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Modern Means of Evidence before Administrative Investigation Committees under Jordanian Legislation: A Comparative Study

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Abstract

This study sought to identify the foremost modern methods of evidence employed before the Administrative Investigation Committee for detecting disciplinary misconduct. In conformity with Article 146/B/2 of Civil Service Bylaw No. 9 of 2020, the legislative framework in Jordan has primarily centered on establishing conventional rules governing the presentation of evidence. It is a well-established tenet that the burden of proof rests with the administration, necessitating a comprehensive demonstration of the evidential basis underpinning their misconduct allegations. Therefore, it is the responsibility of the administration to provide indisputable evidence in cases where employees are accused of disciplinary infractions. Simultaneously, employees have to present evidence that contradicts these allegations. Investigative committees are tasked with examining the necessary evidence to establish the accuracy of these claims. The study found a significant gap in the legislative framework pertaining to modern methods of evidence within the Jordanian civil service Bylaw. While these methods are acknowledged in general legal provisions, this recognition is considered insufficient due to variations among different employment systems. Therefore, this study recommends explicitly incorporating modern evidence presentation methods into legislation to align with ongoing scientific and technological progress and facilitate their widespread adoption. Consequently, there is a need to revise legislative regulations governing employment systems and include the methods at the core of this investigation. This study addresses the ambiguity in Jordan's legal framework related to validating allegations against public employees before administrative investigators using an analytical and comparative approach, juxtaposing the legal provisions of Jordan and Egypt in this context.

Keywords: *Public Employee, Civil Service Bylaw, Disciplinary Infractions, Evidence, Administrative.*

INTRODUCTION

In the context of public administration, when public employees carry out their official duties, they are obliged to adhere to the prescribed job rules and policies. Any violation of these standards or negligence in performing their duties can result in the administration's prerogative to impose penalties, subject to specific legal procedures. This system is commonly referred to as the disciplinary system. It aims to ensure the public facility's orderly operation and facilitate the administration's capacity to execute its functions effectively while addressing any errors or actions that may disrupt the facility's workflow.

The administrative investigation process plays a pivotal role in ascertaining the veracity of allegations against an employee, for example, failures in preserving information and documents within their responsibility. Such lapses are regarded as disciplinary infractions due to their potential to undermine the efficient functioning of public entities.

Notably, the authority responsible for conducting administrative investigations varies by jurisdiction. In Egypt, this responsibility falls under the authority of the Administrative Investigative Committees or the Administrative Prosecution for individuals occupying senior positions, as specified in Article 81 of the Egyptian Public and Civil Servant Law. Conversely, in Jordan, the Administrative Investigation Committee is entrusted with overseeing these investigations. These bodies play a crucial role in upholding the standards of conduct and

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accountability within the public sector, ensuring that public employees adhere to their duties and responsibilities.

Evidentiary, in the context of an administrative investigation, entails establishing compelling evidence that an event or occurrence indeed transpired. Each party involved in such an investigation bears the responsibility of exerting diligent efforts to substantiate their respective claims. In this regard, the administration is empowered to substantiate its stance's validity through various means. Simultaneously, the employee disputed the allegations, perhaps asserting that they fall outside the bounds of misconduct, as determined by the investigation committee. The latter, in turn, retains the authority to employ various methods of substantiation and maintains a degree of freedom in its choice of approach.

Certain legislation pertaining to the public service system has not comprehensively regulated the mechanisms of proof concerning disciplinary infractions. These legal provisions have not been detailed in addressing the means of establishing proof. Consequently, the Administrative Investigation Committee enjoys significant discretion in employing general principles to identify these infractions and those responsible for them, as well as collecting evidence necessary to appraise its position concerning the incident under scrutiny and to authenticate its veracity.

With the advent of the information revolution, electronic evidence methods have emerged. Comparative legislative frameworks have made some progress in keeping pace with this advancement. They have addressed the organization and verification of electronic documents, the authenticity of emails, and other related matters. The administrative investigator has, in response, recognized the importance of exploring the extent of the utilization and acceptance of these electronic proof methods, refraining from overlooking their capacity to validate legal actions. Consequently, they maintain the right to take the requisite actions to incorporate these innovations into their investigative processes.

Study Objectives

This study seeks to illuminate the necessity for potential legislative revisions within the employment framework, particularly in response to the advent of novel legal principles and the modern evidentiary methods that demand the surmounting of conventional barriers and their associated limitations. A primary objective is to delineate the key attributes of these contemporary methods, aiming to discern whether actions carried out by employees in the course of their job responsibilities should be classified as disciplinary infractions. In addition to formulating crucial recommendations intended for the Jordanian legislator. The research endeavors to foster the assimilation of the insights it offers, encouraging lawmakers to construct a comprehensive legislative milieu that aligns with the imperatives of the contemporary era.

Problem Statement

Feasibly employees may inadvertently make job-related errors during their tenure, such as unintentionally disclosing data and documents pertinent to a public institution, the safeguarding of which is legally mandated. The burden of proof to establish the occurrence of such an act commonly rests upon the administration, which may accuse the employee of breaching their job duties, referred to as a disciplinary infraction. In terms of evidentiary methods, the administration is legally entitled to substantiate its allegations through various means, a principle well-established in jurisprudence and the judicial system.

While legislation has indeed codified certain conventional rules, it has fallen short of keeping pace with rapid technological advancements. The deficiency becomes apparent without comprehensive legal frameworks that govern modern evidentiary collection methods in cases involving misconduct and violating workplace rules before investigative committees. This gap in the legal framework has led us to explore this topic, stemming from recognizing the insufficient jurisprudential attention it has received. This study sought to address this problem through answering the following questions:

Has the legislation pertaining to modern evidentiary methods in establishing disciplinary violations been specifically addressed, or does it exhibit legislative silence on this matter?

Has this concern been examined within the jurisprudential framework and legal doctrine?

What are the principal deficiencies and inadequacies within the existing civil service Bylaw, and to what extent do they influence the practical process of administrative investigations and the revelation of factual accuracy?

In what ways can this legislative gap be rectified or bridged effectively?

To what scope does the stance of Jordanian legislation align with that of its comparative counterparts in this context, considering its pioneering experience in this field?

Previous Studies

Al-Hamadani. The disciplinary violations and the evidence to prove them in the administrative investigation. This study dealt with disciplinary violations and the evidence to prove them in their traditional form within the framework of administrative investigation. In contrast, our study seeks to ascertain the degree to which legislative regulations address the utilization of contemporary evidentiary methods in disciplinary violations, particularly in light of the growing reliance on technology within public institutions. We aim to investigate the legislator's role in this domain. Additionally, we have observed a notable absence of scholarly attention to this issue, characterized by the scarcity of references and research on the subject. This deficiency has been a primary motivation for our research on this topic.

Study Approach

This study employed a multifaceted methodology encompassing several approaches. Specifically, we employed the analytical approach to dissect the content of pertinent legislative texts, judicial judgments, jurisprudential opinions, and the critical approach of these areas. Furthermore, we adopted the comparative approach, examining the subjects under consideration within a comparative framework, drawing parallels and distinctions between the legal, judicial, and jurisprudential aspects in Jordan and Egypt. This comprehensive analysis is aimed at discerning both the strengths and weaknesses in these areas, ultimately leading to the formulation of key findings and recommendations.

Study Plan

This research will be presented in two sections: In the first, we address the use of emails as an evidence-collection method before administrative investigation committees, and in the second, we discuss the Electronic Administrative Investigation System as a method of evidence before those committees. Then, we will set a conclusion of the most important findings and recommendations.

Email as an Evidence Collection Method Before Administrative Investigation Committees

Email serves as a digital repository for securely storing processed documents in a user's private and password-protected inbox. Additionally, it serves as a medium for exchanging electronic messages, files, images, and other digital content between the sender and recipient in lieu of the conventional postal address (Ibrahim, 2008; Al-Hejazi, 2004). Personal email accounts may be affiliated with administrative websites, and many organizations provide dedicated work emails to their employees. Within this context, employees can be interrogated or asked to provide statements via email. The administration initiates the process by sending an interrogation or statement form, to which the employee responds through a series of email messages. This practice has become increasingly prevalent to expedite communication spanning several minutes.

When administrative investigation committees apprise employees of the alleged violations attributed to them, they are obligated to permit the submission of supporting documents and any objections raised (Article 45 of the Jordanian Civil Service Bylaw No. 9 of 2020). Electronic evidence, such as emails, notably constitutes one of the most crucial means of proving or refuting an employee's alleged disciplinary violation.

Recognizing the significance of this method, this section will be divided into two subsections. The first subsection delves into the definition of email, while the second explores its validity and inherent characteristics.

The Definition of the Email

Foruji (2014) has defined Email as a message that comprises data or information, whether in its entirety or partially created, stored, sent, or received through digital media. Alternatively, some legal scholars view it as a series of exchanged messages encompassing written content and files transmitted as attachments (Al-Awadi, 2007; Al-Hilat, 2021). Farraj (2008) sees email as a service freely provided to users via the Internet to transmit various messages, files, topics, or digital documents through electronic mailboxes to recipients. Each Internet user has a distinct email address. Khayal (2001) defines email as a means of asynchronous electronic communication, facilitating the exchange of messages between computers.

Legislatively, within the framework of Law No. 575-2004 concerning trust in the digital economy, the French legislator articulated a definition of email in its inaugural Article. It stipulates that any message, whether comprising text, images, or sounds and transmitted via public communication networks, is identified by one of the servers of that network or in the recipient's terminal equipment, enabling the recipient to access it (Loi No. 2004-575 du 21 juin 2004 relative à la confiance dans l'économie numérique).

Conversely, the Egyptian Electronic Signature Law No. 15 of 2004 and the Jordanian legislature did not establish a specific definition for email. Some have posited that this absence does not denote a legislative deficiency but rather an intentional choice to allow judicial and jurisprudential authorities to determine definitions based on the context at hand (Al-Manasir, 2019).

Nonetheless, we contend that the legislator must provide a comprehensive definition of email rather than deferring to jurisprudence, given the ambiguities and inadequacies apparent in definitions formulated by jurisprudential sources. Consequently, we advocate for the Jordanian legislator's amendment to the law to articulate a comprehensive definition of email, encompassing all of its dimensions. A similar consideration applies to their French counterpart.

In administrative practices, public administration in numerous countries has increasingly incorporated email as a communication tool with its employees, streamlining administrative activities (Shabir, 2017; Allam, 2014). In this research, our concern centers on defining email as the electronic messages exchanged between an administration and its employees. These messages encompass the information and clarifications requested by one party from the other regarding an alleged violation, serving as evidence presented before administrative investigation committees.

Probative Force of Email

As a manifestation of contemporary technology, email serves as a medium for generating electronic documents, constituting a repository of evidentiary data maintained and conveyed in a digital format. Its hallmark lies in its ubiquitous presence and practical accessibility, rendering it a superior alternative to traditional paper documents. Distinguishing it from the latter, email records are inscribed onto magnetic media, necessitating their displaying on a screen or printing to be legible. In contrast, paper documents are more straightforward to peruse as they are physically manifest on tangible material (Jawadi, 2013). It is important to underscore that official bond provisions cannot be directly applied to emails. This is primarily due to the absence of a formal issuance by an officially designated and specialized authority or an individual entrusted with a public duty under the legal prerequisites – a fundamental requirement for documents to attain official status.

When examining comparative legislation pertaining to the employment system, it becomes evident that the Jordanian Civil Service Bylaw No. 9 of 2020 does not explicitly address the issue of the legitimacy and probative force of email communications within administrative investigations. In contrast, the Egyptian Electronic Signature Law No. 15 of 2004 places electronic writing support on par with their conventional written counterparts regarding their legal validity, subject to the caveat that the signer's identity can be ascertained and attributed.

Within the framework of Jordanian legislation, the Electronic Transactions Law generally permits the use of electronic correspondence; it can, therefore, be applied to email messages as they are part of them. Furthermore, The Jordanian Evidence Law contains a specific provision in Article 13 that affirms the probative value of such

electronic correspondence and equates them with traditional written documents as admissible evidence with the same legal consequences. However, it is important to note that this equivalence may be negated if it can be proven that the signatory neither sent nor authorized anyone to send the message in question, in which case the evidentiary value of such emails would be diminished .

Based on the above, email messages bearing an electronic signature have the full probative value of ordinary messages. This fact would permit the administrative investigation committees to resort to email as a complete means of proof without having discretionary authority regarding whether these signed messages are accepted or not.

On the judicial level, we find a recent stance from the French Council of State indicating its willingness to positively engage with these modern means. It has also sought to encourage the French government to work on amending the evidentiary system to align with electronic advancements, which have, in turn, become a new domain for administrative activities (Barkat, 2012). The French Council of State confirmed the admissibility of the election appeal sent via email in its decision relating to the municipal elections of December 28, 2001, for the municipality of Entre-deux-monts, stating that "...as it is concluded from the data, in particular the recognition issued by the prefecture Mr. M.G. protested against the electoral process that took place in the town on March 11, 2001, and Mr. GM confirmed, after the author of this objection confirmed in a letter addressed to the Administrative Court (Besançon), that this protest was acceptable..." (C: E December 28, 2001, req. nO 235784), and the Nantes Administrative Court recognized his authority to conduct litigation procedures and submit the administrative appeal through him since it proves and determines the identity of the appellant (Shehadeh, 2010).

The Jordanian administrative judiciary did not address email messages and their authenticity. However, reach this conclusion implicitly through what the Administrative Court stated in one of its decisions: "...and since the jurisprudence is settled that the court does not interfere with the conviction of the investigation committees as long as what it decided is deemed a reasonable and acceptable conclusion..." (Decision of the Jordanian Administrative Court, No. 155, of 2017).

The Supreme Court of Justice rendered a decision stating, "As the investigation committee duly informed the applicant of all documents pertaining to the email hacking incident, the committee reached the determination that the applicant had failed to adhere to the standards of professional conduct, as well as the ethical obligations associated with public employment" (Jordanian Supreme Court of Justice Decision No. 497 of 2010).

Accordingly, we contend that the administrative investigator possesses a discretionary prerogative to scrutinize and assess the evidence and formulate his judgment. As exemplified in the ruling, the administrative judiciary has conferred upon the investigator the authority to reference any evidence that he deems pertinent. Considering this precedent, we believe that relying on email as a method of proof within an administrative investigation is permissible, so long as it does not compromise the course of the investigation or the pursuit of justice. The investigator is unburdened by constraints about the method of evidence and is empowered to employ alternative methods should they prove necessary to ascertain the truth.

In this regard, it can be asserted that the email method, whether utilized by the accused employee or the administrative body issuing the summons, can be employed to substantiate the claims of both parties and validate their assertions by extracting and presenting the correspondence and exchanged information as evidentiary support or refutation before the Administrative Investigation Committee. Consequently, we posit that there is no impediment preventing the Committee from embracing the email method as a valid form of evidence, given that the administrative judiciary has already ascertained its probative value.

In conclusion, intending to foster comprehensive legislation that adapts to the dynamic and ever-evolving communication tools, the researcher posits the imperative need for the Jordanian legislator to enact specialized legislation designed to govern contemporary administrative evidentiary methods. This necessity becomes particularly pronounced considering the public sector's inherent capacity for perpetual evolution and modernization. Such legislation should encompass detailed provisions on the regulations governing these methods, especially in the context of administrative investigation committees, with a specific emphasis on email

as an illustrative case. Even in instances with a distinct legal provision regarding the authority of these methods, a comprehensive legal framework is indispensable, as a broad reference may not furnish a sufficiently detailed organizational structure.

The legal nature of email has generated substantial jurisprudential debate, with scholars adopting diverse perspectives. Among these, the first group views email as an integral component of legal personality, akin to the civil name and place of residence. This perspective is rooted in the observation that the initial part of an email address typically features the user's name and residence, effectively distinguishing each user from others. Some scholars liken it to a phone number and country key number, emphasizing its role in facilitating social communication. Furthermore, comparisons are drawn between the email address and other personal identifiers, such as a social security registration number, given their role in enhancing interpersonal communication. Notably, the fundamental composition of an email address involves a combination of letters and numbers specified by the individual. Consequently, some scholars have drawn parallels between the email address and an access code for a service (Glaiwe, F, 1999).

Moreover, some perspectives posit that email can be likened to a virtual address for its owner, and its legal categorization mainly revolves around recognizing it as such - an address for correspondence among its users. Simultaneously, it represents one's virtual presence in the digital realm, encapsulating the functions and objectives that this address facilitates. This viewpoint underscores that an email address embodies the essence of communication while signifying the individual's virtual 'homeland' in the online domain (Shabir, 2015; Qanfoud, 2017).

Contrarily, a third school regards email as an autonomous legal entity, distinct from conventional concepts like name, residence, or telephone. This perspective challenges the previous notions and draws support from jurisprudential interpretations and legal precedents that have exhibited disparities in defining the legal nature of email (Lamy, 2001). The researcher contends that this perspective aims to establish a distinctly legal framework tailored specifically for email, acknowledging its unique attributes and roles in the digital landscape.

An alternative perspective regards email as an integral facet of an individual's intellectual property, thereby bringing it under trademark and trade name regulations (Ibrahim, 2008. p. 40). Advocates of this viewpoint underscore the economic significance attributed to the email address, particularly in a business context (Kamal, 2018).

Conversely, the final viewpoint asserts that the nature of email entails an administrative entity's manifestation of its identity on the Internet, specifying its location with precision, inclusive of the abbreviations inherent in the email address. For instance, if the owner resides in Jordan, the address must conclude with the symbol "(jo)." It may also bear the nomenclature of the government department that owns the email, along with the individual employee's identity, signified by "(gov)" in this instance (Al-Manasir, 2019).

In this discussion, it becomes evident that email exhibits a dual nature. It carries the actual personal identity of its user, primarily the employee to whom any misconduct is attributed, facilitating precise identification and differentiation from others. This, in turn, influences correspondence by ensuring messages reach the intended recipient accurately. Furthermore, it can be categorized within the user's country of origin, as it incorporates the relevant country code, effectively transforming it into a virtual homeland. Notably, no impediments are preventing public administration from adopting email instead of conventional mail to align with technological advancements and investigate alleged infractions committed by employees.

Regarding the assertion that email should be regarded as an element of industrial property, this stance lacks merit, as it is not inherently linked to branding and does not represent an activity or commercial enterprise (Al-Hilat, 2021).

Video Conferencing Technology is a Means of Proving Before Administrative Investigation Committees

Recently, the globe has witnessed a profound technological revolution. Consequently, implementing an electronic administrative investigation system has become increasingly feasible. This system enables the

presentation of evidence before administrative investigation committees through contemporary audio and visual communication tools, emphasizing video conferencing technology. This transition towards technological solutions has become especially pronounced in light of the disruption caused by the COVID-19 pandemic, which necessitated restrictions on physical mobility and face-to-face interactions, thereby underscoring the urgent need for adaptable mechanisms.

Administrative investigation committees need innovative means of collecting evidence to facilitate investigations that aid them in conducting inspections, hearing the testimonies of witnesses and experts, and interrogating parties involved, all without the necessity of physical presence at the headquarters of the Administrative Investigation Committee. These interactions are mediated through remote communication channels, effectively establishing a virtual space for collaboration.

Considering the diverse range of disciplinary evidence that administrative and investigative committees must explore to uncover the truth and render a just verdict, these committees must adopt rigorous procedures for collecting and assessing such evidence. Given the heightened importance of evidentiary methods, especially in the context of electronic evidence, this paper seeks to delve into the subject matter through two sections.

Testimony and Electronic Evidence in Administrative Investigations

The participation of witnesses in Administrative Investigative Committees or Administrative Prosecutions serves as a vital means to either augment the content of documented evidence or shed light on the circumstances surrounding the incident under investigation (Ahmed & Al-Tabbakh, 2018). The Jordanian Civil Service Bylaw, Article 146/B/2 delineates certain evidentiary methods pertinent to administrative investigations, including witness testimony. At the same time, Article 83 of the Egyptian Civil Workers Law likewise acknowledges the role of witnesses in this context. However, these regulations remain notably silent regarding the specific procedures and rules governing witness testimony, leaving a vacuum where general rules must be established.

The Egyptian Supreme Administrative Court has elucidated the concept of testimony in disciplinary investigations as follows: "Statements provided by individuals, other than the parties involved, based on their perceptions or information obtained through their senses—whether by hearing or sight—related to the incident, its circumstances, or the attribution of the act to the accused, or his dismissal. It suffices for testimony to lead to a reasonable and acceptable inference even if it does not reveal the entire truth" (Appeal No. 4391, s. 53, session 4/19/2008).

As for the jurisprudential understanding of electronic testimony within an administrative investigation, it pertains to an individual's electronically conveyed statements before the investigative committee, encompassing information and data relevant to the investigation that the witness acquired through one or more of their senses (Jassem, 2022; Hijazi, 2003). This form of testimony, commonly called electronic witness testimony, involves the electronic presentation of statements by a witness to substantiate specific facts associated with an employee's behavioral violation. It hinges on the credibility of the witness's sensory experiences, such as what they heard or saw (Al-Hamadani, 2018).

In this context, the researcher defines electronic testimony as the use of modern technology, such as video conferencing, to allow an individual to convey before the administrative investigation committee that the incident in question was indeed committed by the employee, thereby conferring upon the administration the right to impose appropriate penalties.

From a different angle, it's noteworthy that anyone can be called upon to provide electronic testimony when the investigation committee deems it pertinent to the violation in question and deems it necessary. Article 81 of the Egyptian Public and Civil Servants Law No. 47 of 1978 states that: "the investigator can, of his own accord or at the request of the individual under investigation, hear witness testimonies." In contrast, under Jordanian legislation, Article 146 (B/2) of the Civil Service Law stipulates the authority to "summon any person to testify."

From these legal provisions, we can discern a notable distinction between the Egyptian and Jordanian legislators. The Egyptian legislator has explicitly granted the Administrative Investigation Committee broader

authority, while the Jordanian legislator has approached this right implicitly. Consequently, in practice, this distinction has led to the committee only requesting the testimony of witnesses when the investigated employee specifically requests it—commonly referred to as defense witnesses. This holds true regardless of whether the witness is an employee within the department under investigation, affiliated with another entity, or a member of the public.

In light of this observation, the researcher advocates for an amendment to the Article above in the civil service Bylaw. Specifically, the addition of the following explicit clause: "The investigation committee, at its discretion or the request of the employee under investigation, may summon any person to testify if it deems such testimony to be directly relevant to the subject of the investigation and essential."

Conversely, it's important to acknowledge the possibility of a scenario in which a witness is electronically summoned before the investigation committee. Still, it declines to participate or provide testimony in the virtual setting. This situation has been addressed in Egypt, where the executive regulations of the Egyptian Civil Service Law outline that "Any employee summoned to give testimony during an investigation who refuses to attend or provide relevant information without a valid excuse will be subject to disciplinary measures" (as articulated in Article 157 of the regulations). Furthermore, the instructions of the Egyptian Administrative Prosecution, vested with the authority to investigate administrative violations in Egypt, necessitate issuing an order to apprehend and compel the witness to appear if they fail to do so after being summoned.

In Jordan, the administrative investigation process falls under the purview of the administrative investigative committees exclusively. A review of the civil service Bylaw reveals a parallel approach to that of Egypt when dealing with a witness's refusal to participate, particularly if the witness is an employee. Article 146/H of the system above specifies, "If an employee is called upon to provide testimony but refrains from attending or providing pertinent information without a valid excuse, they will be held accountable in accordance with the provisions of this system."

As mentioned, the absence of a witness is contingent upon a valid excuse accepted by the investigation committee. The Jordanian civil service Bylaw does not address the procedure of summoning a witness through a legal warrant, as the system holds the witness accountable. Since no provision mandating the application of the specialized regulations prescribed by the Code of Criminal Procedure in such scenarios, this gap is perceived as a legislative deficiency. Consequently, there exists a compelling need to codify this situation. The researchers recommend the addition of a clause to the Article above, which would read as follows: "In the event of a repeated absence, the committee may issue a subpoena to the witness, especially if it deems the witness's testimony indispensable in ascertaining the truth regarding the violation."

It should be noted that the investigator must inquire if the employee has defense witnesses, and if so, their statements should be heard. Failing to do so and only listening to prosecution witnesses invalidates the committee's decision, disregarding the right to a proper defense (Attiya, 2021).

The Egyptian Supreme Administrative Court has ruled that: "if there is a request to hear witnesses who can refute the incident, it is imperative to heed this request to ascertain the truth. Failing to incorporate such rules in the investigation is deemed a defect." (Supreme Administrative Court ruling, session 12/20/1994, Appeal No. 4753 of 35 BC). Similarly, the Jordanian administrative judiciary specifies that: "the court finds that the investigation committees and the disciplinary council carried out the procedures in accordance with the rules and enabled the plaintiff to present his defense evidence, as the disciplinary council in the case heard... defense witnesses who were unable to deny that the plaintiff had committed the alleged violations." (Decision of the Jordanian Administrative Court, No. 424/2015).

We conclude that the witness is not physically present at the investigation site; instead, remote communication technology, such as video conferencing, facilitates their participation in the proceedings. This method allows the committee to interact with the witness, confirm their identity, and engage in comprehensive questioning to clarify and solidify the investigation's findings (Al-Dabbas, 2021). Certain prerequisites must be met for a witness's testimony to be admissible. These include the witness being discerning, conscious of the act's significance, possessing sound judgment, and free from any factors that might compromise their ability to

testify. Additionally, the witness must clearly understand the subject of their testimony, which could involve observations related to the accused employee's dissemination of confidential documents and information about the public institution where they are employed. Furthermore, the investigator shall hear each witness individually, and there may also be instances where witnesses are confronted with one another (Al-Hilat, 2022).

For this method to be deemed valid, the witness must administer the oath using modern technology before the investigation committee. The omission of this critical step renders the proceedings invalid, as it represents an essential procedure, as outlined in Article 7 of the Egyptian Administrative Prosecution Law No. 117 of 1958 and its subsequent amendments, which unequivocally state that "statements shall be heard after taking the legal oath." A corresponding requirement can be found in Article (146/B/2) of the Jordanian Civil Service Bylaw, which stipulates that "witness statements shall not be heard unless the legal oath is administered."

In this context, the Jordanian Administrative Court has ruled that "the testimony of witnesses should not be heard in the absence of the opposing party without granting the plaintiff the opportunity to scrutinize the witnesses and administer the legal oath. This contravenes the general principles and the rights of defense enshrined in the law and established procedural norms" (Jordanian Administrative Office, No. 101, 2014). The administration of the oath by the witness before presenting their testimony holds immense significance as a fundamental legal safeguard. It engenders confidence in the testimony and elevates it to the status of complete legal evidence upon which the committee can base its judgment. This guarantee further incentivizes the witness to provide an honest and accurate account (Alimat & Maqbeh, 2018).

An employee accused of a disciplinary violation possesses the right to electronically engage in discussions with the prosecution witnesses regarding the alleged violation. This is stipulated in Article 146/B/2 of the Civil Service Bylaw, which explicitly states that the employees can present their defenses and objections in writing or orally, including discussions with the required witnesses. We argue that the Jordanian legislator has specifically confined witness discussions to the accused employee. Still, no legal impediment prevents the committee from conducting such discussions, adhering to the Code of Criminal Procedure guidelines. This contrasts with the Egyptian legislator, who explicitly granted this authority solely to the investigation committee, as articulated in Article 81.

Furthermore, testimony can be conducted electronically, as indicated in the preceding text, given the inclusive phrasing of the law, without being confined to its traditional form. In light of these considerations, we underscore the importance of the legislator explicitly granting the investigation committee the authority to engage in witness discussions within the civil service Bylaw. Testimony is deemed indispensable due to its critical role in establishing the integrity of a matter, whether affirming the occurrence of a violation or refuting it before the Administrative Investigation Committee. Ultimately, the committee enjoys significant discretion in validating or refuting testimonies, as it falls within the realm of its judgment (Jassim, 2022). In cases where witness statements diverge, the committee may opt to confront witnesses with one another, addressing any ambiguities, contradictions, or conflicts in their statements. If testimony contradicts documented evidence, or there is a lack of agreement with reality, it may be set aside, with reasons provided. It is important to note that the sole reliance on verbal testimony from an employee is impermissible, and testimony cannot be considered if it contradicts documented materials (Tantawi, 2001).

Regarding the impact of the investigation committee's failure to hear witness statements, the Egyptian Supreme Administrative Court stated that: "negligence, if perceived by the investigator as due to the redundancy of questioning witnesses or their prior testimonies before another investigator, constitutes a procedural deficiency that justifying the request for its completion but shall not be regarded as invalid." (Appeal No. 1001, dated 01-26-1963, year 8, Technical Office 8, page 621). In contrast, the Jordanian administrative judiciary has not issued a specific decision on this matter. It is hoped that it adopts the same principle as its Egyptian counterpart, whereby neglecting to listen to witnesses results in a procedural deficiency rather than invalidation, as the situation can be remedied, and witness statements are considered substantive rather than formal flaws, serving to alert the investigator and enhance their understanding. However, the researchers see no impediments preventing administrative investigation committees from employing this method because the system's

provisions for utilizing electronic means in judicial procedures No. 95 of 2018 can be applied, as the civil service Bylaw lacks regulatory guidelines (Decision No. 95 of 2018) .

Electronic evidence can be categorized into two types: legal presumption, which is based on legislative texts, and judicial presumption, where the investigation committee infers facts from electronic information related to an unknown fact that needs to be proven. This deduction is often contingent on the circumstances and context of the violation. It is a fundamental and indirect method that relies on the investigator's judgment, showcasing their ingenuity and discernment (Al-Qadi et al., 2018).

This process can encompass various forms of evidence, such as conclusive evidence, which includes situations where the employee was caught in possession of a document prohibited for public viewing, potentially compromising national security. It can also involve non-conclusive evidence, like the presumption of innocence, which offers individuals a means to establish their innocence and can only be rebutted by evidence demonstrating their liability. While this method is vital, it may sometimes necessitate supplementary evidence before the investigation committee, particularly when an inference is that a disciplinary violation has occurred (Tantawi, 2001).

Experience and Electronic Inspection Before Administrative Investigation Committees

This method entails entrusting a technical procedure related to a specific technical incident or incidents to individuals with specialized expertise, such as examining a document to ascertain if it was transmitted (the subject of the violation) or conducting research and evaluation. It involves obtaining a scientific or technical opinion, necessitating submitting a technical report that the investigation committee can't perform independently (Al-Aboudi, 2004; Al-Mawas, 2014).

From this perspective, the Investigation Committee can enlist the assistance of technical experts by identifying an expert and engaging in virtual communication (video conference). The expert may be requested to provide their specialized insights on a specific technical matter related to the disciplinary violation, whether at the committee's discretion or upon the request of involved parties. These experts can come from various fields, including engineering, computer science, and other relevant disciplines, to aid the committee in ascertaining the accuracy of the employee's actions. Notably, the committee is not obliged to respond to requests from either the employee or the management to appoint an expert; such decisions are ultimately at the committee's discretion (Hejazi, 2003).

The appointment of an expert is made at the committee's discretion and involves specifying the expert's name, role, and the deadline for their report. The management and the employee, or their representatives, are invited to a designated time and place to provide their statements on the violation before the expert begins their task. A date is set for reviewing the expert's findings, where both parties can provide feedback on the facts presented, which forms the basis for the committee's decision (Raslan, 2011; Odeh, 2006). The expertise report, presented through technology, plays a crucial role in public service and disciplinary matters. It provides the committee with essential information to form its conviction and issue a decision in compliance with the law. For instance, the report helps verify the accuracy of statements made by the employee, the administration, or witnesses, shedding light on the nature of the incident, including who accessed and disclosed confidential documents related to the employee's work. The report serves as a means for the committee to establish the disciplinary incident, and it can choose to adopt it fully or partially or even replace it with other evidence (Moqimi, 2019, p. 226; Al-Tamawi, 1987).

Legislatively, both the Jordanian and Egyptian legislators have not explicitly addressed the use of expertise in behavioral violations related to public service. The Egyptian Administrative Prosecution's instructions have allowed for the involvement of experts during the administrative investigation phase. The researchers advocate for involving experts through video conferencing before the Administrative Investigation Committee, particularly for cases involving complex technical matters beyond the committee's expertise. This ensures a just decision-making process, allowing the committee to assess whether the employee's actions affect the public facility's operation and adherence to its work principles. Such a provision would provide reassurance to

employees under investigation. The researchers recommend that the Jordanian legislator amend the civil service Bylaw to align with the Egyptian approach and incorporate modern technology in this context.

Electronic inspection is a critical method the Administrative Investigation Committee employs to verify behavioral violations. It involves viewing these incidents remotely during a session through conferencing technology. This approach is vital in the administrative discipline (Othman, 1998; Tantawi, 2001) as it allows committee members to examine non-material violations without hypothetically needing physical presence. It aids in understanding the methods and circumstances surrounding the violation. In some cases, technical experts may assist in the inspection to assess the extent of damage resulting from the violation (Shatnawi, 2002). A comprehensive report is generated during electronic inspection to ensure transparency, detailing the procedures and items seized. The report is then presented to the accused employee for signature, providing an accurate incident record discipline (Othman, 1998; Tantawi, 2001).

The Jordanian civil service Bylaw does not specify that the Administrative Investigation Committee should carry out traditional or electronic inspections to determine the occurrence of a violation. However, there is no legal prohibition against using this method. In contrast, the Egyptian legislator has explicitly addressed this method in Article 81 of the Egyptian Public and Civil Servants Law, stating: "The investigator can, of his own accord or at the request of the individual under investigation, hear witness testimonies." This demonstrates the Egyptian legislator's commendable stance in granting investigative authorities the power to use the inspection method independently if deemed necessary. In light of this, the researchers suggest that the Jordanian legislator amends the civil service Bylaw to establish legislative regulations regarding these methods, particularly the electronic ones.

CONCLUSION

Employing modern means of evidence collection in cases of disciplinary violations has gained significant importance. It serves the dual purpose of uncovering the truth and validating the administration's claims while safeguarding the rights of the accused employee and allowing them to present their defenses and objections. This is essential to ensure that decisions made by the Administrative Investigation Committee are characterized by fairness. However, the existing legal framework, particularly within Jordanian legislation, has lacked clarity and organization. This issue has led to limited jurisprudential and judicial attention. Consequently, this research was undertaken to address these challenges. The study concludes with specific findings and recommendations for addressing these issues, which will be presented in the next section.

CONCLUSIONS

The prevailing employment legislation has failed to evolve in tandem with the rapid advancements in technology, thereby lacking the stipulation that obliges administrative bodies to utilize email as a valid method of evidence submission.

The Jordanian civil service Bylaw lacks explicit provisions that empower administrative investigation committees to scrutinize written evidence, a feature explicitly present in Egyptian legislation that offers a clear and defined framework for such authority.

The responsibility to provide electronic evidence of a disciplinary violation committed by the employee, which is regarded as a violation of the employment system and not within the scope of job responsibilities, lies with the administration. If it fails to establish this evidence, the claim will be deemed void, and the employee will be acquitted.

The Jordanian legislator has not addressed inspection methods within the civil service system as applicable before the Administrative Investigation Committee. The Egyptian legislator, conversely, has comprehensively regulated this approach within the law and instructions governing the Administrative Prosecution.

Neither the Jordanian nor the Egyptian legislator, within the scope of public service discipline, have addressed the issue of engaging experts during the administrative investigation. However, this matter is elucidated in the laws and directives of the administrative prosecution within the Egyptian legal framework.

Recommendations

Introducing amendments to the civil service Bylaw, including a new article that mandates administrative bodies to employ email as a recognized method of evidence submission.

Urging the Jordanian legislator to revisit the amendment of the Jordanian civil service Bylaw, with a specific focus on granting the Administrative Investigation Committee the authority to independently examine administrative documents, particularly those of electronic nature, relating to investigations akin to the provisions within the Egyptian legislation.

A revision to Article 146/B/2 of the Jordanian Civil Service Bylaw is recommended to empower the investigation committee to summon witnesses at its discretion, independent of the employee's referral, by explicitly incorporating the following statement: "The investigation committee may, at its discretion or the request of the employee under investigation, summon any person to testify, be it in traditional or electronic form, if it deems the testimony to be directly relevant to the investigation and essential." This amendment mirrors the approach undertaken by the Egyptian legislator in the State Civilian Workers Law.

The researchers hope the Jordanian administrative judiciary adopts a principle similar to that of its Egyptian counterpart. Specifically, it should consider the omission of the Administrative Investigation Committee to hear necessary witnesses as a procedural deficiency rather than a ground for invalidation. This approach acknowledges the possibility of rectifying the situation and ensuring a complete examination of witness statements.

Amending the Jordanian civil service Bylaw to include a provision allowing the investigation committee to issue a subpoena to witnesses in repeated absence, particularly when the testimony is deemed indispensable to ascertaining the truth. Empowering the committee to issue subpoenas against witnesses would compel their appearance, potentially impacting their credibility.

Explicit inclusion of inspection and expertise procedures within the Jordanian civil service Bylaw, encompassing electronic methods. This approach should mirror the detailed regulations articulated by the Egyptian legislator in Public and Civil Servant Law, as well as the laws and directives of the Administrative Prosecution.

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