

Revitalization of Public Rights and Guaranteeing the Common Good: The Reflection of Establishing an Administrative Prosecutor Institution

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A reconsideration of the historical concerns of justice seekers and advocates of liberty illustrates the fundamental question of how to tame the unbridled force of power so that it serves the collective good and does not infringe upon the rights of the people. States must implement measures and provisions at seven levels: recognizing rights and freedoms, respecting them, promoting and educating, executing and fulfilling, guaranteeing and realizing, overseeing and controlling, and facilitating monitoring by non-governmental institutions to ensure that the index of public rights enjoyment reflects a dignified status. Providing an effective, comprehensive, and fair mechanism for people to review and oversee the actions and decisions of public institutions, improving decision-making processes, procedures, and performance of these institutions with the goal of guaranteeing and revitalizing public rights is a decisive step toward a dignified civic life within the framework of good governance. Effective protective, supervisory, preventive, and safeguarding methods in the revitalization and realization of rights and freedoms—through various mechanisms such as litigation, inquisitorial, accusatorial, adversarial, and hybrid judicial models, as well as complaints and appeals based on the law—can contribute to the enhancement and development of human and civil rights. The establishment of institutions such as an "Administrative Prosecutor" or the strengthening and expansion of the competencies of public prosecutors, the creation of a "National Institution for the Revitalization of Public Rights," the establishment of a "National Institution for Human and Civil Rights," and the empowerment of civil institutions to demand and oversee rights enforcement can be part of the broader project for the promotion and development of human and civil rights in the country. In particular, given that administrative adjudication in Iranian law is neither well-established nor deeply rooted, this issue requires further examination, and the mechanisms that strengthen and guarantee human and civil rights must be thoroughly analyzed and scrutinized. This study, grounded in the concern for the common good, adopts a problem-oriented approach.

Keywords: *Revitalization of Public Rights, Administrative Prosecutor, Common Good, Human and Civil Rights.*

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1. Introduction

Preventing and obstructing the widespread, systematic, and institutionalized violation of citizens' rights and freedoms, as well as incidental and

minor violations, is a matter of reasoning, analysis, and reflection within a democratic and rights-based system. According to the United Nations Development Programme (UNDP), five principles of good governance have been proposed, the most important of which is the



establishment of a justice-oriented legal system based on respect for human rights (Moghaddari, 2019). A diagnostic survey model that examines the main causes and factors contributing to the infringement of public rights can be considered a solution for safeguarding citizens' rights (Tangestani, 2015).

Problem-oriented and opportunity-driven paradigms constitute a constructive and reformative model that seeks to identify deficiencies, address shortcomings, and reassess the structure and fabric of power (Judiciary Research Center, 2014).

The proposal of fundamental and institutional reforms, the reconfiguration of oversight and balance institutions, the amendment and enactment of laws, and the utilization of the capacities and authorities of supervisory institutions should be examined. The right to investigate, inspect, monitor, oversee, and observe the actions of public institutions only attains practical significance when supported by effective tools and mechanisms under an efficient enforcement guarantee (see: A Comparative Analysis of Judicial Reforms Based on the Rule of Law, Judicial Research Institute, 2015).

In Iran, the prosecution institution primarily operates in the areas of crime detection and prosecution, as well as serving as the public prosecutor in cases explicitly stated in the law. Approximately 400 legal duties have been prescribed for prosecutors in laws and regulations (see: Discourses on the Prosecution Institution and the Revitalization of Public Rights, Judicial Research Institute, 2018), highlighting the significance of this office within the country's legal system. In addressing specific government decisions that lack a particular beneficiary, the Administrative Justice Court faces normative and structural deficiencies in cases such as exceeding the limits of authority, violating fundamental and public rights, crimes discovered during proceedings, assisting judges in completing case files through preliminary evidence review, and the proper execution of judgments (Judiciary Research Center, 2015).

The establishment of a specialized entity in the form of an administrative prosecutor and the formation of a prosecution office within the Administrative Justice Court could be effective in ensuring public rights. The principal concern and philosophical foundation for establishing this institution is the absence of mechanisms to protect citizens' rights in the public and

administrative spheres. Given the hybrid nature of proceedings in the Administrative Justice Court (neither purely civil nor purely criminal), the absence of a prosecutor in this body constitutes a challenge to the common good. The Constitution does not prohibit the establishment of a prosecution institution within the Administrative Justice Court, yet its formation requires legislation. Both the Administrative Justice Court Organization and Procedure Act of 2013, particularly the note in Article 30, and the 2023 Act, particularly Article 120, provide a legal basis for the establishment of a prosecutorial institution within administrative justice proceedings (Mousavi Zadeh Markiyeh, 2019).

2. Judicial Security and Oversight of the Power Structure

The concept of "security" is, from one perspective, synonymous with "the immunity of rights"; however, its manifestations are reflected in the broader spectrum of human rights. It is often discussed in relation to the sources of threats to people's rights. The judiciary has two primary duties concerning judicial security: first, adjudicating the claims and grievances of individuals, and second, ensuring that people's rights are not violated during legal proceedings (Keykhai Farzaneh et al., 2020).

In the realm of administrative law, the necessity of establishing an administrative prosecutor is justified by the need for proactive and innovative oversight of the power structure. The lack of a designated authority for overseeing public rights within administrative proceedings has left citizens' rights and freedoms vulnerable. Reviewing laws that guarantee public rights and addressing legal and structural gaps to justify the establishment of an administrative prosecutor institution is the core objective of this research. The study seeks to define and establish an administrative prosecutor within administrative law to ensure public rights through oversight of the power structure.

This institution can ensure rights and freedoms in three scenarios:

1. If violations by public authorities or exceeding legal powers result in the infringement of people's rights, and such violations constitute a breach of public duties, the entity responsible for monitoring public rights can initiate proceedings or investigate offenses.

2. During proceedings before the court's chambers, if an offense against public rights is uncovered, the chamber can refer the matter to the administrative prosecutor.
3. The prosecutor can initiate criminal proceedings against individuals who refuse to implement the court's rulings.

The governance system, in accordance with the Constitution, must establish a robust structure capable of fulfilling the foundational duties of the state under the rule of law. One such measure is the establishment of an administrative prosecutor, which can serve to ensure public rights. A competing argument in this research questions whether, given the numerous oversight bodies, the public prosecutor, and the extensive structure of the Administrative Justice Court, the introduction of a new institution would effectively address the challenges of public rights. Two fundamental questions arise in this context:

1. What constitutes public rights within the administrative system, and what are their specific instances?
2. How can these rights be realized, and what mechanisms ensure their protection?

3. From the Recognition to the Guarantee of Public Rights

Before specific civil, political, or social rights can manifest, a foundational right must exist—namely, the "right to have rights" or, in other words, "the right to claim rights" (De Geer, 2022). From this perspective, the origin of public rights lies in democracy and the rule of law. The essence of public rights is the transition from the status of "subject" to that of "citizen."

Fundamental and essential rights constitute the primary substance of law, characterized by reliance on social norms, universality, non-discrimination, and imperative nature. The Constitution enumerates seventy instances of public rights. The Iranian criminal system recognizes two thousand criminal offenses, each playing a role in safeguarding public rights. However, the initial step is identifying public rights, which, depending on their nature, scope, and significance, establishes the framework for their protection. These rights evolve and expand over time (see: Series of Conferences on Drafting a Comprehensive Bill on Public

Rights Restoration; Approaches Centered on Rights Holders, Judicial Research Institute, 2021).

Rights linked to digital development, internet access, and artificial intelligence are examples of such fluid, dynamic, and emerging rights. Descriptively, "public rights" encompass all individual and social rights of citizens within the national jurisdiction, as recognized in the Constitution, statutory laws, and international treaties to which Iran is a party. These rights include privileges, benefits, effects, and legitimate expectations associated with them, to which all Iranian citizens are entitled without discrimination. The Constitution serves two primary functions: guaranteeing rights and freedoms and regulating state power (Hashemi, 2005). These rights include, but are not limited to:

- A) The right to good governance
- B) Social rights
- C) Cultural rights
- D) Political rights
- E) Defensive rights
- F) Economic rights
- G) Judicial rights
- H) The right to good administration
- I) Rights of special groups

The right to good administration includes the following principles:

1. Legality
2. Equality in public services
3. Prohibition of abuse of power
4. Proportionality
5. Impartiality
6. Prompt responsiveness and the duty to provide reasons
7. Accountability
8. Notification and communication of administrative decisions
9. The right to be heard
10. Transparency and access to administrative documents
11. Information dissemination
12. Fair administrative proceedings
13. Meritocracy
14. Citizen participation in administrative decision-making
15. Non-retroactivity of administrative decisions
16. Courtesy and the duty to guide citizens
17. Legitimate expectations

18. Continuity of public services
19. Realism
20. Reasonableness
21. The right to judicial security and fair trial

Thus, a broad spectrum of public rights exists within the normative legal system, and the duty of governments is to guarantee, implement, grant, enforce, restore, and uphold these rights (Ostovar Sangari, 2023).

4. Administration and Behavioral Requirements

The primary issue and challenge affecting public rights is the practical commitment of public officials to fundamental rights and freedoms. Below, we define the concept of a public institution responsible for public rights and describe the decisions and actions of public officials that must be conducted in accordance with public rights.

1) Public Institution

A public institution refers to any ministry, government agency, public institution, executive body, non-governmental public organization, local council, board, commission, committee, subcommittee, council, office, organization, or any entity or institution that is established or designated for a public purpose or duty under a statute, whether an ordinary law or constitutional law. It also includes any entity that directly or indirectly benefits from public funds or other government financial assistance, such as municipalities, state-owned enterprises, universities, professional and trade organizations, police forces, armed forces, and public media. Additionally, it applies to any private person or company that provides public services under a contract with an entity funded by public resources or whose performance affects public rights. Furthermore, it encompasses any member of the government who acts in connection with the government, whether elected or appointed.

2) Action and Decision

An action or decision refers to any act or decision concerning a public institution or relating to the duties and responsibilities of a public institution regarding the rights of the people. This includes a decision, action, commission, or omission. Negligence, fault, and failure in decision-making or action, including the failure to provide a written explanation for a decision, judgment, rule, regulation, interpretation, recommendation, policy

determination, practice, or procedure of a public institution, fall within this scope.

The term "person" refers to any individual or group of individuals, company, or institution with legal personality. "Document" refers to all records, documents, books, letters, files, photographs, microfilms, audio recordings, video recordings, magnetic storage devices, computer data, and all other materials, regardless of their physical form or specific characteristics, that have been created, produced, recorded, received, possessed, or controlled by any institution or on behalf of any institution.

3) Principles and Requirements of Administrative Conduct

Administrative requirements can be explained in light of the general principles of administrative law. These principles are broad, comprehensive, and frequently observed across different legal systems, forming a critical part of administrative judicial proceedings. They represent fundamental concepts developed by administrative courts to protect citizens' rights against government actions and decisions and are recognized by judges in administrative adjudication (Emami & Ostovar Sangari, 2023).

Administrative law principles possess legal, judicial, and customary legitimacy within administrative justice systems and the principle of public interest. They are intended to establish the rule of law and governance based on good administration. With their value-laden content, these principles contribute to the dynamism and improvement of administrative systems, drawing significant attention from judges.

General principles of administrative law, as commonly recognized in advanced administrative legal systems, are fundamental norms derived from sources such as statutory law, custom, and legal doctrine. These principles, acknowledged in judicial practice, serve as supplementary sources for judges when the law is silent, aiding them in issuing rulings. They are based on the rule of law, with common law systems relying on the principle of fairness or legal precedent, while Romano-Germanic legal systems emphasize statutory law. As a result, these principles hold different positions in the normative hierarchy of each system.

Examples of administrative law principles include:

1. Principle of equality
2. Principle of fairness

3. Principle of the presumption of freedom
4. Respect for fundamental rights
5. Principle of public interest
6. Principle of proportionality
7. Principle of timely provision of public services
8. Principle of transparency
9. Principle of legitimate expectation
10. Principle of accountability
11. Principle of reasonableness
12. Principle of the prohibition of abuse of power
13. Principle of continuity
14. Principle of impartiality
15. Principle of compliance
16. Principle of the primacy of public services
17. Principle of consensus-based governance
18. Principle of public participation
19. Principle of efficiency and effectiveness
20. Principle of responsibility
21. Principle of non-restriction
22. Principle of legitimate objectives
23. Principle of the rule of law
24. Principle of legality
25. Principle of non-retroactivity of government actions and decisions
26. Principle of incompetence
27. Principle of the personal nature of governmental authority
28. Principle of oversight and balance
29. Principle of property rights
30. Principle of the presumption of innocence
31. Principle of contract validity
32. Principle of compensation for damages
33. Principle of the prohibition of mistakes
34. Principle of prioritizing the common good over private interest
35. Principle of the precedence of fundamental rights and the hierarchy of rights

5. Administration and the Common Good

Private existence pertains to individuals, families, personal affairs, and personal status, while public existence relates to engagement in collective life (Guise, 2017). The common good refers to a set of benefits, resources, or conditions that are equally or jointly beneficial to all members of a society, enhancing the social, economic, cultural, and moral quality of life. It extends beyond individual or group interests, serving

the broader welfare of society. In philosophy and politics, the common good is often associated with values or objectives that all members of a society should contribute to creating, maintaining, and advancing.

Examples of the common good include:

- Public infrastructure such as roads, bridges, and transportation systems
- Security and justice systems, including law enforcement and the judiciary
- Public education and healthcare, ensuring universal access
- A healthy environment, including the protection of natural resources and pollution prevention
- Social peace, promoting mutual respect and cooperation among diverse societal groups

The common good is frequently discussed in relation to social justice, ethics, and politics, referring to decision-making that benefits society as a whole, even when it may conflict with the interests of specific individuals. Public existence extends beyond personal life and involves matters that affect all citizens.

6. Good Governance Based on Public Rights

Ensuring good governance and protecting citizens' freedoms against governments is a fundamental responsibility of the rule-of-law state (Mashhadi, 2024). From both an institutionalist and functionalist perspective, legal regimes cannot address the needs of contemporary societies without considering the exigencies of time, place, and public demands. Outdated rules and rigid structures create a stagnant legal system that fails to satisfy public expectations. If the ultimate goal of a legal regime is the common good within the framework of justice and fairness, the level of public expectations inevitably influences its structure.

Today, public rights have evolved into comprehensive human and civil rights. The demand for these rights is a widespread, principled, and normative action at both national and international levels. Governance, once measured by autonomous rules and self-regulation, now faces an era of globalization, digital borders, and virtual geography, confronting extensive standards and benchmarks. This phenomenon challenges traditional governance by undermining authoritarian rule, absolute decision-making, unilateralism, unaccountability, and

intolerance. Instead, governance now emphasizes democracy, public will, accountability, participatory decision-making, tolerance, individual rights, and legitimacy in international relations.

The legal order, once unified and centralized, has become increasingly fragmented. The state is no longer the sole source of law. "Subnational" and "supranational" legal orders have gained prominence, disrupting traditional legal dynamics. Decentralized and local institutions, alongside professional and civil organizations, now play a significant role. Additionally, international institutions and cross-border regulations are actively shaping legal norms. Legal norm-creation and rule-making have become participatory and multi-directional, expanding from unilateral decisions to multi-faceted dialogues (Hadavand, 2005). Therefore, ensuring citizens' rights in public and administrative spheres requires well-structured and effective mechanisms. Judicial oversight of administrative actions serves as a safeguard for public rights (Talebzadeh, 2019).

Public rights inherently involve "claims" and "demands." These rights must be identified, guaranteed, monitored, and enforced through state intervention. Thus, public administration must create the necessary framework for their protection.

7. Adjudication in Administration and Adjudication Over Administration

7.1. Adjudication in Administration

A distinction must be made between adjudication conducted within judicial bodies, whether in criminal or civil proceedings, and adjudication conducted within administrative bodies outside the judicial system. Adjudication within administration can take two forms. First, adjudication conducted by administrative authorities themselves, such as that provided for in Article 238 of the Direct Tax Act. Second, adjudication within administrative agencies by specific institutions—these institutions are quasi-judicial bodies that operate within administrative agencies (Ostovar Sangari, 2023). Regardless of the degree of independence or dependency of these bodies on the administration, they are generally part of and subordinate to the executive branch.

7.2. Adjudication Over Administration

In this context, administrative adjudication refers to proceedings initiated against an administrative body, meaning that in these cases, the defendant is almost always an administrative entity. The purpose of this type of adjudication is to address claims and complaints filed against the actions of administrative bodies and their officials. Thus, any adjudication initiated against an administrative body constitutes administrative adjudication. In other words, administrative adjudication is adjudication over administration. If this concept is adopted, quasi-judicial bodies such as labor dispute resolution boards, which resolve conflicts between individuals, including employer-employee disputes, rather than disputes against the state, would not be classified under administrative adjudication (Ostovar Sangari, 2023).

A systematic analysis of the country's legal framework reveals that laws and regulations, particularly in the domain of public rights, do not form a coherent and integrated system. Therefore, the establishment of legal safeguards with a well-defined position, based on public rights, that systematically identifies and protects public rights in administrative bodies while effectively addressing rights violations is both justified and legitimate. The legal regime must adapt to contemporary needs while respecting public rights and must be continuously updated.

8. Citizen-Centered Administrative Justice

8.1. Characteristics of Administrative Courts

All administrative courts share two fundamental characteristics.

1. These bodies are "courts," meaning they adjudicate disputes with the authority of a legal dispute resolution body, issuing binding rulings. This requires the independence of the judges presiding over these courts (Amir Arjomand, 2000). For example, in the French Constitution, judicial independence is guaranteed under Article 64, and for administrative court judges, it is safeguarded by the Constitutional Council's decision of July 22, 1980. This rule carries constitutional value, meaning neither the legislature nor the

executive branch may interfere with the activities of these judges.

2. These bodies are "administrative courts" and are entirely distinct from judicial courts. First, they are separate in terms of their personnel. Second, they operate independently at all procedural stages, without oversight from judicial courts. Third, their jurisdiction is strictly limited to administrative disputes, which means the cases they handle must pertain to administrative matters. From these two conditions—*independence* and *exclusivity*—it follows that administrative judges are distinct from operational administrators and executive agents but may participate in administrative advisory activities (Amir Arjomand, 2007).

8.2. Indicators of Administrative Adjudication

The structure and organization of the Administrative Justice Court are outlined in Article 2 of the Administrative Justice Court Act, which describes the President's authority to establish deputy offices and other organizational units (Moulabighi & Mohammadi Ahmad Abadi, 2023). Consequently, four fundamental characteristics define administrative adjudication: *expediency*, *cost-free proceedings*, *informality*, and *exclusivity*. The concept of administrative adjudication encompasses proceedings conducted by administrative authorities, administrative bodies, quasi-judicial institutions, and the Administrative Justice Court (Ostovar Sangari, 2023). It must be noted that one party in administrative adjudication is always a government entity. Therefore, litigation within the realm of administrative law has distinct features. The management of public affairs based on legal principles requires a high degree of precision (Hamidi, 2023).

With this in mind, the indicators of administrative adjudication comprise a set of criteria and principles designed to ensure fairness, transparency, and efficiency in administrative adjudication processes. These indicators may be defined under national or international legal frameworks (Mashhadi, 2024). Some of the key indicators of administrative adjudication include:

1. **Principle of Impartiality and Independence** – Judges or decision-making authorities in

administrative cases must be impartial and independent of external influences, including political, economic, or personal pressures.

2. **Right to Defense** – Parties to an administrative dispute must have sufficient opportunities to present their arguments and evidence and to respond to opposing claims. This includes access to legal counsel and case documents.
3. **Transparency** – All procedural steps must be transparent, and the reasons for decisions must be clearly articulated. Public access to rulings is also a key aspect of transparency.
4. **Timely Adjudication** – Administrative disputes must be resolved within a reasonable time frame to prevent unnecessary delays.
5. **Rule of Law** – All adjudication procedures must be conducted in accordance with existing laws and regulations, avoiding arbitrary decision-making.
6. **Principle of Proportionality** – Administrative decisions must be commensurate with the significance and nature of the case and must appropriately balance individual rights and public interests.
7. **Right to Appeal and Review** – Parties must have the right to challenge initial decisions and seek review or reconsideration by higher authorities.
8. **Accessibility** – The adjudication process must be accessible to all individuals, regardless of economic status, social background, or geographical location.
9. **Respect for Human Dignity** – Throughout the proceedings, the dignity of all parties must be upheld, and any form of degrading treatment must be avoided.
10. **Efficiency and Reasonable Costs** – The adjudication process should be cost-effective and time-efficient for litigants.
11. **Principle of Public Hearings** – Hearings should generally be conducted in public unless national security concerns or the protection of private rights necessitate closed proceedings.
12. **Effective Enforcement of Decisions** – Administrative decisions must be supported by appropriate enforcement mechanisms to ensure that justice is realized in practice (see:

Strategies for Enhancing Fair Adjudication in Specialized Non-Judicial Tribunals, Judicial Research Institute, 2018).

9. The Administrative Prosecutor and Public Rights

In a rule-of-law state, administrative activities must adhere to legal principles and be subject to judicial oversight (Mashhadi, 2024, p. 1). Thus, modern administration no longer possesses unchecked or absolute power and must comply with legal norms, ensuring that individuals can seek judicial remedies in cases of rights violations. This system aims to guarantee sound administration and protect citizens' freedoms against government authority (ibid., p. 3). Accordingly, a mechanism must be established to enable administrative litigation as a means of enforcing and safeguarding rights. Based on this premise, administrative adjudication serves as a crucial domain for guaranteeing public rights.

Fair trial standards are categorized into two types: general, overarching fair trial standards, and specific standards governing the three stages of administrative litigation—filing a claim, adjudicating the dispute, and rendering a decision (Hemmati, 2017). Thus, procedural standards encompass those procedural law principles that define core concepts of justice in dispute resolution. Fair trial principles form one of the fundamental pillars of the rule of law. The philosophical interconnection between the rule of law and human rights is particularly evident in the right to a fair trial. Ensuring fairness in administrative law, especially in administrative adjudication, is critically important in safeguarding fundamental citizen rights.

First, substantive legal frameworks in this domain have historically been established by referencing state duties and functions, with an emphasis on securing public interest through restrictive measures affecting fundamental rights and freedoms. Second, despite certain procedural reforms in dispute resolution between the government and citizens, systemic inequalities persist in litigation involving state authorities (Zarei, 2005).

Fair trial standards are divided into two categories:

1. **General fair trial standards**, including the right to a fair hearing, judicial independence and impartiality, public hearings, and effective

remedies. These standards apply universally across all stages of adjudication.

2. **Specific fair trial standards**, which regulate the three stages of administrative adjudication.

The administrative justice system comprises courts and tribunals that exercise jurisdiction over disputes related to public administration. Administrative litigation concerns administrative acts, encompassing legal and material actions undertaken by administrative authorities (at both national and local levels) in exercising public authority. These actions can affect the rights, freedoms, and interests of individuals and legal entities. Administrative adjudication refers to the process of filing, reviewing, and deciding legal cases within administrative courts and tribunals (Ostovar Sangari, 2023).

To realize administrative justice as envisioned in Article 173 of the Constitution, a clear distinction must be drawn between general or specialized administrative bodies and general or specialized administrative adjudication bodies, as these terms are sometimes incorrectly used interchangeably (Malmiri & Pateft, 2018). General or specialized administrative bodies refer to officials and public administration agents who issue administrative decisions or actions, whereas general or specialized administrative adjudication bodies refer to judicial or quasi-judicial entities competent to adjudicate administrative disputes. The Administrative Justice Court serves as the general judicial body for administrative adjudication, while specialized tribunals such as the Tax Dispute Resolution Board function as specialized administrative adjudication bodies (quasi-judicial bodies). In essence, adjudication is a judicial function and does not fall under the domain of administrative authorities; rather, it falls within the jurisdiction of judicial or quasi-judicial bodies (civil, criminal, and administrative).

Given this distinction, it is crucial to examine the principles and regulations governing the three stages of administrative litigation to ensure the protection of public rights and the common good. To what extent are these principles upheld in Iran's administrative justice system? In practice, these principles are neither fully guaranteed nor effectively monitored. This highlights the necessity of establishing an Administrative Prosecutor, which could significantly enhance indicators of access to administrative justice, citizen

rights, and public rights. Such an institution would promote transparency, accountability, and the fair implementation of regulations. In Iran's legal system, the establishment of an Administrative Prosecutor could serve as a key mechanism for safeguarding public interests (Afshari & Akbari, 2021).

The following discussion explores the rationale and framework for establishing this institution.

10. Rationale for Establishing an Administrative Prosecutor

10.1. Strengthening Oversight of Administrative Bodies

Many administrative violations and infringements of citizens' rights remain unaddressed due to a lack of proper monitoring. The presence of an independent Administrative Prosecutor could enhance oversight over law enforcement within executive agencies.

10.2. Enhancing the Effectiveness of the Administrative Justice Court

The Administrative Justice Court is responsible for adjudicating complaints against government and administrative bodies. However, systematic monitoring of large-scale administrative violations necessitates an independent supervisory body such as the Administrative Prosecutor.

10.3. Actively Protecting Public Rights

The Administrative Prosecutor could act as a public advocate, defending citizens' rights and public interests. Addressing major violations or administrative failures in service delivery requires proactive legal intervention.

10.4. Preventing Administrative Corruption and Conflicts of Interest

Given the complexities of administrative violations, the Administrative Prosecutor could identify corruption-prone areas and implement effective preventive measures. Combatting administrative misconduct and corruption requires swift and independent actions.

11. Framework for Establishing an Administrative Prosecutor within the Administrative Justice Court

11.1. Legal Definition and Institutional Position

The Administrative Prosecutor should be established as an independent entity within the Administrative Justice Court, endowed with the authority to oversee and prosecute administrative violations and protect public rights. Its legal status should be defined through amendments to the Administrative Justice Court Act.

11.2. Duties and Responsibilities of the Administrative Prosecutor

Active oversight of executive bodies:

- Monitoring the implementation of administrative laws and regulations by governmental and public institutions.
- Investigating citizen complaints regarding administrative agency performance.

Pursuing administrative violations:

- Handling widespread and systemic violations by government entities and officials.
- Submitting reports of violations to the Administrative Justice Court and seeking legal remedies.

Defending public rights and preventing abuses of power:

- Filing lawsuits in cases involving violations of citizens' rights and public interests.

Preventing corruption and legal breaches:

- Identifying structural weaknesses and proposing reforms to prevent future violations.

11.3. Organizational Structure and Human Resources

The Administrative Prosecutor's Office should be staffed with legal and administrative experts and should include specialized divisions such as:

- Division for Public Rights Oversight
- Division for Conflict of Interest Management and Anti-Corruption
- Division for Administrative Reform and Preventive Measures

11.4. Operational Procedures

- **Receiving Reports and Complaints:** Accepting direct citizen complaints and oversight reports.

- **Investigations:** Conducting thorough examinations of administrative operations to identify violations.
- **Litigation and Legal Proceedings:** Initiating legal actions before the Administrative Justice Court upon finding evidence of violations.
- **Issuing Advisory Recommendations:** Providing executive agencies with recommendations for procedural reforms.

12. Effects and Outcomes of Establishing an Administrative Prosecutor

- Strengthening oversight and accountability within executive agencies.
- Actively defending citizens' rights and preventing regulatory violations.
- Preventing administrative misconduct and corruption.
- Expediting the resolution of major public rights cases.
- Enhancing public trust in the administrative and judicial systems.

13. Conclusion

As the primary institution responsible for judicial oversight of administrative actions, the Administrative Justice Court must possess a robust structure capable of fulfilling its duty to protect public rights within administration. Establishing an Administrative Prosecutor as an independent entity within the Administrative Justice Court would significantly improve administrative justice, combat corruption, and uphold citizens' rights. Acting as both a supervisory authority and a public advocate, this institution would enhance the effectiveness of the Administrative Justice Court and increase public trust in the country's administrative system.

The fundamental purpose of the Administrative Justice Court is to prevent arbitrary administrative actions, a goal that must be central to the establishment of the Administrative Prosecutor (Mousavi Zadeh Markieh, 2019, p. 225). Although the 2023 Administrative Justice Court Act has indirectly paved the way for the establishment of an Administrative Prosecutor (Mashhadi, 2024, p. 776), limiting this role to a Public

Rights Deputy is insufficient to achieve the outlined objectives.

Article 7 of the 2018 Public Rights Supervision and Monitoring Directive requires the Administrative Justice Court and competent judicial bodies to investigate and address violations of public rights. However, in practice, the absence of a specialized administrative authority dedicated to this function remains evident. Similarly, Article 4 of the 2020 Directive on Preventing and Addressing Neglect of Legal Duties by Officials and Employees mandates the Administrative Justice Court to monitor inaction by executive bodies under Article 121 of the 2013 Administrative Justice Court Act and to report violations affecting public rights or public property to the Attorney General.

Given these provisions, the legal obligation to safeguard public rights exists, but a specialized institutional mechanism to fulfill this duty is missing. Therefore, the absence of an independent Administrative Prosecutor within the Administrative Justice Court highlights the need for an institution dedicated to monitoring and ensuring compliance with public rights, reinforcing the necessity of establishing such a role within the court's structure.

Authors' Contributions

Authors contributed equally to this article.

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In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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