

The Foundational Principles upon Which the Centre for Management Excellence in Public Finance Management is Built "A Comparative Study"

Hayder Ahmed Hashim¹ and Walid Khashan Zagher²

Abstract

The fundamental regulations that govern the administration's effective management and safeguarding of public funds constitute the theoretical underpinnings of the administrative centre of excellence in public funds management. These foundations are linked to the same standards that established the existence of administrative law as a whole and the management of public funds in particular; thus, general philosophical foundations, including public utility theory, public authority theory, and modern theory, emerged. The most meritorious of these theories were the mixed theories whose contents are derived from the theories of public authority and public utility. This is due to the logical norms that this theory establishes regarding the management of public funds for the benefit of the public. Public ownership and discretionary power may be regarded as the pillars of a unique theory that effectively grants the administration control over its funds, as well as the flexibility and space these theories afford the administration to exercise its privileged position in the management of public funds.

Keywords: Theory, Center, Management, Money.

INTRODUCTION

First: Definition of the subject

One of the key tools the administration uses to maintain the regular and continuous operation of the public utility and the delivery of public services is public funding. Therefore, in order to monitor public funds, these funds must benefit from unique techniques and greater authority assigned to the administration. When handling it within the confines of public money, the administration can demonstrate its power thanks to its extraordinary legal standing based on good foundational norms and its techniques and capabilities. As a result, jurists have developed numerous philosophical theories to explain the legitimacy of administration in general and public fund management in particular. As a result, some judges went so far as to ground the notion of the administration's privileged position by attributing it to conventional theories that make a distinction between the functions of the public authority and the ordinary administration.

Thus, in order to allow the administration to enjoy a wide range of privileges and administer public facilities consistently and routinely while offering the best possible service to the public, the theory of the public utility arose. Proponents of the theory of public authority refuted this theory by arguing that the administration should have extraordinary standards to handle its public funds and infrastructure. Furthermore, it is possible to view the theory of public ownership as a theory of public property, which is a theory of public ownership that provides the government with the room and flexibility necessary to effectively manage public funds. Furthermore, one of the unique foundations is the notion of public ownership, which is linked to the ownership of public finances and the authority bestowed upon the owner—represented by the administration—to administer and safeguard those funds.

Second: Significance of the Subject

An important subject is the theoretical underpinning of the administration's unique capabilities in the management of public money. It makes clear the extensive authorities bestowed upon the administration to oversee and safeguard public monies as well as the methods by which they are managed. When the legislative

¹ College of Law, University of Thi-Qar, Thi-Qar, Iraq. E-mail: ha3028528@gmail.com

² College of Law, University of Thi-Qar, Thi-Qar, Iraq. Department of Public Law, College of Law, University of Thi-Qar, Thi-Qar, 64001, Iraq. E-mail: lawp1e221@utq.edu.iq

branch adopts legislation that are crucial for the efficient administration of public finances, these principles serve as a valuable point of reference. This is due to the fact that it has to do with providing the best possible service and maintaining the regularity of public utility operations. The administration uses these principles as the theoretical foundation to exercise its unique competences in managing public affairs, and public monies in particular.

Third: The Problematic Issue

The problem with research lies in the broad competence of the Department to manage and protect public funds. Because of this, the administration's customers have a lesser legal position than the administration itself, even if the administration has separate powers. For this reason, the original regulations that included the theoretical part of management authority are still appropriate. In keeping with the fulfilment of the public interest and the acquisition of the resources required for the management to maintain the public utilities on a regular and steady basis? Are these regulations balanced to guarantee the correct handling of public funds and the non-arbitrary exercise of those authorities based on the specific authority granted to them?

Fourth: Research Methodology

In order to manage the protection of public funds, this research will employ an analytical methodology by incorporating jurisprudential opinions pertaining to the establishment of administrative law, the standards for managing public utilities, and the regulations governing the distinguished administration's competencies in relation to these matters. By including jurisprudential opinions about the creation of administrative law, the standards for managing public utilities, and the regulations governing the specific administration's authority with regard to them, the research will also adhere to the analytical method.

First Requirement

Philosophical Basis of the Management Excellence Center

The intellectual underpinning serves as the primary origin of administrative law theories. The norms of administrative law have developed from a thorough analysis of the most significant jurisprudential views and their alignment with the legislative regulations that regulate the functioning of the administration. Additionally, they exemplify legal ideas with profound philosophical insight that may be employed by the administration to effectively oversee and safeguard public finances. The philosophical underpinnings differ in their range and limitations, as well as their relevance to the administration's activities and their ability to provide clear and effective principles for managing public expenditures. The foundations that have the highest prominence are rooted in the logical and intellectual principles that form the basis of administrative law. These principles have been widely accepted and established by administrative jurisprudence: The aim is to assist the legislator in gaining a comprehensive understanding of how to effectively organize the administration's work and priorities the most crucial legislative requirements. It will aid in furnishing the legislator with a lucid perspective on organizing the administration's work and emphasizing the most crucial statutory requirements. In order to provide further clarification, we shall categorize this need into two distinct sections: The first section will explore the fundamental philosophical principles behind the concept of the privileged management centre. The subsequent part will be dedicated to the precise philosophical principles of the Centre for Management Excellence, outlined as follows:

First Section

Philosophical Foundations of Science

The fundamental philosophical underpinnings of administrative law are embodied in the theories upon which it is founded in its broadest sense. The administration possesses remarkable powers to effectively oversee its public actions, and the attribute of being public arises from its association with many facets. Some of these issues pertain to the wide scope of the general welfare, which encompasses all individuals, as reflected by the concept of public utility. Alternatively, it pertains to the diverse array of unique authorities that grant the

government extensive capabilities, based on the principle of public authority in both its traditional and modern manifestations. This is formed in response to the people's need for such benefits and with the aim of promoting the common welfare. When it comes to establishing the centre of excellence in management, there is a tendency to reconcile different philosophical viewpoints. To demonstrate the optimal image or standard for establishing a management centre of excellence, and to outline these fundamental principles, we shall discuss them in the following specifics:

First: Classical Theories

The classical foundations serve as the initial pillar for discussing the concepts that guide management in its overall actions and authority. Regarding the allocation of public expenditures, supporters of these ideas diverge into two main factions: the first being led by the renowned French lawyer (Laferriere, and contemporary jurists Aucoc, Ducrocq, Berthlemy, this group is cognizant of the differentiation that exists between acts of authority and routine financial management. Through the implementation of acts of authority, management expresses its unilateral will. The following are directives and proscriptions that individuals are required to abide by. These enable management to execute specific actions in accordance with its unilateral determination. Management benefits from the ability to construct its position on the basis of general privileges, which confer upon it a competitive edge over other entities. Ordinary acts of management are administrative procedures that do not require extraordinary authority. The manner in which management interacts with individuals regarding their rights and practices: Since the actions of ordinary administration fall under the jurisdiction of ordinary courts, there is no criterion for differentiating between the actions of the administration and private individuals. Furthermore, differentiating the actions of private individuals lacks justification and has been criticised for its limited scope of analysis, One of its most notable leaders is the French jurist (Rene Chapus) This collective classifies management actions as either public or private. Public acts are subject to regulation under public law and entail unique procedures that are not applied to private matters. Private law governs private acts of administration, including the administration's financial management and the execution of administrative contracts. This strategy is comparable to the preceding one, with the exception that it broadens the jurisdiction of the administrative judiciary to encompass all unregulated administrative practices involving orders and commands. This development contradicts the foundational principle of a separate administrative centre. The regulation of public funds and administrative contracts in accordance with legislative systems by public and private laws Certain administrative practices cannot be categorised by the legislature as a criterion for determining the presence or absence of a distinct administrative centre. As no condition exists for judicial oversight to be legislatively compliant in order to qualify as a criterion for privileged status establishment, or vice versa. Furthermore, the administration possesses extensive authority in its diverse undertakings, particularly those pertaining to public funds and administrative contracts.

Secondly: Public Facility Theory

The notion of the public utility constitutes a fundamental cornerstone upon which the Centre for Administrative Excellence is built. It serves as the foundation for administrative law principles. The public utility theory holds significant importance within the realm of administrative law due to its foundational role in supporting the administration's diverse endeavors, such as the safeguarding and management of public funds. Administrative law governs the operations of the public utility, in accordance with this theory. Due to the fact that it differs from civil law in that it requires specific regulations that result in the expansion of the administration's authority, it is subject to the oversight of the administrative judiciary in all administrative activities that pertain to the public interest, The theory of public utility is subject to various perspectives. The first is organic in nature. The meaning of the second form is objective. The final form incorporates the organic and the objective in its dual meaning. A public utility comprises an objective component, denoted by the activity's nature and its pertinence to the public interest, and a formal component, associated with the public authority through management or control, that facilitates the provision of the highest quality service possible. Given the administration's privileged position in the management of its funds and the fact that it enables the administration to manage its funds more efficiently, the dual criterion is more probable. By virtue of being a project established pursuant to specific legislation, the contents of a public utility mirror the privileged position held by the administration in the management of its funds. The intervention of the state in its formulation and

administration is facilitated through the implementation of public law and exceptional rules. A portion of the foundation of the management excellence centre is established by the principles that regulate the public utility. Ensuring equal access to the services provided by the public utility, the principle of regular, continuous, and uninterrupted operation of the public utility is inherent to it due to its connection to the general welfare of all. The public utility may petition the management centre for permission to modify or alter the operation of the public utility so long as it serves the public interest.

Third: Public Authority Theory

In reaction to criticisms of the public utility theory, this theory materialised. The principles of the Centre for Management Excellence are derived from this theory in accordance with the privileges and powers enjoyed by the administration in its numerous endeavours. encompassing the preservation and management of public funds, this theory has undergone the following two phases: The initial phase was initiated by (Hauriou), a French jurist Who developed this theory to bolster the notion of the public utility as a public authority, thereby articulating the administrative authority? This theory diverges from the conventional public authority theory, which differentiates between administrative and authoritative actions. The exceptional privileges that elevate the administration beyond that of the transacting parties are the critical aspect at this juncture. Under the leadership of the French jurist George Fedel, the second phase of the theory of public authority posits that it possesses a dualistic character. Not only does the administration possess extraordinary authority that is separate from that of individuals to manage their property. In addition, it is subject to stringent limitations that surpass the constraints and responsibilities placed on individuals and governed by private legislation. These limitations include those imposed in administrative contracting, which prohibit the use of intricate methods, the recovery of illicitly disbursed funds, or the acquisition of public debts. Therefore, when engaging in an activity involving public funds, the administration cannot rely solely on the regulations set forth by public law. It must employ non-traditional approaches that involve responsibilities to the public interest and refrain from arbitrary or deviant exercise of its authority. This is consistent with the distinct legal status of the administration, which takes the form of a non-self-governing legal status. which provides privileges but imposes restrictions, and the administration has to do the legal work if needed in the management of its funds, otherwise it is liable for failure to carry out the work entrusted to it.

Fourth: Current Philosophical Theories

After criticisms of previous theories Jurists have endeavored to form modern philosophical foundations to explain the distinctive status of administration in general, one of these theories is the public benefit criterion advocated by the French jurist (Waline), who argues that the purpose of the administration's exercise of its distinctive status and the establishment of public utilities is to achieve public benefit. who believes that the purpose of the administration's exercise of its privileged status and the establishment of public facilities is to achieve public benefit and is subject to the jurisdiction of the administrative judiciary. However, the founder of this theory modified this basis, as the criterion of public benefit is ambiguous and applies to all laws There are private organizations and associations whose purpose is public benefit, so he joined the school of public authority. One of the contemporary theories that has examined the foundations of management and its unique position is the theory of means and objectives. This theory has been embraced by the French jurist de-Coray, who holds that the means employed serve as an indicator of the administration's status; in cases where private law is inapplicable, the regulations governing public administrative law are applied. The jurist (Riffero) believed that objectives that aim to advance the public interest must be present in addition to exceptional means as a criterion for the establishment of a distinctive administrative centre.

Fifth: Combination Theories

Certain scholars have endeavored to establish a philosophical foundation for the distinctive management centre by integrating multiple criteria into a single theory, subsequent to their critique of earlier theories. By combining the public utility and public authority criteria, this method is achieved. The foundation of this theory posits that the administration, by virtue of its privileged position, endeavors to operate the public utility in a systematic

and consistent manner through the implementation of public law procedures and methods. The jurisprudence is divided as to which of the two criteria prevails, with one side of the jurisprudence favoring the public utility criterion. According to him, the main criterion is the public utility and the other criteria are auxiliary to enable the administration to carry out its work. especially the criterion of public authority. Jurist Valin favored the mixed criterion after abandoning the previous criteria without favoring any one criterion over the other. Chapus favors the public authority standard over the public utility. considering the uncommon conditions based on the idea of public authority as the main principle rather than the auxiliary one. The judiciary often uses this criterion, as it is more straightforward, so no particular criterion takes precedence in determining the origin of the privileged status. When the activity relates to the activity of a public utility the public utility standard arises. If it uses uncommon and distinctive means, the public authority criterion is triggered. Note that these powers are accompanied by severe restrictions on the administration's use of its powers. In brief, this theory may be supported as a broad philosophical foundation on the grounds of its public utility and public authority. The privileges bestowed upon the administration comprise both theoretical frameworks that bestow upon it a privileged legal status and impose extraordinary restrictions. Despite the fact that privileges and obligations are comparable in nature, this is consistent with the legal status of the administration. By establishing sound and logical concepts for analysing the privileged status of the administration in the management of public funds, these theories may be regarded.

Section Two

Special Philosophical Basis

The administration is based on the management of its funds and the wide and distinctive competencies it enjoys from a philosophical point of view. to what is close and synchronized with the type and nature of the activity it is practicing. In order to examine these contents, we will divide this section into the following paragraphs:

First: Managerial Discretionary Basis

One of the principles that can be relied upon to describe the philosophical underpinnings of a management centre of excellence is discretionary basis. The discretionary authority granted to the administration in overseeing its funds affords it a privileged position to engage in activities that promote the safeguarding and management of public funds. The notion of discretionary authority is synonymous with that which is established by legal systems, as defined by the French jurist Bonnard, who defined it as the assessment or evaluation bestowed upon the administrator in accordance with the law. While the Michoud thinks that discretion exists every time the administration acts freely and unconditionally under the law, Maurice Haurio believes that the authority of management is to be assessed and appropriate in administrative proceedings, and Walline interprets it with the mechanism that the administration exercises its competencies. Discretion, according to De-Laubadere, is the authority bestowed upon the administration to act in response to particular circumstances. explains discretion as the authority bestowed upon the administration to act. This restriction or discretion is established in accordance with established legal principles by legislation or the judiciary. Consequently, French jurisprudence regarding the discretionary basis The concepts are standardised in French jurisprudence, and when the administration exercises its privileged position in the management of its finances, it may refer to the discretionary power. Regarding Egyptian jurisprudence, one perspective holds that the legislator retains the freedom to determine the manner and timing of action in the management of its funds and assets, thereby exercising the authority of the administration. It is alternatively defined as the discretion of the executive branch to exercise its authority in order to exert the last word on legal proceedings. given that it aligns with the public interest and is suitable for the situation. The discretionary authority as one of the philosophical foundations of the distinctive management center has been the subject of disagreement in the jurisprudence on the criteria for its establishment . Some argue that the criterion of discretionary authority is based on the idea of personal rights. If personal rights are absent, individuals cannot compel the administration to perform a certain action because there is no legal bond to support those rights. French jurisprudence has articulated this criterion in two forms: The first was launched by the jurist (Bonnard), who believes that a right is a relationship between one person and another, whereby an obligation arising from a legal or regulatory text or an individual legal act obliges the other party to perform . He argues that the discretionary power disappears

in the face of personal rights and is limited to the public interest. Bonnar's idea has been criticized for not distinguishing between personal rights that are protected by a suit for annulment and personal rights that are protected by a suit in the ordinary judiciary in a case where the person enjoys a personal right that restricts the discretionary power. The other picture is given by the jurist Barthelemy, who distinguishes between simple interests and personal rights. These are interests that can be secured by legal means, and simple interests are the factual benefits and advantages that a person enjoys without judicial protection. The fundamental difference between a personal right and an interest is judicial protection, and as long as a person has a personal right as long as a person has a personal right, he can challenge the administration's discretionary decisions, and this is where the discretionary authority stands, and in the case of a simple unprotected interest, the discretionary authority emerges. Informing the second criterion was the project criterion. The second criterion is predicated on the project criterion, which signifies that the management's operations are analogous to the concept of the project and the private entrepreneur's discretionary authority with respect to his or her endeavour. Because private enterprises pursue private benefit while management strives to advance the public interest, this criterion has been criticised. Additionally, unlike management, which is governed by the law, the private entrepreneur is not bound by legal regulations and has complete autonomy in overseeing his operations.

This brings us to the next criterion, which is the hierarchy of legal rules. A French jurist named Kelsen is credited with being the pioneer of this concept. Kelsen examines the legal systems that include discretionary power in each and every action taken by the administration. This criterion illustrates the power of discretion by pointing out the relationship between the most stringent and the least stringent legal requirement. It is via the use of discretion that the lower rule is able to incorporate practices into the regulation that is higher. If the only thing being considered is an application, the discretionary power will be reduced. Accordingly, every legal act is accompanied with freedom of judgement and adherence in accordance with the flexibility that is provided due to the hierarchy of the legal system. That is the fourth criterion. This pertains to the public utility operating in a manner that is reliably and consistently consistent. It is necessary for the administration to possess the discretionary power to control the operation of public utilities in order to accomplish the public interest. Therefore, in order to encourage the operation of public utilities, the administration is granted powers that are separate and discretionary. The administration is therefore provided separate and discretionary rights in order to manage and dispose of its finances in order to serve the public utilities, and this criterion is supported by certain academics. This is done in order to promote the job that is being done by public utilities. It is the most likely explanation. mainly due to the fact that it incorporates the contents of all of the criteria and that its conceptualization is more expansive in order to encompass the philosophical basis for the image of the discretionary basis of the management's position of excellence in managing its money. Establishing discretionary jurisdiction has undergone a number of developmental phases, the initial of which was complete restriction, which precluded appeals. The aforementioned developments failed to coincide with the creation of an autonomous administrative judiciary or the delegation of the appeals procedure to the administration. By virtue of this, it remained referred to as the judicial administration until the establishment of the Conseil d'Etat (French Council of State). The second stage is the stage of purely administrative decisions, which is based on the justifications of discretion and giving the administration a space of choice. This stage was accompanied by a wide area of freedom, limited only by what is required from the personal rights of individuals. Discretionary decisions constitute the third stage, facilitating judicial supervision. At the stage of discretionary authority, which is the fourth and final stage, the judiciary admits any case challenge on the grounds of personal interest. This does not imply that the stage of discretionary decisions by the administration is to be abandoned; rather, it is a distinction between restrictive and discretionary elements that has been incorporated into every legal act by the administration. As it simulates the administration's privileged position in the management of funds, this phase is most consistent with the discretionary premise of the administration's position. The elements and constraints that accompany the legal actions performed by the administration constitute the scope of the discretionary basis. With the exception of delegation of jurisdiction, the element of jurisdiction does not possess any discretionary authority. Regarding the element of form, discretionary authority is precluded in administrative work if the law specifies both the form and the necessary procedures. There is no discretion in the element of reason, which represents the factual and legal circumstances. As the law defines it, the legal case does not

involve any discretion. The administration possesses the authority to exercise discretion in determining the facts and justifications necessary to pursue legal action. The effect of the legal action determines whether discretionary authority exists or not; in the case where the effect is not expressly defined by the legislature, the administration possesses discretionary authority. With regard to the element of purpose, the administration lacks discretionary authority due to the fact that the legislator may establish the objectives, which are governed by the principle of objective allocation. Its purpose is the public interest in the absence of defining objectives; any deviation from this principle results in challenge and nullification. The extent to which the discretionary power of the administration can be constrained is determined by its own prerogative to take action or abstain from doing so. alternatively chooses to act or abstain from acting, and is allowed to do so at any time and for any reason it deems appropriate. Due to the absence of explicit justifications in the law, the authority of middle management is restricted to advising management on whether or not to take action at their discretion, but only for predetermined motives. The administration is obligated to take action upon the fulfilment of legally specified conditions. but may do so whenever it is deemed suitable and in the best interest of the public. Discretionary authority to administer the administration's funds is warranted for the following reasons: One is pragmatic in nature and demands a speedier response from the administration as a result of the multitude and intricacy of its activities. The initial rationale is pragmatic in nature and is distinguished by the numerous and intricate undertakings of the administration. Practicality is the second justification, given that legislators cannot possibly be informed of every new development. The final justification pertains to the legal dimension of the challenge associated with limiting the powers of the government to specific operations that utilise public funds. Instead of being an arbitrary privilege, this authority serves as a mechanism to ensure the consistent and routine functioning of the public utility.

Second: Basis of Management Status Based on the Right of Ownership

In order to explain the basis and impact of management's property right, we will explain it as follows:

The Propensity to Refute the State's Public Property Ownership Rights

A portion of the legal system has a tendency to reject the administration's property ownership claim, which is detrimental to the administration's privileged position in property management. Two groups are considered the pioneers of this trend: The forerunners of this movement can be categorized into two factions: the first rejects the notion that the state and legal entities can be owned in accordance with Article 544 of the French Civil Code, and the second opposes this notion on the same basis. Because it confers upon the proprietor authority that precludes non-owners from employing it, including the right to dispose of, utilized, and exploit it, and because these authorities are unique to the proprietor's person. These authorities are not accessible to public legal entities or the state as represented by the administration. Prominent French jurists who support this trend include Proudhon, who held the view that the state's jurisdiction was restricted to the oversight of public finances with the intention of safeguarding and conserving them. The Dicroque and Bertimli, however, make the public money inherently unaffordable, which is what distinguishes it from the private money that belongs to individuals. The other section represented by Duguit, which considers that denial of ownership of public funds to non-recognition of the legal personality of the State; He was supported by the Jeans and Bonar after the state has no independent legal personality. And these funds are for the public good. The material elements of the state should not be confused with the legal elements of ownership.

And some of the old Egyptian jurisprudence has been affected in this direction. With the endorsement of the Egyptian judiciary at the time, While some Iraqi jurisprudence criticized this trend, it went to support the trend in favour of management ownership of public funds.

The assertion made in the first section is that the articles of the Civil Code delineate the entitlement of legal entities to possess property. The legal personality of an administration grants it the authority to own property, which is reflected in the broad powers granted by the ownership right, including disposal, use, and exploitation. As this authority is inextricably linked to the owner's authority, the recognition of the right of supervision is a partial recognition of the right of ownership. Furthermore, the civil law established the recognition of the state's legal personality as a public legal person, endowing it with a distinct legal status in contrast to natural persons. The perspective that differentiates physical and legal components The comprehensive structure of the state and

legal persons is represented by both elements. When one of these elements is absent, the state is susceptible to disintegration due to the disruption of its proper structure.

The Rationale Supporting the State's Entitlement to Possess Public Property

One argument in support of this trend, in response to criticism of the state's denial of ownership of its funds, is that the administration normally owns the funds. Additionally, this property satisfies every criterion applicable to an ordinary owner. By virtue of being a universal, inviolable, and permanent right to use, exploit, and act, A subset of French jurisprudence contends that property and property, whether tangible or intangible, are of distinct qualities. It could have been natural or man-made. Once she is in the possession of the administration, the funds are both public and private. It is, however, in the public interest. If the status of the public interest is adopted, the protection privileges that were previously established under the administration's privileges are revoked; however, it remains constrained by the interest

And the administration has the right to enjoy all the powers of the monarchy, and even more so than its privileged position and extraordinary means of administration and protection, This trend argues that the modern idea of ownership has a social function and an overlap of interests, not ownership in its individual sense and exclusive access to the owner. Use is not the only element and component of the right to property, Also, the right to use is limited to the nature of this money and is limited to management with space. To use the public in the money that allows it, Also, the right to act is permitted to the State by the limits of the allocation and the supreme objective of the public interest, And one of the most prominent leaders of this trend is Horrio, who sees the characteristics of public funds as the most important of all. The privileged center gives the administration the power to enforce and execute the opposites when dealing with public funds. And it's a power that exceeds one's ordinary power over money.

The administration 's enjoyment of the right of ownership of public funds has certain implications. It's because the administration's title has been established. It has consequences that support the role of management in the management and protection of its funds, and because the administration has the moral personality of which it has the right to litigate, the administration also has the power to change the class of those funds and turn them into private funds and under the right of ownership that ends with the lack of public benefit. Furthermore, the property right bestows returns from the administration's public funds, regardless of whether these returns are derived from natural resources (e.g., alcohol and squats), extracted from the earth, or found in rivers and their contents. Or cash returns, such as those produced with funds borrowed from the public. It is transferred to management through investment, rent, sale, and other means. The administration is obligated to maintain and safeguard public funds prior to that. These contents are in complete accordance with the establishment of the Centre for Philosophical Excellence and its extraordinary capabilities.

CONCLUSION

The asset base is the resource used by the Department in its outstanding legal work towards public funds Reflecting on its good management and protection, At the same time, this is an important guide for the legislature to draft important legislation on public funds. Because it theoretically establishes a Centre of excellence in the monitoring of public utilities.

The philosophical foundation is comprised of two tenets: the first is the theory of the public facility; and the second is a general premise of traditional theory that differentiates between acts of administration and acts of authority. The distinction between the two is based on the scope of the authority's actions without the administration, which defines the centre of administration. The tangible and intangible elements of the Department's exercise of its extraordinary authority over the appropriate administration of public finances and utilities, which mutually reinforce one another, The third theory is that of public authority, which grants broad discretion and autonomy to the administration. They enjoy advantages in their interactions with others on account of their adherence to the principles of common law, even as contemporary concepts of public utility and extraordinary means emerge. The concept of administrative law and the preeminence of administration over others is predicated on the notion that a mixed theory, which combines elements of public utility and

public authority, is the most effective approach. These two concepts encompass a consistent and unchanging outcome in granting the government a separate jurisdiction over the oversight of its fiscal matters.

The unique philosophical foundation serves as a theoretical underpinning for management, providing justification for its unique methodologies. Which is predicated on a discretionary framework that grants the executive branch the authority to execute appropriate decisions and undertakings? To manage public funds while granting her adequate autonomy to recognise the public interest. The necessity to safeguard them in accordance with the legal latitude bestowed upon the administration, An additional private foundation pertains to the administration's ownership of its funds. Whoever has been established as a public legal person by the administration is authorised to possess public funds. That which bestows this unique quality upon the administration and grants the proprietor superior authority to that of a queen in order to manage these assets.

REFERENCES

Public sources

First: Legal Books

- Dr. Ibrahim Abdul Aziz Sheha: Broker of Public and Private State Funds, University Publications House, Alexandria, 1995.
 Tamer Mohammed Abraham: Principles of Administrative Law, Al-Hawra Printing House, Baghdad, No Year Published.
 Dr. Hussein Othman Mohamed Osman: The Origins of Administrative Law, T1, Halabi Rights Publications, Beirut, 2006.
 Dr. Khaled Khalil Al Taher: Administrative Law - Book II, T1, Dar Al Masra, Amman, 1997.
 Dr. Ramadan Mohammed Bateekh: Mediator in Administrative Law, Arab Renaissance House, Cairo, 1998.
 Dr. Said Mr. Ali: Foundations and Rules of Administrative Law, No Publisher, 2007-2008.
 Dr. Suleiman Mohamed Al-Tamawi: Administrative Judiciary and Supervision of the Administration's Work, T3, Dar Al-Arabi Thought, Cairo, 1961.
 Dr. Abdul Ghani Basoni Abdullah: Administrative Law, Al-Ma'raq Facility, Alexandria, No Year Published.
 Dr. Abdel-Moneim al-Dawway: Public Authority against Individuals through Law, Contract and Administrative Decision, I, Law Fulfilment Library, Alexandria, 2016.
 Dr. Essam Abd al-Wahab al-Barzanji: Discretion and Control of Administration, Arab Renaissance House, Cairo, 1971.
 Dr. Essam Ali Aldabs: Administrative Law - Book I, Culture House for Publishing and Distribution, 2014.
 Dr. Omar Mohamed Al-Siwi: The Brief in the Administrative Judiciary, Dar Al-Fadhil Publishing and Distribution Library, Benghazi, 2013.
 Dr. Ghazi Faisal Mahdi Wader. Adnan Raj Obaid: Administrative judiciary, T4, Dar es Salaam University Law Library publications, Najaf al-Ashraf, 2020.
 Dr. Majid Raghay Al-Hilu: Administrative Law, University Publications House, Alexandria, 2000. s Rights ", p. 79 ff.
 Dr. Mazen Lilo Radi: Administrative Law: T4, Dar al-Masra, Baghdad, 2017.
 Dr. Mohammed Abraham Al-Dosouki: Oversight of the Administration's Business, Arab Renaissance House, Cairo, 2010.
 Dr. Mohammed Al-Mutawalli: Recent Trends in Privatization of Public Utilities between Theory and Practice, T1, Arab Renaissance House, Cairo
 Dr. Mohammed Bakr Hussein: Brief in Administrative Law, Jerusalem Library, Tanta, 2005.
 Dr. Mohammed Rafat Abdel Wahab: General Theory of Administrative Law, New University House, Alexandria, 2012.
 Dr. Mohamed Abdel-Aal Al-Sinari: Principles and Theories of Administrative Law, No Publisher, 2004-2005.
 Dr. Muhyiddin al-Qaysi: General Administrative Law, T1, Halabi Rights Publications, Beirut, 2007.
 Dr. Najib Khalaf Ahmed and Dar. Muhammad Ali Jawad Kazim: Administrative judiciary, T3, no publisher, 2013.
 Dr. Nawaf Kanaan: Administrative Law - Book I, I, Culture House for Publishing and Distribution, Oman, 2006.
 Dr. Hani Ali al-Tahraowwei: Administrative Law, T1, Culture House for Publishing and Distribution, Amman, 2006.
 Dr. Sam Sabar al-Ani: Administrative Judiciary, T1, Sinhoori Library, Beirut, 2015.

Second: Letters and dissertations

- Barween Ali Mohamed Amin: Oversight of the Administration's Discretion in the Field of Administrative Justice, Master's Thesis, University of Soleimani, Faculty of Law and Politics, 2017.
 Hussam Eldin Morsi Marei: Discretion in Administrative Control in Normal Circumstances, Doctoral Thesis, Alexandria University, Faculty of Law, 2009, pp. 31-34.
 Hussein Ahmed Geelan Al-Fahdawi: Recent Trends in Judicial Control of Management Discretion - Comparative Study, Master's Thesis, Baghdad University, Faculty of Law, 2000.
 Ribar akaram Fayq Hamah-Rashid: Limits of discretion in administrative investigation, Master's thesis, Sulaymaniyah University, Faculty of Law, 2022.
 derivi Nadia: Public Facility and New Transformations, Master's thesis, University of Algeria, "Ben Youssef bin Khaldah", Faculty of Law, 2007-2008.
 derivi Nadia: Public Facility and New Transformations, Master's thesis, University of Algeria, "Ben Youssef bin Khaldah", Faculty of Law, 2007-2008.
 kalil Hassana: The General Annex between the Need for Modernization and the Challenges of the New Legal Reality, Master's Thesis, Mohammed Khaidar Biskra University, Faculty of Law and Political Science, 2014-2015.

The Foundational Principles upon Which the Centre for Management Excellence in Public Finance Management is Built "A Comparative Study"

Lutfawi Mohamed Abdelbaset: Analytical Study of the Content of the Administration's Discretion and Extent of Judicial Oversight, Master's Thesis, University of Bakr Bakaid-Tlemsan, Faculty of Law and Political Science, 2015-2016.

Mahmoud Ahmad Suleiman Al-Barashdi: Legal System of Public Utility Funds under Privatization Policy, Doctoral Thesis, Ain Shams University, Faculty of Law, 2009.

Walid bin Salman bin Saeed: The role of judicial oversight of the authority of discretionary administration - comparative study, master's thesis, Grash University, Faculty of Scientific Research and Postgraduate Studies, Jordan, 2016.

Third: Research

Dr. Hasanin deaa Nouri al-Mousawi: Philosophy of Property Restrictions, research published in the Journal of Visual Studies - Legal Studies, Twelfth Year, Issue (25), 2017.

Dr. Suleiman Mohamed Tamawi: Discretion and Restricted Power, research published in the Journal of Law for Legal and Economic Research, Alexandria University, Egypt, 1950.

Fourth: Foreign reference:

De Corail: La Crise de la nation du Service public en droit administratif français, 1975,p39. Rivero: Droit Administratif,1977.

Frederic Colin: Lessentiel du Droit administrative des biens , Gualino, Lextenso,2010.