-Markaz al-'Arabi for Publishing and Distribution, Cairo, Egypt, 2022, p. 93.

[23]See: Article (31) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended.

[24]See: Article (41) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended.

[25]See: Article (43) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended.

[26]Federal Supreme Court decision No. 4/Federal/2016, dated 18/2/2016, unpublished.

states. It would have been more appropriate to leave the imposition of the penalties stipulated in the Wild Animals Protection Law to the head of the administrative unit, because those offences are minor contraventions, and in order not to burden the judiciary with these matters, this matter should be given to the head of the administrative unit under the scope of the regulatory authority.

Two points arise regarding the policy of the Iraqi legislator in regulating the regulatory authority in the Governorates Not Incorporated into a Region Law, the first positive and the second negative. As for the positive aspect, it is to the Iraqi legislator's credit that it treated all heads of administrative units in Iraq equally with respect to the regulatory authority: it granted the governor, the district chief and the subdistrict director the same regulatory jurisdictions, proportionate to the nature of each one's work, and did not withhold this jurisdiction from any of them, out of the Iraqi legislator's recognition of the importance of the regulatory authority and its role in protecting society, as it represents rapid deterrent and preventive measures that deal with the matter immediately.

As for the (negative) criticisms of the Iraqi legislator's policy, it neglected the elements of public order and made administrative policing appear as though it were confined to public security alone, without addressing public health, public tranquility or public morals.[27] Consequently, such an important law, even though these matters appear in special laws, needs legislative intervention to remedy this deficiency, because this is the law concerned with determining the regulatory jurisdictions of heads of administrative units in Iraq. Iraqi administrative jurisprudence holds that the reason for the Iraqi legislator's omission of the remaining elements of public order that administrative policing aims to protect in this law is the exceptional circumstances the country was living through when the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, was enacted, in terms of the lack of security stability at various levels; public security was therefore the main element targeted in the legislative regulation in this law.[28] We therefore hope that the Iraqi legislator will remedy this deficiency by legislative intervention, by making the regulatory authorities granted to heads of administrative units address all elements of public order and not be limited to public security alone.

As regards the exercise of the regulatory authority in exceptional circumstances, we find that the Iraqi legislator adopted the theory of exceptional circumstances with respect to the regulatory authority of the head of the administrative unit. The Civil Defense Law No. (44) of 2013 was issued and granted the head of the administrative unit the authority of a misdemeanour judge in Article (24/first), which provides: (The President of the Supreme Judicial Council shall authorise the head of the administrative unit with the authority of a misdemeanour judge upon the declaration of a state of emergency or war or upon the occurrence of disasters, for the purposes of applying this law). The text mentions (the declaration of a state of emergency) or (war), as well as the term (disasters), which is a flexible term whose implications include natural and non-natural disasters. The Iraqi legislator thus took this matter into consideration and granted the head of the administrative unit the power to exercise the authority of a misdemeanour judge, after the President of the Supreme Judicial Council has authorised him, in the event of the occurrence of the dangers specified in the text.

The fundamental question here is: how did the heads of the administrative units act in the units that were occupied by the terrorist organization ISIS (Daesh)? And what role did they play during that period? Here they had no regulatory authorities in that situation; rather, the circumstances of the administrative units were managed by the military authorities, so the jurisdictions of the head of the administrative unit in the regulatory field were withheld, and the executive instruments in this field came to be run by the security institutions. In the field of health, it was under the supervision of the Ministry of Health. Thus the legal regulation of the regulatory authority in this field was in the hands of the ministries.

[27]The researcher finds, in the field of the regulatory authority of the head of the administrative unit, that the Iraqi legislator made the duty of the head of the administrative unit the preservation of public security only. It paid no attention to the element of public tranquility, the element of health security, or the element of public morals, in addition to the other elements represented by public decency, modesty, and preserving the splendour of cities by safeguarding public taste in them. This would disturb public security, since public security is merely one element of public order. For details on public taste see: Dr. Fakhri 'Abd al-Razzaq al-Hadithi, "Public Taste in the Criminal Sphere," research published in the *Journal of Legal Sciences*, issued by the College of Law, University of Baghdad, vol. 11, no. 4, 1996, p. 26 ff.

[28]Dr. Hanan Muhammad al-Qaysi, *al-Muhafizun fi al-'Iraq (Dirasa Tashri'iyya Muqarana)* (Governors in Iraq: A Comparative Legislative Study), 1st ed., Maktabat al-Ghufran, Baghdad, 2012, p. 86.

A question is also raised: how did the heads of administrative units act in the units that witnessed demonstrations? In answering this question, we draw on the text of Article (31/tenth) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, which provides: (Tenth: 1- The governor shall have the authority to command the local security agencies and the formations charged with the duties of protection and the preservation of security and order operating in the governorate, with the exception of army units and federal security formations. 2- If the governor considers that the agencies charged with preserving security and order are unable to accomplish their duties, he must immediately submit the matter to the Commander-in-Chief of the Armed Forces, indicating the amount of force sufficient to accomplish those duties. 3- The federal authority shall coordinate with the governor in advance when it carries out security tasks within the governorate); and Article (41/third-1), which provides: (Preserving security and order and protecting the rights, lives and property of citizens); and Article (43/second-1), which provides: (Preserving security and order within the limits of the subdistrict). In reviewing these texts, we say that the head of the administrative unit (the governor – the district chief – the subdistrict director) may exercise the regulatory authority in the case of demonstrations, with the aim of preserving public order in its elements (security, health, tranquility).

Subsection Two: The Regulatory Authority of the Head of the Administrative Unit in Comparative Legislation

With regard to comparative legislation, the Egyptian and the Lebanese, as to the legislative policy adopted by the Egyptian legislator in the Local Administration Law, its position was more effective than that of the Iraqi legislator. The Egyptian legislator did not confine the regulatory jurisdictions to public security alone, as the Iraqi legislator did, but expanded those jurisdictions considerably, expressly providing for the governor's jurisdiction to preserve security and public health by ensuring food security, and making him responsible for morals and values in the governorate.[29] The Egyptian legislator is to be commended for this approach, especially with regard to the new element of public order, namely public morals, which represents a serious challenge to the administrative policing bodies at present. Despite its seriousness, this element was not referred to by the Iraqi legislator, even though the means of administrative policing are more effective in swiftly confronting acts that violate public morals, especially those occurring on electronic platforms at present.

As for the position of the Lebanese legislator, we believe it was more serious than that of the Iraqi and Egyptian legislators in this regard, and this is evident from the legal texts that dealt with this subject, as the Lebanese Local Administration Law granted the head of the administrative unit the jurisdiction to protect public order in its various elements through multiple policing means. The Local Administration Law provided for the governor the jurisdiction to maintain order and security and to safeguard personal liberty and the inviolability of private property, and to take all measures required by the circumstances.[30] This law also indicated that the internal security forces are placed at the governor's disposal for use in performing the tasks entrusted to him under this law.[31] This is to the credit of the Lebanese legislator: it did not say that the security forces are placed at the governor's disposal to protect public security, but the flexibility of the phrase made the placing of these forces serve the protection of all elements of public order, namely public security, public health, public tranquility and public morals.

[29]Article (26) of the Egyptian Local Administration Law No. (43) of 1979 provides: (The governor is considered the representative of the executive authority in the governorate and supervises the implementation of the State's general policy and the service and production facilities within the governorate. He is responsible for ensuring food security and for raising the efficiency of agricultural and industrial production and advancing it, and he may take all measures that guarantee this within the limits of laws and regulations. He is also responsible for security, public morals and values in the governorate, assisted in this by the Director of Security within the policy laid down by the Minister of the Interior; the Director of Security must discuss with the governor the plans for preserving the security of the governorate for their approval, and is bound to notify him immediately of incidents of particular importance so that the necessary measures may be taken by agreement between them. The governor may take all measures that ensure the protection of the public and private property of the State and the removal of encroachments upon it by administrative means).

[30]Article (10) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The governor shall be responsible for maintaining order and security and safeguarding personal liberty and the inviolability of private property, and to that end he may request the security forces in the governorate to take all measures required by the circumstances).

[31]Article (11) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The internal security forces in the governorate shall be placed at the governor's disposal for use in performing the tasks entrusted to him under this legislative decree).

The Lebanese legislator also expressly referred to the governor's regulatory jurisdiction with respect to protecting public health,[32] and this is a commendable approach, especially in light of the outbreak of dangerous diseases such as the coronavirus pandemic and others; the existence of such direct jurisdictions represents legislative seriousness in protecting all elements of public order in society. The law also provided more clearly in the matter of health policing[33] that the governor must ensure the admission of indigent patients to government hospitals.[34] This law also granted the qaimmaqam the jurisdiction to follow up the health situation of the administrative unit in coordination with the district physician,[35] and, in the course of the Lebanese legislator's attention to health policing, it granted the qaimmaqam the power to impose health measures,[36] as well as to coordinate with the district's health departments.[37] The Lebanese legislator also did not neglect the regulatory jurisdiction relating to the protection of public tranquility, by granting the qaimmaqam the jurisdiction to preserve public tranquility, public health and public security with regard to the sheltering of beggars, orphans and the infirm.[38] The Lebanese legislator was not content with the texts contained in the Local Administration Law in regulating the policing authorities; it also set out a large arsenal of texts in the Lebanese Municipalities Law regulating policing authorities and the protection of public order in its various elements, in terms of suppressing begging, taking measures with respect to the insane, taking measures to protect public decency and morals, preserving public tranquility, comfort and safety, preventing fires and other accidents, preventing pollution, and the many other policing authorities directed at protecting all elements of public order in Lebanese society.[39]

To return to the beginning, we see that the Lebanese legislator was more serious than the Iraqi and Egyptian legislators in addressing the regulatory jurisdictions of heads of administrative units, in terms of distributing these jurisdictions among all heads of administrative units and using flexible legislative drafting in addressing the regulatory jurisdictions. This type of drafting suits policing authorities, since they require wide discretionary powers for the administration. Moreover, the Lebanese legislator addressed all forms of public order and did not limit itself to public security, as in Iraq, or treat the elements of public order narrowly, as is the case in Egyptian legislation. Among the positive matters that are also to the credit of the Lebanese legislator is that it addressed the subject of the regulatory jurisdiction of heads of administrative units through two basic enactments, namely the Local Administration Law and the Municipalities Law, which makes the treatment provided by the Lebanese legislator superior to that of the Iraqi and Egyptian legislators with regard to the regulatory jurisdictions of heads of

[32]Article (18) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The governor shall take all measures he deems necessary to apply the general sanitary rules stipulated by law. He shall license the establishment of classified premises of the first and second categories).

[33]Health policing is defined as measures aimed at protecting human health from the dangers of diseases and epidemics and limiting them, including preserving the potability of drinking water, providing a minimum level of air purity, and ensuring the safety of foods prepared for sale. See: Pencheon, David; Guest, Charles; Melzer, David; Gray, JA Muir. Oxford Handbook of Public Health Practice. Oxford University Press, 2001, pp. 5–9.

[34]Article (19) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The governor shall ensure the admission of indigent patients to the government hospitals in the governorate by orders he issues to the hospital director, in accordance with the capacities of these institutions; in areas where there is no government hospital or no specialised department for a particular disease or ailment, the governor may propose to the central authority that the patient be admitted to the nearest hospital or that a contract be made with a private hospital, pending the provision of general health facilities in the governorate).

[35]Article (34) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The qaimmaqam shall, in agreement with the district physician, determine the health work programme monthly, and the district physician must submit to the qaimmaqam, month by month, a report on the health situation in the area).

[36]Article (36) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The qaimmaqam shall impose the lawful health measures, provided that his decisions in this regard do not become enforceable except after approval by the Ministry of Public Health, which must decide the matter within one month in ordinary cases and ten days in urgent cases).

[37]Article (37) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (The qaimmaqam shall coordinate the work between the public health departments and the municipal health units, upon the proposals of the municipal councils or the mukhtar councils).

[38]Article (42) of the Lebanese Administrative Organization Law No. (116) of 1959 provides: (With regard to the Ministry of Labour and Social Affairs, the qaimmaqam shall exercise the following powers: signing the order for the sheltering of orphans, the infirm and beggars).

[39]See: Article (74) of the Lebanese Municipalities Law No. (118) of 1977.

administrative units. We therefore hope that the Iraqi legislator will adopt the Lebanese experience in this field and remedy the deficiency that afflicts the Iraqi Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, in the light of the Lebanese legislator.

As for the regulatory authority of the head of the administrative unit in exceptional circumstances in comparative law, we observe that the Egyptian legislator did not provide for it expressly and clearly. However, the exercise of the regulatory authority by the head of the administrative unit in exceptional circumstances may be inferred from Article (1) of the Mobilization Law No. (87) of 1960, as amended, which provides: (A state of mobilization shall be declared by decision of the President of the Republic in the event of tension in international relations, the outbreak of war, or the occurrence of disasters or crises that threaten national security). The text here is clear in indicating the jurisdiction of the President of the Republic in exceptional cases, although the President of the Republic may assign the head of the administrative unit to exercise the regulatory authority in the cases mentioned in the text. Here we should point out the policy of the Egyptian legislator regarding the regulatory authority in exceptional circumstances: it did not give it importance, unlike the policy of the Iraqi legislator in this respect. As for the Lebanese legislator, we find that its policy accords with that of the Egyptian legislator, as Article (1) of the Law on the Declaration of a State of Emergency or Military Zone No. (52) of 1967 provides: (A state of emergency or military zone shall be declared in all Lebanese territory or in part of it: when the country is exposed to an imminent danger resulting from a foreign war, an armed revolt, or acts or disturbances that threaten public order and security, or upon the occurrence of events that take on the character of a disaster).

CONCLUSION

Having completed this research, we reached a number of findings and proposals, which we list as follows:

First: Findings

1- We addressed the concept of the regulatory authority of the head of the administrative unit in the fields of legislation, jurisprudence and the judiciary, and observed that neither the legislator nor the judiciary has defined the concept of the regulatory authority of the head of the administrative unit in general. This is a commendable course, for it is not correct for the legislator to undertake to define the term (the regulatory authority of the head of the administrative unit), lest the legislator be criticised after a time, because such a definition cannot be both exclusive and inclusive of all the meanings of the said term. We have set out a definition of the regulatory authority of the head of the administrative unit as: (that jurisdiction which is granted to the person responsible for managing and following up a specific administrative unit within the organizational structure of an institution or governmental body, and for meeting the essential needs that fall within the scope of his jurisdiction).

2- Regarding the regulatory authority of the head of the administrative unit in ordinary circumstances, we found that the Lebanese legislator was more serious than the Iraqi and Egyptian legislators in addressing the regulatory jurisdictions of heads of administrative units.

3- Regarding the regulatory authority of the head of the administrative unit in exceptional circumstances, we observed that the Iraqi legislator surpassed the Egyptian and Lebanese legislators in granting the head of the administrative unit regulatory powers under exceptional circumstances.

Second: Proposals

1- We propose that our Iraqi legislator amend the text of Article (1/fifth) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, by adding the village as an administrative unit so that it becomes as follows: (Administrative unit: the governorate – the district (*qada'*) – the subdistrict (*nahiya*) – the village). Our Iraqi legislator should likewise amend the text of Article (1/sixth) of the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, by adding the village director as a head of an administrative unit, so that it becomes: (Head of the administrative unit: the governor – the district chief – the subdistrict director – the village director).

2- We hope that the Iraqi legislator will adopt the Lebanese experience in the field of the regulatory authority of the head of the administrative unit in ordinary circumstances and remedy the deficiency that afflicts the Iraqi Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended.

3- We propose that the Iraqi legislator include in the Governorates Not Incorporated into a Region Law No. (21) of 2008, as amended, powers for the head of the administrative unit in the field of protecting public health and preserving public morals and public taste.

REFERENCES

[1] Abu al-Hasan Ali ibn Isma'il Ibn Sida, *al-Mukhassas*, vol. 1, Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2008.

[2] Abu al-Hasan Ali ibn Muhammad al-Sharif al-Jurjani, *al-Ta'rifat* (Definitions), Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2024.

[3] Abu al-Fadl Jamal al-Din Muhammad ibn Mukarram ibn Manzur, *Lisan al-'Arab*, vol. 5, Dar Sadir, Beirut, Lebanon, 2021.

[4] al-Sayyid Muhammad Murtada ibn Muhammad al-Husayni al-Zabidi, *Taj al-'Arus min Jawahir al-Qamus*, vol. 1, Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2011.

[5] al-Sahib ibn 'Abbad al-Taliqani, *al-Muhit fi al-Lugha*, vol. 1, Dar al-Kutub al-'Ilmiyya, Beirut, Lebanon, 2010.

[6] Majd al-Din Muhammad ibn Ya'qub al-Fayruzabadi, *al-Qamus al-Muhit*, vol. 1, 1st ed., Dar al-Ghad al-Jadid, Egypt, 2014.

[7] Dr. Usama 'Uthman, *al-Mawsu'a al-Qada'iyya fi Amlak al-Dawla al-'Amma fi Daw' al-Qada' wa al-Fiqh* (The Judicial Encyclopaedia of Public State Property in Light of Case Law and Jurisprudence), Mansha'at al-Ma'arif, Alexandria, Egypt, 2004.

[8] Dr. Ghazi Faisal Mahdi, *Maqalat fi Majal al-Qanunayn al-'Amm wa al-Khass* (Articles in the Field of Public and Private Law), part 3, 1st ed., Dar al-Masla, Baghdad, Iraq, 2022.

[9] Dr. Muhammad Zuhayr Jarana, *Mabadi' al-Qanun al-Idari al-Misri* (Principles of Egyptian Administrative Law), Maktabat 'Abdullah Wahba, Cairo, Egypt, 1944.

[10] Dr. Najib Khalaf Ahmad al-Jubouri, *al-Qanun al-Idari* (Administrative Law), 1st ed., Dar al-Masla for Printing, Publishing and Distribution, Baghdad, 2022.

[11] Dr. Ibrahim Taha al-Fayyad, *al-Qanun al-Idari (Nashat wa A'mal al-Sulta al-Idariyya bayna al-Qanun al-Kuwayti wa al-Qanun al-Muqarin)* (Administrative Law: The Activity and Acts of the Administrative Authority between Kuwaiti and Comparative Law), 1st ed., Maktabat al-Falah for Publishing and Distribution, Beirut, 1988.

[12] Dr. 'Amir Ahmad al-Mukhtar, *Tanzim Sultat al-Dabt al-Idari fi al-'Iraq* (The Organisation of the Administrative Policing Authority in Iraq), University of Baghdad, Baghdad, Iraq, 1975.

[13] Yamama Muhammad Hasan, *al-Nizam al-Qanuni li-Insha' al-Wahdat al-Ittihadiyya wa Tanzimiha (Dirasa Muqarana)* (The Legal System for the Establishment and Organisation of Federal Units: A Comparative Study), 1st ed., al-Markaz al-Qawmi for Legal Publications, Cairo, Egypt, 2015, p. 140.

[14] Dr. 'Adnan 'Ajil 'Ubayd, *Damanat al-Muwazzaf al-Sabiqa li-Fard al-'Uquba al-Ta'dibiyya (Dirasa Qanuniyya Muqarana)* (The Employee's Guarantees prior to the Imposition of Disciplinary Penalties: A Comparative Legal Study), 1st ed., al-Markaz al-'Arabi for Publishing and Distribution, Cairo, Egypt, 2018.

[15] Dr. Georges Sa'd, *al-Qanun al-Idari al-'Amm wa al-Munaza'at al-Idariyya* (General Administrative Law and Administrative Disputes), 1st ed., part 1, Manshurat al-Halabi al-Huquqiyya, Beirut, Lebanon, 2011.

[16] Dr. Ibrahim 'Abd al-'Aziz Shiha, *Mabadi' wa Ahkam al-Qanun al-Idari al-Lubnani* (Principles and Provisions of Lebanese Administrative Law), al-Dar al-Jami'iyya for Printing, Beirut, Lebanon, 1980.

[17] Dr. Georgy Shafiq Sari, *al-Mabadi' al-'Amma lil-Qanun al-Idari* (General Principles of Administrative Law), book 1, 1st ed., Dar al-Nahda al-'Arabiyya, Cairo, 2004.

[18] Dr. Hani 'Ali al-Tahrawi, *al-Qanun al-Idari* (Administrative Law), Dar al-Thaqafa for Publishing, Amman, Jordan, 2014.

[19] Dr. Muhammad Walid al-'Abbadi, *al-Idara al-Mahalliyya wa 'Alaqatuha bi-l-Sulta al-Markaziyya* (Local Administration and Its Relationship with the Central Authority), Dar al-Thaqafa for Publishing, Amman, Jordan, 1995.

[20] Dr. Jasim Kazim Kabbash and Dr. Hussein Talal Mal Allah, *Sultat al-Dabt al-Idari fi al-Muhafaza 'ala al-Dhawq al-'Amm* (The Authority of Administrative Policing in Preserving Public Taste), Dar al-Kitab for Printing, Publishing and Distribution, Baghdad, Iraq, 2021.

[21] Dr. 'Abd al-Ra'uf Hashim Basyuni, *Nazariyyat al-Dabt al-Idari fi al-Nuzum al-Wad'iyya al-Mu'asira wa al-Shari'a al-Islamiyya* (The Theory of Administrative Policing in Contemporary Positive Legal Systems and Islamic Sharia), 1st ed., Dar al-Fikr al-Jami'i, Alexandria, Egypt, 2008.

[22] Dr. Akram Karim Khudayr, *al-Maslaha al-Mu'tabara fi Jara'im al-Mukhalafat (Dirasa Falsafiyya fi Gha'iyyat Jara'im al-Mukhalafat)* (The Recognised Interest in Contravention Offences: A Philosophical Study of the Purpose of Contravention Offences), 1st ed., al-Markaz al-'Arabi for Publishing and Distribution, Cairo, Egypt, 2022.

[23] Dr. Hanan Muhammad al-Qaysi, *al-Muhafizun fi al-'Iraq (Dirasa Tashri'iyya Muqarana)* (Governors in Iraq: A Comparative Legislative Study), 1st ed., Maktabat al-Ghufran, Baghdad, 2012.

[24] Ja'far Qahtan 'Abd al-Karim, "Jurisdiction of Local Units (An Analytical Study)," published in the Journal of the Iraqi University, issued by the College of Law and Political Science, Iraqi University, Baghdad, vol. 71, no. 2, 2024.

[25] Dr. Fakhri 'Abd al-Razzaq al-Hadithi, "Public Taste in the Criminal Sphere," published in the Journal of Legal Sciences, issued by the College of Law, University of Baghdad, vol. 11, no. 4, 1996.

[26] Dr. Mahmud 'Uthman Hijazi, "The Local Administration Law between Amendment and Development," published in the Egyptian Journal of Development and Planning, issued by the Institute of National Planning in Egypt, Cairo, vol. 20, no. 2, 2012.

[27] Law on the Administration of the Liwas (Provinces) No. (16) of 1945.

[28] Lebanese Administrative Organization Law No. (116) of 1959.

[29] Mobilization Law No. (87) of 1960, as amended.

[30] Lebanese Law on the Declaration of a State of Emergency or Military Zone No. (52) of 1967.

[31] Lebanese Municipalities Law No. (118) of 1977.

[32] Egyptian Local Administration System Law No. (43) of 1979.

[33] Iraqi Ministry of Higher Education and Scientific Research Law No. (40) of 1988, as amended.

[34] Iraqi State and Public Sector Employees Discipline Law No. (14) of 1991.

[35] Iraqi Governorates Not Incorporated into a Region Law No. (21) of 2008.

[36] Iraqi Civil Defense Law No. (44) of 2013.

[37] Federal Supreme Court decision No. 51/52/Federal/2010, dated 14/6/2014, unpublished.

[38] Federal Supreme Court decision No. 4/Federal/2016, dated 18/2/2016, unpublished.

[39] Federal Supreme Court decision Nos. 89, 91, 92 and 93/Federal/2017, dated 20/11/2017, unpublished.

[40] State Council decision No. 6/2020, dated 21/1/2020, unpublished.

[41] Iraqi State Council decision No. 89/2022, dated 4/10/2022, unpublished.

[42] Pencheon, David; Guest, Charles; Melzer, David; Gray, JA Muir. Oxford Handbook of Public Health Practice. Oxford University Press, 2001, pp. 5–9.