

THE CONCEPT OF GOVERNANCE OF ADMINISTRATIVE CONTRACTS**Asghar Salih Shwan**20214677@std.neu.edu.tr

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Abstract

Governance is a set of laws, procedures and standards that all public and private administrations and institutions must adhere to; Rather, the legislator must abide by the requirements of governance principles. Whereas , governance does not only apply to public and private institutions , but also applies to the legal texts that make up a law , that regulates work within the administration or the administrative institution , and in this study we have tended to analyze administrative contracts in the stages of their conclusion and implementation , and settlement of disputes arising from them , within the framework of Governance principles and standards , given that the administrative contracts have not been sufficiently studied in the framework of governance , as these contracts are subject to governance standards , It can be implemented as agreed upon in the contract , and at the same time confronting and addressing corruption in the public sector , and we have divided this study into an introductory topic , through which we explained the conceptual framework for governance , and three chapters , Chapter One : the rules of governance in the stage of concluding administrative contracts , and the second Chapter : Governance rules in the implementation phase of administrative contracts, and the third Chapter

Keywords: administrative contracts. Governance. Conclusion of contracts. Implementation of administrative contracts. Principles of governance.

1. Introduction

The concept of governance appeared at the global level with the end of the eighties, and crystallized clearly in the nineties, and imposed itself on society strongly at the beginning of the twenty-first century, and many investors and businessmen may not be able to absorb the meaning of governance in its comprehensive concept and interest in governance has emerged after the popularity of huge investments, based on public works contracts, which requires separation - when conflict - between contractors with investment interests and administrative bodies, it was necessary to have rules and standards regulating the relationship between These parties, so interest began in governance as a control of the work of management, and a distributor of roles, rights and duties among the various parties

Accordingly, the issue of governance has received great attention from many researchers, and has become one of the topics at the present time, especially after corruption hit its tons in all administrative bodies, especially with the weakness of legislation, laws and ineffective risk

management systems, the spread of administrative, financial and accounting corruption, and the lack of management to sound practice in control, supervision and guidance, as well as the lack of transparency.

1.1 Importance of the study:

The importance of this study lies in the interest of many legislations in developing regulations for governance in general, especially with the emergence of the importance of the role played by partnership contracts between the public and private sectors, as these contracts represent a pillar of the national economy, contributing to providing the needs of society of goods and services while securing many job opportunities.

1.2 The problem of the study:

The problem of this study lies in the lack of clear and specific legal frameworks for the governance of administrative contracts and their scarcity, so that studies on this subject do not turn into a field for jurisprudence and differences in which each researcher has his say, and so that governance does not deviate from its main objectives, which are to create a rational administration that has the authority to address corruption, as well as effective mechanisms in the face of crises, and ensure in a balanced manner the interests of the contracting parties, which necessarily requires the creation of specific legal rules to regulate the governance of administrative contracts.

1.3 Hypothesis of the study:

The hypothesis of studying this topic, by making sure that there is a legal basis for governance or not, and in particular with the existence of a trend that claims that governance - in terms of basis - is only the application of several administrative and accounting standards, and has nothing to do with the law, and what reinforces this hypothesis, the existence of a complete legislative absence - especially in Iraq - to clarify the legal aspects and standards for the governance of administrative contracts, and branching from this main hypothesis, another sub-hypothesis, about the extent to which we can rely on what is available from Texts in administrative legislation in Egypt and Iraq to extract a clear legal framework for the governance of administrative contracts.

1.4 Objectives of the study:

The study works to achieve many goals, the most important of which are:

- (1) Identify the meaning, importance, standards, principles and elements of governance.
- (2) Identify the legal bases for the governance of administrative contracts, and the extent of their application in management.

1.5 Study Methodology:

It is important to point out that in the context of research design, legal research involves the use of different and combined methods, i.e., several approaches that are concentrated in the comparative, analytical, descriptive, deductive and inductive approach.

1. Governance Conceptual Framework

During the early beginnings of the emergence of governance, it was used to refer to the political interaction between local actors, in order to solve the problems affecting the state, but with the acceleration of the pace of globalization with its repercussions and effects, the use of the concept of governance extended to the political interaction between transnational actors, and then came to look at global governance or world governance. On the basis of saying that it represents a new philosophy that contributes through the mechanisms it proposes to solving many difficulties that affect more than one country or region in the absence of comprehensive political authorities, and more precisely, the concept of governance includes a clear connotation of all Organizations by which human societies are intended to be organized at the global level¹. On the other hand, the principles of global administrative law try to control the reality of administrative contracts in a new way, but with traditional keys, so these principles could not dispense with their statist legacy of legal theory at the level of legislation that regulates public law, and try to transgress the reality of the current reality, which emerges from the emergence of new spaces for management interventions, and when Management can be the first, as the current system of governance can lead to the creation of democratic values and the expression of public interests or public goods in the public or private sector².

The term (Corporate governance) is one of the terms that have been spreading on the international scene recently, and it is the term that was agreed to be translated for any method of good governance, and the phenomenon of governance has arisen and spread rapidly at the international level as a result of the shortcomings that hit the laws and legislation governing the practice of business and activities, which led to many crises and bankruptcies in many companies and institutions and affected a large number of shareholders, and accordingly the world began to pay attention to corporate governance and the application of its standards and rules in many of the world's economies, particularly in the aftermath of crises, and practical insights have emerged on how to govern institutions and their rules to prevent any future collapses³.

In light of the above, we will examine the conceptual framework of governance through three demands, in which we define what is governance? What is its importance? What are its elements and principles of governance? This is as follows:

1.2 Definition and importance of governance

Governance is carried out through a set of mechanisms, including advice and participation, effective services, laws, regulations and regulations that are clear and clear, transparent, applicable and compatible in the application of management policies, with a wide range of

Murad Ben Said, From International Governance to Global Governance: Ontological Transformations in Global Environmental Governance Analysis, Center for Arab Unity Studies, The Arab Future, Vol. 36, No. 421, March 2014, p. 99.¹

Mr. Fouad Tariq bin Battoush, Global Governance and Law: A Study in the Trilogy of Law, Governance and Globalization, Journal of Politics and Law Notebooks, Kasdi Merbah University, Ouargla - Faculty of Law and Science, ²AlgeriaR., No. 17 - June 2017, p. 99.

Dr. Hamdan Mohamed Saif Al-Ghafli, Corporate Governance, 1st Edition, Dar Al-Nahda Al-Arabiya, Cairo - Egypt, 2020, p. 13³.

ethical and behavioral codes⁴. Governance was the result of Directly to the post-globalization world, and as a way out of this phenomenon, which has become an inevitable fact, in order to govern and control administrative contracts and preserve the public interest, and for this it has become necessary to search for a unified framework that includes all the heritage, present and human future in the form of a global post-state society, and ⁵therefore governance is considered one of the modern topics, which led to its imposition several factors linked to each other, including economic, legal and administrative, and given the importance of governance in achieving control over management, In order to protect interests from administrative, financial and economic corruption and the resulting repercussions, it ⁶was necessary to identify the main features of governance, to identify its general meaning in the law and to indicate its importance, which we explain in two sections as follows:

1.1.2 Definition of governance

The scientific translation of the term governance is the agreed translation, b that governance is: the method through which the powers of good governance are exercised, and there have been many proposed definitions of the term governance, so that each definition indicates the point of view adopted by the provider of this definition ⁷0.

Governance is a term created by unstable conditions, anxious turmoil and violent incidents that swept some financial and business markets, global and local administrations and institutions.
8

In light of this, we define governance in jurisprudence (first), in some international documents (second), and national rules (third), as follows:

First: Jurisprudential definition of the governance of administrative contracts:

Legal and economic researchers have not reached a unified concept of governance, due to the novelty of the term, but this will not prevent their continuous attempt to find a specific definition of governance ⁰, ⁹so governance was defined as: the process through which policies and continuous control are developed, for applications Appointed or defined by the members of the governing body of the organization concerned, and it includes mechanisms that require a balance of powers of the members with a kind of accountability, and that the basic duties of the

⁴Dr. Zain Abdelhad, E-Government and E-Governance: New Requirements for Government Transparency and Integrity, Roundtable Forum: The New Roles of Government, Arab Administrative Development Organization, Istanbul, June 2008, p. 12.

⁵Fouad Tariq bin Baattoush, Global Governance and Law A Study in the Trilogy of Law, Governance and Globalization, Journal of Politics and Law Notebooks, Kasdi Merbah University of Ouargla - Faculty of Law and Political Science, No. 17, June 2017, p. 20.

Haya bint Dakhil ⁶ Allah Al-Marabed, Officials of the Board Members of Joint Stock Companies in the Framework of Corporate Governance in accordance with the Saudi System, 1st Edition, Dar Al-Fikr and Al-Qanoon for Publishing and Distribution, Mansoura - Egypt, 2016, p. 20.

Dr. Zerzar Al-Ayashi, From Local Governance to E-Governance for Local Administrations, Journal of Law and Society, University of Adrar - Law and Society Laboratory, No. 6-2015, p. 88.

⁸Mr. Abdul Rahman Hussein Al-Mirseidi, Legal Aspects of Governance of Private Shareholding Companies - A Comparative Analytical Study, 1st Edition, National Center for Legal Publications, Cairo - Egypt, 2019, p. 21

⁹Haya bint Dakhil Allah al-Muraibed, ⁹op. cit., p. 21.

members lie in strengthening the welfare and continuity of the organization¹⁰.

By analogy with corporate governance, the governance of administrative contracts is the framework in which the administrative body exercises its existence, focusing on the relationship between it and contractors, stakeholders and government regulators, and how all these parties interact in supervising the implementation of administrative contracts¹¹.

Governance is also defined as: a set of laws, legislations, regulations, decisions, administrative orders, instructions and directives governing and controlling business, whether in terms of obtaining licenses to conduct business, or setting controls regulating such business, and the penalty for violating these laws and rules¹².

Governance also refers to public order, i.e. the existence of systems governing relations between the main parties that affect administrative performance, as well as the elements of strengthening the administrative institution in the long term, and determining who is responsible for incorrect administrative and financial actions, while assigning administrative responsibility to any of the contracting parties that has suffered damage to the public interest.¹³

It was also defined as: the organizational capacity of the Board of Directors and executive management to oversee the formulation and implementation of the management contract strategy and to emphasize the integration of administrative work with information technology¹⁴.

The researcher notes: This definition focuses only on the responsibility of the board of directors and executive management, which makes it neither inclusive nor comprehensive of what the definition of the scientific term should be.

Governance has been defined as: the activity of management, which relates to decisions that set expectations or verify performance, consisting either of a separate process or a specific part of management or leadership processes, and sometimes a group of people forming a government to manage these processes and systems¹⁵.

It has also been defined as: "the set of governing actions, whether taken by the Government,

Dr. Safaa Fattouh Gomaa, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the¹⁰ extent to which the Civil Service Law applies the principles of governance, 1st Edition, National Center for Legal Publications, Cairo - Egypt, 2018 AD, p. 16 and beyond.

Dr. Ahmed El-Sayed Atallah, The Legal Responsibility Resulting from the Interference of the Commercial Company, its Board Members and Affiliates with the Legal Obligation to Disclose Conflicts of Interest in Commercial Companies in the Light of the Principles of Corporate Governance - A Comparative Study between Egyptian Law and Kuwaiti Law, 1st Edition, Dar Al-Nahda Al-Arabiya, Cairo - Egypt, 2017, p. 10.¹¹

Mr. Abdul Rahman Hussein Al-Mirsidi, Legal Aspects of Governance of Private Shareholding Companies - A Comparative Analytical Study, previous reference, p. 21.¹²

Muhammad Ghader, Determinants and Standards of Governance, Jinan University - Scientific Research Center, No. 3, 2012, p. 174.¹³

Dr. Nader Shaaban Ibrahim Al-Sawah, Information Technology Governance, University House, Alexandria, Egypt, 2016, p. 26.¹⁴

Dr. Hamdan Mohammed Saif Al-Ghafli, Corporate Governance, op. cit., p¹⁵. 20.

the market, or a formal or informal organization through law or contract, linked to the processes of interaction and decision-making between representatives of the governing body and those responsible for solving collective problems, leading to creativity, consolidation and the reproduction of social norms in administrative institutions¹⁶.

It has also been defined as: the ability of a government to make and enforce the law and to deliver services regardless of whether it is democratic or not¹⁷.

Governance is also defined as: a set of laws, systems, regulations and decisions aimed at achieving quality and excellence in performance, by following and selecting some appropriate and effective scientific methods, as it is an administrative organization aimed at full transparency of contractors, and how to deal with loans that the administration uses in its projects to ensure the success of its objectives¹⁸.

From the foregoing, it is clear to us that governance is a set of laws that seek in an organized manner to achieve the highest levels of excellence in performance and implementation, with regard to the work system of administrative contracts, by consolidating lofty values, such as integrity and transparency in the management's dealings with its contractors, and with all members of society who benefit from its services directly, and through the previous definitions of governance, we can develop a definition of governance of administrative contracts, combining the previous definitions, which is that the governance of the administrative contract: A system through which the activities of the administrative authorities are subject to a set of laws, decisions and regulations, in order to ensure the implementation of the administrative contract, and to control the relations between its parties to achieve the plans and objectives of the administration from its conclusion, and in a manner that ensures transparency and application of the law.

Second: Definition of governance of administrative contracts in international documents:

To understand the concept of governance in the field of administrative contracts, when we

¹⁶See

H. Marc. "Investigating Policy Processes: The Governance Analytical Framework (GAF). In: Wiesmann U. Hurni H. et al. editors. Research for Sustainable Development: Foundations Experiences and Perspectives." Bern: Geographica Bemensia: 403-424 (2011)

Referred to: Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 17 and beyond.

¹⁷See, in this sense:

M.Mann. The autonomous power of the state; its origins mechanisms and results «European Journal of sociology 25(2) 1984. p. 185

Referred to: Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 19.

¹⁸Dr. Ashraf Sulayman Boubaker, et al., Governance and Social Responsibility, Journal of Science and Human Studies, University of Benghazi - College of Arts and Sciences in Al-Marj, No. 59 - December 2018, p. 3.

replace corporate governance with contract governance, we note that the Organization for Economic Cooperation and Development (OECD) ¹⁹ () defined the governance of administrative contracts as: the system that directs and controls the work of management, as it describes and distributes rights and duties among the various parties in administrative contracts, sets the rules and procedures necessary to make decisions on contract affairs, sets the goals and strategies necessary to achieve them, and the basis for follow-up to evaluate and monitor the implementation of the contract, as defined by The same organization as: a set of relationships among the management of the company, the board of directors, shareholders and other shareholders²⁰.

In the same context, the Cadbury Committee defined governance as: the system by which management is managed and monitored, provided that management is responsible for applying governance in its administrative contracts, and the ²¹International Finance Corporation (IFC) () defined governance as: the ²²system through which contracts are managed and their implementation controlled, and the United Nations Development Program defined governance as: a method or approach through which authorities can exercise the management of political, economic and social resources. for the country for development".²³

¹⁹The Organisation for Economic Co-operation and Development is an international organization aimed at economic development and the revival of trade. The Organization consists of a group of developed countries that accept the principles of representative democracy and a free market economy. See the website Wikipedia (the free encyclopedia) at:

<https://ar.wikipedia.org/wiki>

The site was visited on: 30/10/2020 AD at eight o'clock in the evening.

²⁰See:

Freeland, C. (2007). Basel Committee Guidance on Corporate Governance for Banks, paper presented to: Coorporate Governance and Reform: Paving the Way to Financial Stability and Development, a conference organized by the Egyptian Banking Institute, Cairo, May 7– 8.

Quoted from: Dr. Zarzar Al-Ayashi, From Local Governance to Electronic Governance for Local Administrations, previous reference, p. 89.

²¹See:

Report of The Committee on the Financial Aspects of Corporate Governance and Gee and Co. Ltd (Cadbury Committee) 1992 on Website www.icaew.com Last visit to the website 20/6/2014.

²²The International Finance Corporation (IFC), a member of the World Bank Group engaged in the private sector, is a global investment and advisory institution committed to promoting sustainable projects in developing country members that are economically viable, financially and commercially sound, and environmentally and socially sustainable. We believe that sound economic growth is the key to reducing poverty and is based on the development of entrepreneurship and successful investment in the private sector; It believes in the need for an enabling business environment for the private sector to flourish and contribute to improving people's living conditions. It seeks to continuously improve its performance by responding quickly to customers, sharing its successes, and learning from its experiences. See the website Wikipedia (the free encyclopedia) at:

<https://ar.wikipedia.org/wiki>

The site was visited on: 30/10/2020 AD at eight o'clock in the evening.

²³See:

United Nation Development Nation Program Governance for sustainable human development UNDP policy documents New York 1997.

We note from the above-mentioned international definitions of governance that they cannot be recognized as legal definitions, but rather as a description of the meaning of governance and the role it plays, or rather, these definitions are a statement of the importance of governance in a brief or concise form.

Third: Definition of governance of administrative contracts in national rules:

The definition of the Cairo and Alexandria Stock Exchanges stated that governance is: a set of principles and practices that apply, especially to companies owned by a broad base of investors for IPO companies, and includes the rights and duties of all those dealing with the company, such as the board of directors, shareholders, creditors, banks and suppliers, and appears through the internal systems and regulations applied in the company, which govern the adoption of any decision that may affect the interest of the company or its shareholders.

The decision of the Board of Directors of the Financial Supervisory Authority No. (84) dated 26/7/2016 regarding the issuance of the Egyptian Guide for Corporate Governance stated that: "Corporate governance in general is a set of foundations, principles and systems that govern the relationship between the Board of Directors on the one hand, and between the owners of the company and other parties dealing with it on the other hand, with the aim of achieving the best protection and balance between the interests of all those parties."

Article (2) on definitions of the Corporate Governance Manual for 2020 issued by the National Bank of Iraq defined governance as: "A set of comprehensive regulations that define the relations between the Board of Directors, the Bank's executive management, shareholders and other stakeholders, governance deals with the system through which the Board of Directors directs the bank and monitors its activities."

2.1.2 The importance of governance

The importance of governance has recently increased significantly, to achieve development and strengthen control, and to achieve the economic well-being of peoples, as this importance emerged after the financial crises, collapses and scandals that affected major companies, and the subsequent series of discovering the manipulation of partners in their statements and financial statements, which did not reflect the actual reality of them, in collusion with major international companies for auditing and accounting, which made the Organization for Economic Cooperation and Development (OECD) A set of rules for the governance of private enterprises in 2004 and for the governance of state-owned enterprises in 2005²⁴.

In this requirement, we will show the importance of governance from a legal point of view (first), economic (second), and social (third), as follows:

First: The importance of governance from a legal point of view:

The law always aims to confront the developments and variables that occur in society constantly, including facing everything new, by setting rules that will regulate these variables

Referred to: Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 19.

²⁴Dr. Hamdan Mohammed Saif Al-Ghafli, Corporate Governance, op. cit., p. 31.

and developments, meaning that the law usually comes as a reaction to what is new in society, but the matter may be somewhat different, with regard to the subject of governance, although it is a term that appeared late, and was promoted in recent years, many countries have not legislated rules to enshrine these Governance, for a simple reason, which is that governance means in its general sense good management that achieves equality, justice, guaranteeing rights and transparency, and these principles are not new in human thought in general, or in legal, administrative and accounting thought, but they are known, and everyone is supposed to work to adopt them, in addition to the fact that many legal texts include different legal provisions, which involve in their content many principles of governance, but the economic and financial crises that institutions and companies have been exposed to in most countries The world, along with other motives, called for a focus on the principles of governance, embodied in legal rules, manuals or guidance in many States, after the rules proved that the legal provisions contained in the laws were insufficient to ensure good governance, or that these provisions lacked their effectiveness in achieving the objectives of the administration²⁵.

On the other hand, the importance of governance from a legal point of view is highlighted through the rights and obligations arising from it between the contracting parties, or between the administrative authority as an entity, and between its dealers from creditors and other contractors, etc., all of which require the existence of effective legal provisions that would give everyone his right in a framework of transparency ²⁶The legal advantages of governance are therefore reflected in the administration's commitment to disclosure and transparency in accordance with the provisions of the law²⁷.

Second: The importance of governance from an economic point of view:

Governance in the economic field provides an appropriate and effective guarantee to investors and shareholders and gives them reassurance to ensure an adequate return on the investment it has made.²⁸

Third: The importance of governance from an administrative point of view:

One of the most important features of governance is its effective role in addressing administrative corruption, and thus the development and reform of the administrative apparatus, and administrative reform in this regard, is the organization of the administrative apparatus in

²⁵Mr. Abdul Rahman Hussein Al-Mirsidi, Legal Aspects of Governance of Private Shareholding Companies - A Comparative Analytical Study, previous reference, p. 66 and beyond.

²⁶See:

Luigi Zingales, Corporate Governance, University of Chicago NBER & CEPR working Paper Chicago, 1997, pp.2,

Referred to: Mr. Abdul Rahman Hussein Al-Mirsidi, Legal Aspects of Governance of Private Shareholding Companies - A Comparative Analytical Study, previous reference, p. 67.

²⁷Dr. Ahmed El-Sayed Atallah, Legal Responsibility Resulting from the Intrusion of the Commercial Company, its Board Members and Affiliates with the Legal Obligation to Reveal Conflicts of Interest in Commercial Companies in the Light of the Principles of Corporate Governance - A Comparative Study between Egyptian and Kuwaiti Law, op. cit., p. 19.

²⁸Mr. Abdul Rahman Hussein Al-Mirsidi, Legal Aspects of Governance of Private Shareholding Companies - A Comparative Analytical Study, previous reference, p. 64.

the State on sound scientific foundations that ensure the achievement of the desired objectives.²⁹ Accordingly, the importance of governance is summarized through the administration's endeavor to achieve the goals of economic development, when falling into the grip of crises, and it also has a major role in combating administrative and financial corruption, and not allowing its existence or return again, as well as achieving ensuring integrity, impartiality, and integrity for all contractors with the administration, as it avoids the existence of intentional errors, or at the very least work to reduce errors to a minimum, using advanced control systems, and achieving the maximum benefit. From accounting and internal control systems, achieving efficiency of expenditure, and achieving adequate disclosure and transparency in financial information and statements³⁰.

In light of the above, we can summarize the importance of governance in the following points:

- (1) Governance leads to ensuring that the administration is limited to the abuse and abuse of its powers to the detriment of the interests of contractors or beneficiaries within administrative units.
- (2) The possibility of obtaining financial statements of departments that are committed to achieving the highest degree of transparency and disclosure in order to avoid ambiguity or confusion in everything related to administrative contracts and the means of their implementation.
- (3) Access to the highest levels of exercise of power, resulting in a fair distribution of rights and duties in an orderly manner.
- (4) Achieving an effective contribution to clarifying the rights and obligations of each of the contracting parties.
- (5) Governance is an effective tool for applying the principle of accountability, in order to modernize and develop departments at various levels.
- (6) Governance helps to change the traditional patterns of internal audits, and to make a qualitative leap in its activities, as it moves from mere protection and commitment to accuracy, to participating in predicting the behavior of management performance in the future.
- (7) Governance is characterized by its active role in organizing administrative and financial contracts, as it sets the dividing lines of rights and obligations, and supports the principles of integrity and transparency, for all parties without exception, in a way that achieves justice among all parties.

2.2 Elements of governance

Since government spending alone cannot be relied upon in the establishment of public services and infrastructure, the last decade has witnessed support and encouragement from developing countries - and even industrialized - to share private investment in the financing, establishment and operation of these projects, in order to develop infrastructure facilities and services more

Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016²⁹ AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 23 and beyond.

³⁰Dr. Hamdan Mohammed Saif Al-Ghafli, Corporate Governance, op. cit., p. 32.

efficiently, at a lower cost, and to promote social development and national projects in a way that ultimately helps to raise the standard of living, and achieve the desired development rates. At the global level, as important as this tool is, it must be fortified by appropriate regulatory rules that allow it not to become a means of benefiting only one party, since public-private partnership is one of the means that contributes significantly to the financing of the provision of public services at the local level³¹.

In light of the increasing burden of providing these services on the public budget, and in light of the growing role of the private sector in the national economy, the question arises about the extent to which it is possible to use the applications of the public-private partnership system to provide these services, given that the public and private sectors and civil society are elements of the governance of administrative contracts, which we show in three branches as follows:

1.2.2 Public sector

The public sector in Iraq occupies the majority of economic activity, and despite this importance to the public sector, it has not received enough attention from researchers and scholars of administrative law.³²

This makes us wonder about the importance of the public sector, and what are its objectives? And the principles of its governance? which we briefly explain as follows:

First: The importance of public sector governance:

The public sector is the pillar of national economies, through its embodiment of the role of the state as a group of institutions and departments, seeking to achieve the objectives of economic policy with regard to growth, employment and production in the agricultural, industrial and service sectors, as well as by directing public administrations towards providing basic community services of concern education, security, health and transportation, and in the Arab world, it suffers from several defects, corruption comes at the forefront, in the 2014 report of Transparency International, which classifies countries according to levels of corruption in the sector The list includes 177 countries, five Arab countries were among the most corrupt, namely Sudan, Iraq, Libya, Yemen and Syria, and the issue of corruption is added bureaucratic administration³³.

The first article of the Egyptian Law No. (67) of 2010 on the issuance of the law regulating the participation of the private sector in infrastructure projects, services and public utilities defines that: The administrative bodies (public sector) are: "ministries and public bodies, service and

³¹Dr. Saeed Hussein Ali, Administrative Contract, Public Project Financing Tool, 1st Edition, National Center for Legal Publications, Cairo - Egypt, 2016, p. 172 and beyond.

³²Saeed Abboud Al-Samarani, The Public Sector in Iraq, 1st Edition, Al-Ummah Press, Iraq, 1971, p. 3. Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016³³ AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 82.

economic, and other public legal persons determined by a decision of the Prime Minister."

Second: Principles of Public Sector Governance:

Public sector governance is one of the necessities of building and strengthening citizens' confidence in the state and its public institutions, by raising the efficiency of the performance of public utilities, developing regulations that ensure the reduction of conflicts of interest and behavior, as well as preparing regulations that subject the administrative body to monitoring its performance, justice in distributing all rights and obligations, and setting rules and procedures for the regular and steady functioning of work in all government departments.

(1) Efficiency and effectiveness in the management of state resources: One of the benefits of governance in the public sector is that it ensures the preservation of public funds, and the optimal use of available resources, so that it can provide its basic services to citizens well, while working to improve the quality of these services, and then develop them in accordance with best practices in this regard, and achieve justice in the distribution of development profits.³⁴ Follow-up aims to ensure record results for the management of the public facility by allocating operational plans and taking corrective precautions in a timely manner.³⁵

(2) Guarantee of related party rights: It is recognized that administrative contracts are subject to a general principle, according to which the contractor is obliged to implement them personally, and it follows that the obligations of the contractor with the administration are considered personal obligations, which means that the contractor must perform them personally and himself, and therefore may not replace others in them, or subcontract them, except after obtaining the approval of the contracting administrative authority³⁶. The obligations of the contracting parties to the administration shall be implemented in accordance with transparent, clear, fair and fair standards and laws in a manner that ensures the promotion of valuable trust between the contracting parties, which entails that the preservation and protection of rights is one of the strategic objectives of all parties³⁷

Public Sector Governance Objectives:

The administration shall have good governance if it possesses the regulatory, legislative and procedural framework that contributes to achieving good performance, in other words, the ability to manage programs and provide services with great efficiency and high effectiveness, as well as to make administrative decisions and procedures in accordance with the

³⁴Dr. Amin Al-Bashir, Dr. Bilal Ahmed Mitanni, Public Sector Governance - A Case Study of the Hashemite Kingdom of Jordan, Jerash Journal for Research and Studies, Jerash University, Vol. 17, No. 3, Jordan, 2016, p. 273.

³⁵Dr. Mohamed Lounissi, The Administrative Approach in Project Management, Dar Al-Fikr wal-Qanoon for Publishing and Distribution, Mansoura, Egypt, 2019, p. 90.

³⁶ Dr. Abdel Alim Musharraf, The Idea of Personal Consideration in the Field of Administrative Contracts - A Comparative Study, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, without year of publication, p.53.

³⁷Dr. Amin Al-Bashir, Dr. Bilal Ahmed Mitanni, Public Sector Governance - A Case Study of the Hashemite Kingdom of Jordan, op. cit., p. 273.

administrative legislation in force, in a way that meets all the expectations of the contracting parties, and governance in the public sector aims to enhance citizens' confidence in the state and its institutions, by achieving several objectives, the most important of which are:

- (1) High rate of citizens' satisfaction with services provided by the public sector.
- (2) Activating the principles of transparency, integrity and accountability for the administration and its employees and compliance with laws, regulations, regulations and instructions.
- (3) Use of power and management of public funds and state resources, and limit the abuse of public power for private purposes.
- (4) Achieving equal opportunities for citizens to obtain their interests.
- (5) For public domain taking into account the interests of related parties.
- (6) National strategy and financial stability of contracting administrations.
- (7) Enhancing and developing institutional performance through continuous follow-up and evaluation.
- (8) Establish effective systems to manage corporate business risks and mitigate the effects of financial risks and crises³⁸.

2.2.2 Private sector

The first article of the Egyptian Law No. (67) of 2010 on the issuance of the law regulating the participation of the private sector in infrastructure projects, services and public utilities defines that: "Private sector: an Egyptian or foreign legal person whose contribution to the Egyptian public capital is less than (20%), and the alliance between two or more Egyptian or foreign legal persons in which the contribution of public money is less than (20%)."

Based on its box, it is correct that the private sector (private partner), an individual or a local or foreign company with a common capital, and it is possible that a group of companies is a joint tender among themselves, in what is known as the consortium of companies, the end of the matter is that the legislator - the Egyptian - requires that the contribution of public money in it does not reach 20%, and the wisdom of this condition - which is shown in the explanatory memorandum of this law - is due to the keenness not to turn participation with the private sector into participation with Public money companies³⁹.

3.2.2 Civil society and media

Civil society is a unified structure, based on a common law, and a judiciary for litigation capable of issuing legal rulings and impeding criminals, this interaction within the framework

³⁸ Ibid., pp. 272 et seq.

³⁹ Dr. Safi Ahmed Qassem, The Legal Nature of Public-Private Partnership Contracts (P.P.P), Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2016, p. 14.

of civil society, if not, it still lives in nature.

Governance leads to the reform of state institutions, so that they are more efficient, fair, accountable and transparent, which is an original pillar of a successful administrative system, and effective reform of public administration, for development processes, requires many commitments that must be supported by civil society and the media, provided that civil society institutions are Democratic, administratively organized and accountable institutions, so that decision-makers in both government and civil society are accountable to the public, as well as their responsibility to stakeholders in other institutions, where civil society organizations and the media can play a role in providing controls on government authority, promoting the values of integrity and transparency in their work, participating in the formulation of public policies and protecting rights, enhancing participation in public affairs and strengthening the rule of law, in addition to their role in Raising public awareness of the subject of corruption and combating it and in the oversight of the public sector. ⁰⁴⁰

The principle of accountability and transparency is the basis for a peaceful relationship between the state, civil society and the media; the state is responsible to its citizens and must provide reliable data and reports on its actions, civil society is responsible to the state and its various bodies, and any comprehensive system of accountability must be applied by both parties, which is one of the most important elements of good governance, real democracy and strengthening efforts to combat corruption.

The role of civil society in corruption cases is both part of the solution and part of the problem, as it is difficult for a single party - the government or civil society - to effectively address the phenomenon of corruption in isolation from the other party, and therefore the government is supposed to provide legal and regulatory rules and adopt policies and work strategies that allow civil society space to work and participate in the fight against corruption, including encouraging the establishment of associations, facilitating their activities and reducing restrictions on their formation, while civil society institutions in turn effectively and transparently⁴¹.

Civil society and the media play a prominent role in governance through its awareness, building regional and national networks for integrity, lobbying, mobilization and influence, which we show as follows:

(1) Awareness: Civil society organizations play an effective role in raising public awareness among members of society about corruption and its destructive effects, as well as promoting the principles of governance, so that these principles do not appear through practices, as a kind of cosmetic behavior only, but these well-established principles must have clear and clear

⁴⁰Ouiza Najjar, The Role of Media and Civil Society in Combating Corruption, Journal of Communication in the Humanities and Social Sciences, Jama'a Annaba, No. 51, Algeria, 2017, p. 99.

⁴¹Mohammed Al-Azazi Ahmed, The Role of Civil Society and the Media in Rationalizing the Government Sector, Round Table Forum: The New Roles of Government, Arab Administrative Development Organization, Arab Administrative Development Organization, Istanbul, June 2008, p. 9.

foundations for the behavior and dealings of members of society, through their efforts to combat corruption and consolidate moral values opposed to corruption and accepted by the civil society⁴².

(2) Building regional and national integrity networks: The success of civil society institutions, and their ability to perform their work, role and strengthening, requires the building of many national and regional networks working in the fight against corruption, the development of mechanisms and frameworks that ensure the regular exchange of information and experiences between them, and the mobilization of the public, to achieve further developments in efforts to combat and address corruption.⁴³

(3) Pressure, mobilization and influence: Civil society plays a prominent role in the fight against corruption, by influencing it in the development of public policies for the administration, mobilizing and managing resources that promote governance principles represented in integrity, transparency and accountability in the work programs of the department, as well as providing controls over its powers, and thus enhancing accountability and transparency in political systems, in a way that can Reform measures on administrations, given the ability of civil society to work to protect rights and provide community services, thus reconciling interests, which enhances the participation of civil society in public affairs, strengthens the rule of law and fights corruption.⁴⁴

3.2 Governance principles

The administrative body must ensure compliance with the principles of governance, and review and update the governance applications it adopts on a regular basis, and the management must develop a governance system for administrative contracts⁴⁵, and therefore the question arises about the necessity of the administration's commitment to the application of governance principles? What are these principles? And what is their importance?

This is explained in some detail in the following three sections:

2.3.1 Principle of transparency

Transparency is one of the most important principles that are supposed to govern the process of concluding administrative contracts, but the practical reality indicates the contrary from the absence of integrity and transparency and the spread of corruption, and the dire effects that this

⁴²Kroufi Bilal, Local Governance and its Role in Combating Corruption in Local Councils - A Case Study of Algeria, Master's Thesis, Faculty of Law and Political Science - Kasdi Merbah University - Ouargla, Algeria, 2012, p. 70.

⁴³Al-Weiza Najjar, The Role of Media and Civil Society in Combating Corruption, Journal of Communication in the Humanities and Social Sciences, op. cit., p. 100.

⁴⁴Kharoufi Bilal, Local Governance and its Role in Combating Corruption in Local Councils - A Case Study of Algeria, op. cit., p. 71.

⁴⁵Haya bint Dakhil Allah Al-Muraibed, Officials of the Board Members of Joint Stock Companies in the Framework of Corporate Governance in accordance with the Saudi Law, op. cit., p. 103.

has on both the reform and development process.

The following briefly highlights the concept of the principle of transparency (first), and its importance in the field of concluding administrative contracts (second), as follows:

First: The concept of the principle of transparency in administrative contracts:

Transparency in the administrative field means the liberation of the administration from its ambiguity and closure, through clarity and understanding of legislative and regulatory rules, and easy access to actual practices, just as one looks through a window with a very clean transparent glass panel⁴⁶. contracts, etc⁴⁷.

The principle of transparency refers to the free flow and accessibility of information to all parties concerned without discrimination, and while accountability and accountability are one of the most important foundations of governance, transparency is equally important, which provides an opportunity to judge the effectiveness of management authorities, enhances the contractor's ability to participate and facilitates accountability⁴⁸.

Transparency is a pledge taken from the administrative authorities to provide complete, non-misleading and true information and data about their activities and business, and to put all of this at the disposal of investors, contractors, regulators and supervisors of the activities of the Department, in ways consistent with international accounting standards, and not to withhold information from those bodies and enable them to view it, except for information whose disclosure would prejudice the interests of the management body, it is permissible and must be kept confidential⁴⁹.

Second: The importance of transparency in the conclusion of administrative contracts:

The governance system should ensure accurate and timely disclosure of all contractual matters, including financial position, performance, ownership and management⁵⁰.

The obligation to disclose and be transparent in contracts in general is to notify, inform or warn a contracting party who is in a stronger position than the other contracting party to notify the latter party to the contract of all data upon conclusion of the contract, which contribute to the formation of free and informed consent and enable the weak party to enter into the contract, and then find some kind of cooperation between the parties to perform the contract in

⁴⁶See:

C. Zoelner: Transparency: An analysis of an Evolving Fundamental Principle in national Economic Law, (2006) 27 Michigan Journal of International Law p.583.

Referred to: Dr. Muhammad Ahmed Salama Muhammad Meshaal, Modern Means of Concluding Administrative Contracts - A Comparative Study, previous reference, p. 278.

⁴⁷Dr. Mohamed Ahmed Salama Mohamed Meshaal, Modern Means of Concluding Administrative Contracts - A Comparative Study, op. cit., p. 277.

⁴⁸Dr. Zarzar Al-Ayashi, From Local Governance to E-Governance for Local Administrations, op. cit., p. 94.

⁴⁹Dr. Nada Saleh Hadi, Securities Crimes - A Comparative Study, 1st Edition, Al-Wafa Legal Library, Alexandria - Egypt, 2020, p. 135 and beyond.

⁵⁰Dr. Ahmed El-Sayed Atallah, Legal Responsibility Resulting from the Intrusion of the Commercial Company, its Board Members and Affiliates with the Legal Obligation to Reveal Conflicts of Interest in Commercial Companies in the Light of the Principles of Corporate Governance - A Comparative Study between Egyptian and Kuwaiti Law, op. cit., p. 19.

accordance with its contents and in a manner consistent with the obligations of good faith in dealing and protecting legitimate confidence in the contract⁵¹.

The importance of transparency in administrative contracts appears to be in providing the greatest amount of information and data and making them available to the client, or any entity or company wishing to invest, in order to give them the freedom to choose what suits them in a correct manner, with the possibility of maintaining the confidentiality of information that would harm the interests of the work.⁵²

Therefore, the principle of disclosure and transparency in the framework of administrative contracts is an obligation on one of the contracting parties to provide the other contractor with all the necessary data and information when forming the contract to find a sound, complete informed consent with knowledge of all the details of this contract, due to certain circumstances and considerations that may be due to the nature of this contract, the character of one of its parties, the nature of its place, or any other consideration that makes it impossible for one of them to know certain data, or require him to grant confidence. is legitimate for the other party, which is obligated on the basis of all such considerations to disclose and make such statements⁵³.

Disclosure finds its legal basis in the principle of good faith in transactions, in the legal origin of the principle of disclosure, which requires all parties to fulfill their obligations, and thus provide confidence in the relations between the contractors, which is to provide all information with honesty and honesty, and work to achieve equality between all without discrimination because they obtain information at the same time, and therefore the disclosure of information is an obligatio Force, which is implemented by force of law for all contractors in the field of governance of administrative contracts, which is emphasized in all legislation and regulations governing administrative contracts, including Iraqi legislation, Egyptian legislation and French legislation⁵⁴.

Administrative transparency is one of the modern concepts that will work to achieve administrative development, and the possibility of reaching a sound organizational building, which has its ability to face the variables that affect the administrative system, transparency in administrative contracts is clarity, rationality, commitment to the requirements or terms of reference of the contract, equal opportunities for all, ease and simplicity of executive procedures, ease of understanding, not allowing circumvention and unjustified prolongation, as well as integrity in their implementation, which is - as well as - the clarity of legislation, ease of understanding and stability. And its harmony with each other and its topics, as well as the clarity of its language, flexibility and development in accordance with economic, social and

⁵¹Dr. Marwa Mohamed Al-Essawy, *The Compatibility of Disclosure in Commercial Contracts with the Principle of Confidentiality*, 1st Edition, National Center for Legal Publications, Cairo, Egypt, 2016, p. 20.

⁵²Doaa Emad Mashhour, *Registered Owner and Beneficial Owner in the Stock Market*, 1st Edition, Master's Thesis, National Center for Legal Publications, Cairo - Egypt, 2016, p. 18.

⁵³Dr. Marwa Mohammed Al-Essawy, *The Compatibility of Disclosure in Commercial Contracts with the Principle of Confidentiality*, op. cit., pp. 19 et seq.

⁵⁴Dr. Nada Saleh Hadi, *Securities Crimes - A Comparative Study*, op. cit., p. 138.

administrative changes, and in line with the spirit of the times, in addition to simplifying procedures, publishing and disclosing information, and easy access to it, so that it is available to all, and it represents complete clarity in making administrative decisions and drawing up future plans and policies, and presenting them to the concerned authorities to monitor the performance of the government on behalf of the people, and subject administrative and political practices to accountability and continuous monitoring.

Based on the foregoing, the importance of determining and activating transparency as a general principle in the management of public affairs, can in no way limit its benefits to various areas of human life and peoples in general, because democratic governance can only be achieved with the existence of a general principle of transparency governing the management of all public affairs of the state in general, and the activities and work of the administration in particular, and the importance of transparency lies in the fact that it creates an open channel of communication between citizens, stakeholders and officials, in order to combat corruption that is rampant, especially In developing countries, where it requires the disclosure of various systems, laws, instructions, procedures, standards and mechanisms in general, to practically recognize accountability and accountability in the event of non-respect or observance of those regulations and laws, and if we look at the field of concluding administrative contracts, we find that achieving transparency occupies a great deal of importance, as transparency is a tool to protect public money from waste and loss, and it also works to enhance confidence in the government procurement market among suppliers and contractors, as well as transparency leads to the creation of an environment Trust in government procurement makes opportunities for financing and securing the needs of State enterprises greater and wider, such as the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA⁵⁵).

In summary, it is clear that transparency in administrative contract procedures is important as an effective tool in combating corruption, preserving public funds and enhancing confidence in the government procurement market⁵⁶.

Transparency is represented in the ease and clarity of understanding of contractual procedures, which enhance the performance of administrative control and work to raise their efficiency, by clarifying and scrutinizing contracting procedures, simplifying and speeding up their

⁵⁵.Dr. Mohamed Ahmed Salama Mohamed Meshal, Modern Means of Concluding Administrative Contracts - A Comparative Study, op. cit., pp. 281 ff. 7

-J. Linarelli, "The WTO Agreement on Government Procurement and the UNCITRAL Procurement Model Law: A View from Outside the Region, (2006) | Asian Journal of WTO and Health Law and Policy 11 A. Beviglia-Zampetti A., " The UNCITRAL Model Law on Procurement of Goods, Construction and Services " in B. Hoekman and P. Mavroudis (ed.), Law and Policy in Public Purchasing – The WTO Agreement on Government Procurement, (The University of Michigan Press), 1997. p. 274.

-S. Evenett, "Is there a Case for New Multilateral Rules on Transparency in Government Procurement" Chapter III of the Singapore Issue and the World Trading System, available at:
<http://www.wto.org/>

⁵⁶Dr. Mohamed Ahmed Salama Mohamed Meshal, Modern Means of Concluding Administrative Contracts - A Comparative Study, op. cit., p. 283.

completion, and promoting the concepts of trust and loyalty between management and contractors⁵⁷.

2.3.2 Principle of integrity

According to the report of Transparency International, which was issued recently, administrative and financial corruption has become an international problem that affects most countries of the world, but it varies from one country to another according to the laws and cultures of those countries, and the political nature of governance in them, and as is usual, the third world countries lead the rest of the world with this phenomenon for several reasons, the most important of which is the nature of totalitarian regimes that control the reins of power, the absence of judicial independence and oversight, the principle of separation of powers, and the muzzling of the role of the fourth authority, and it is known to all, that corruption A complex concept that has multiple dimensions, and its definition according to the angle through which it is viewed, so corruption is considered every behavior that would violate any of the rules and controls imposed by the system, as well as corruption every behavior that threatens the public interest, as well as any abuse of public office to achieve private gains, and everything that is against goodness, and Transparency International has defined corruption as: The Organization does not distinguish between administrative and political corruption, or between petty and grand corruption, and considers that corruption robs countries of their energies and represents a major obstacle to sustainable development⁵⁸.

The phenomenon of corruption is the work of multiple crimes such as: bribery and trading in influence, abuse of power, illicit enrichment, manipulation, embezzlement or misuse of public funds, money-laundering, accounting crimes, forgery, counterfeiting of currency, commercial fraud and other crimes.⁵⁹

Corruption has multiple negative effects, perhaps the most important of which is the negative impact on the development process, deviating from its objectives, squandering resources and capabilities, misdirecting and hindering its progress, weakening the effectiveness and adequacy of the apparatus, and causing a state of discontent and anxiety⁶⁰.

In order to eradicate corruption, we must establish the concept of integrity through comprehensive reform programmes that enjoy strong political support and acquire strategic

⁵⁷Kharoufi Bilal, Local Governance and its Role in Combating Corruption in Local Councils - A Case Study of the Butcher, op. cit., p. 51.

⁵⁸Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 107;

S. Thomsen "Business Ethics as Corporate Governance" European Journal of Law and Economics". vol 11 «No 2 (2001) pp 153-164.

Quoted in: Ibid., p. 107.

⁵⁹Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 107.

⁶⁰ See: LS Paine "Is Ethies Good Business!" Challenge vol 46.no 2. March April (2003) PP 6 - 21

content that diagnoses the problem and addresses its causes, the cooperation of government agencies, the participation of society and its institutions, the establishment of ethical principles and values for administration and society, its promotion, the benefit of international expertise in combating corruption, and the promotion of the concept of integrity as a special democratic value⁶¹.

Integrity is characterized by five basic values, namely: honesty, trust, fairness, justice, respect and responsibility, and honesty is the quality of communication with others, good listening to them and telling the truth, while trust is a basic value of integrity, as it lies in believing what is said and written without any doubt, and respect is taking into account the opinions of others and appreciating their advantages and capabilities, and fairness is addressing various types of misconduct in a similar way, and responsibility is the basic value in integrity, which means that laws and rules must be applied. And the principles of social responsibility, and therefore the value of integrity is only an endless cycle of behavior, as integrity is defined in political terms (political integrity) as: a complex set of measures designed to reduce the harmful effects of administrative corruption, in accordance with the principle of transparency and the principle of accountability of rulers, and integrity involves many intertwined factors that include transparency with the aim of access to information, accountability during implementation and external control, dealing with conflicts of interest, misuse of state resources, or illicit gain, and integrity is also linked In multiple constructive contexts, you may talk about integrity at work or integrity in the profession, and there is social integrity or integrity of social relations and commercial integrity or integrity of buying and selling, integrity of the educational process, personal integrity, moral integrity, and integrity can describe the behavior of a community, group, institution, or organization, and it can also describe personal behavior, and images of integrity are clearly manifested in different contexts of life, integrity in the field of the profession, is mastery of work, loyalty and sincerity at work, and accuracy in the performance of what The individual demands and holds oneself accountable for failure to perform or preoccupation with anything during the performance of work, such as telephone conversations, and the performance of other tasks⁶².

3.3.2 Principle of accountability

The principle of accountability is one of the most important principles on which governance is based in general, as accountability translates all field mechanisms, meaning that management with transparency and the participation of societal forces in the conduct of administrative affairs can only come in light of their ability to hold administrative bodies accountable for the quality

⁶¹ Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 108.

⁶²Dr. Safaa Fattouh Juma'a, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016 AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, previous reference, p. 109 and beyond.

of the services they provide, and the extent of their commitment to carrying out their duties⁶³. The principle of accountability refers to the accountability of decision-makers at the administrative level to the accountability of contractors and other relevant parties without discrimination, which means that they are subject to the so-called "double accountability", which includes the harmonization of their accountability to contractors on the one hand, and accountability to the levels of government on the other, i.e. the existence of two types of relationships, one horizontal and the other vertical, and the parties to the administrative contract play a prominent role in operationalizing the principle of accountability⁶⁴.

Accountability is an accumulated responsibility, as each individual within the administrative unit is responsible for his actions, and the higher level in management is asked for the actions and behaviors issued by him, as well as for the actions and behaviors issued by the lower level, which means that the administrative officer can be held accountable for all his personal actions, as an employee, and he is also responsible for the actions of employees under his authority, that is, he bears accumulated responsibility from the bottom up, and accountability is also meant as the obligation to report on the responsibility of his client, This means that individuals and departments assigned to perform certain acts or activities are held accountable, questioned and held responsible for the accomplishment of those acts, and this responsibility is judged or measured by clear and stated criteria⁶⁵.

The end

At the end of our study, which we presented in an introductory section and three chapters, we mention a summary without repeating the above, but we mention in the conclusion indications and references, for what is related to the subject of the research, as follows:

- (1) It is difficult to develop a clear and specific definition of the term governance of administrative contracts, despite the spread of the term governance and its circulation among legal studies, and this difficulty lies in many reasons, most notably the difficulty of framing this term with legal texts, and therefore the legislator in many countries resorted to integrating the manifestations of governance into the legislation regulating administrative contracts.
- (2) The legal texts that are subject to administrative contracts, the conclusion and implementation of the methods of settling disputes related to them, must embody the principles of integrity and transparency at the stage of concluding administrative contracts, and the legislation of comparative countries has differed in the mechanism used to embody the manifestations of these principles, some of which collected them as a single unit as the legislation of European countries, and some of which regulated those principles sporadically in more than one legislation.

⁶³Kharoufi Bilal, Local Governance and its Role in Combating Corruption in Local Councils - A Case Study of the Butcher, op. cit., p. 51.

⁶⁴Dr. Zarzar Al-Ayashi, From Local Governance to E-Governance for Local Administrations, op. cit., p. 93.

⁶⁵Kharoufi Bilal, Local Governance and its Role in Combating Corruption in Local Councils - A Case Study of the Butcher, op. cit., p. 65.

3/ Governance is characterized by being one of the important means to create sound and good practices for administrative bodies, due to its many characteristics, such as discipline, transparency, integrity, accountability, justice and independence.

4/ Administrative contracts must be carried out within a framework of transparency that achieves credibility for all those dealing with the administration so that none of the applicants for the administrative contract obtains a situation that violates the principle of equal opportunities that must prevail in the field of administrative contracting, provided that these procedures are not so strict that they hinder the contracting procedures instead of facilitating them.

(5) The principles and rules of governance generally aim to achieve justice and transparency, through good governance and better performance, and to grant the administration supervision, direction and control powers, in order to ensure the regular and steady running of public utilities.

List of sources

1. Murad Ben Said, From International Governance to Global Governance: Ontological Transformations in Global Environmental Governance Analysis, Center for Arab Unity Studies, The Arab Future, Vol. 36, No. 421, March 2014.
2. Mr. Fouad Tariq bin Battoush, Global Governance and Law: A Study in the Trilogy of Law, Governance and Globalization, Journal of Politics and Law Notebooks, Kasdi Merbah University, Ouargla - Faculty of Law and Science, AlgeriaR., No. 17 - June 2017.
3. Dr. Hamdan Mohamed Saif Al-Ghafli, Corporate Governance, 1st Edition, Dar Al-Nahda Al-Arabiya, Cairo - Egypt, 2020.
4. Dr. Zain Abdelhad, E-Government and E-Governance: New Requirements for Government Transparency and Integrity, Roundtable Forum: The New Roles of Government, Arab Administrative Development Organization, Istanbul, June 2008.
5. -Fouad Tariq bin Baattoush, Global Governance and Law A Study in the Trilogy of Law, Governance and Globalization, Journal of Politics and Law Notebooks, Kasdi Merbah University of Ouargla - Faculty of Law and Political Science, No. 17, June 2017.
6. Haya bint Dakhil Allah Al-Marabed, Officials of the Board Members of Joint Stock Companies in the Framework of Corporate Governance in accordance with the Saudi System, 1st Edition, Dar Al-Fikr and Al-Qanoon for Publishing and Distribution, Mansoura - Egypt, 2016.
7. Dr. Zerzar Al-Ayashi, From Local Governance to E-Governance for Local Administrations, Journal of Law and Society, University of Adrar - Law and Society Laboratory, No. 6-2015.
8. Mr. Abdul Rahman Hussein Al-Mirseidi, Legal Aspects of Governance of Private Shareholding Companies - A Comparative Analytical Study, 1st Edition, National Center for Legal Publications, Cairo - Egypt, 2019.
9. Dr. Safaa Fattouh Gomaa, Principles of Governance in the Civil Service Law No. 81 of 2016 AD - Book One - An analytical legal study of the Civil Service Law No. 81 of 2016

- AD in the light of the principles of governance and the extent to which the Civil Service Law applies the principles of governance, 1st Edition, National Center for Legal Publications, Cairo - Egypt, 2018.
10. Dr. Ahmed El-Sayed Atallah, The Legal Responsibility Resulting from the Interference of the Commercial Company, its Board Members and Affiliates with the Legal Obligation to Discloses Conflicts of Interest in Commercial Companies in the Light of the Principles of Corporate Governance - A Comparative Study between Egyptian Law and Kuwaiti Law, 1st Edition, Dar Al-Nahda Al-Arabiya, Cairo - Egypt, 2017,
 11. Muhammad Ghader, Determinants and Standards of Governance, Jinan University - Scientific Research Center, No. 3, 2012.
 12. Dr. Nader Shaaban Ibrahim Al-Sawah, Information Technology Governance, University House, Alexandria, Egypt, 2016
 13. H. Marc. "Investigating Policy Processes: The Governance Analytical Framework (GAF). In: Wiesmann U. Hurni H. et al. editors. Research for Sustainable Development: Foundations Experiences and Perspectives." Bern: Geographica Bemensia: (2011)
 14. M.Mann. The autonomous power of the state; its orgigins mechanisms and reults «European Journal of sociology 25(2) 1984.
 15. Dr. Ashraf Sulayman Boubaker, et al., Governance and Social Responsibility, Journal of Science and Human Studies, University of Benghazi - College of Arts and Sciences in Al-Marj, No. 59 - December 2018.
 16. The Organization for Economic Co - peration and Development is an international organization aimed at economic development and the revival of trade. The Organization consists of a group of developed countries that accept the principles of representative democracy and a free market economy. See the website Wikipedia (the free encyclopedia) at: <https://ar.wikipedia.org/wiki>
 17. Freeland, C. (2007). Basel Committee Guidance on Corporate Governance for Banks, paper presented to: Coorporate Governance and Reform: Paving the Way to Financial Stability and Development, a conference organized by the Egyptian Banking Institute, Cairo, May 7– 8.
 18. Report of The Committee on the Financial Aspects of Corporate Governance and Gee and Co. Ltd (Cadbury Committee) 1992 on Website www.icaew.com Last visit to the website 20/6/2014.
 19. United Nation Development Nation Program Governance for sustainable human development UNDP policy documents New York 1997.
 20. Dr. Ahmed El-Sayed Atallah, Legal Responsibility Resulting from the Intrusion of the Commercial Company, its Board Members and Affiliates with the Legal Obligation to Reveal Conflicts of Interest in Commercial Companies in the Light of the Principles of Corporate Governance - A Comparative Study between Egyptian and Kuwaiti Law.
 21. Dr. Saeed Hussein Ali, Administrative Contract, Public Project Financing Tool, 1st Edition, National Center for Legal Publications, Cairo - Egypt, 2016.

22. Saeed Abboud Al-Samarani, *The Public Sector in Iraq*, 1st Edition, Al-Ummah Press, Iraq, 1971.
23. Dr. Amin Al-Bashir, Dr. Bilal Ahmed Mitanni, *Public Sector Governance - A Case Study of the Hashemite Kingdom of Jordan*, *Jerash Journal for Research and Studies*, Jerash University, Vol. 17, No. 3, Jordan, 2016.
24. Dr. Mohamed Lounissi, *The Administrative Approach in Project Management*, Dar Al-Fikr wal-Qanoon for Publishing and Distribution, Mansoura, Egypt, 2019.
25. Dr. Abdel Alim Musharraf, *The Idea of Personal Consideration in the Field of Administrative Contracts - A Comparative Study*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, without year of publication.
26. Dr. Amin Al-Bashir, Dr. Bilal Ahmed Mitanni, *Public Sector Governance - A Case Study of the Hashemite Kingdom of Jordan*.
27. Dr. Safi Ahmed Qassem, *The Legal Nature of Public-Private Partnership Contracts (P.P.P)*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2016.
28. Ouiza Najjar, *The Role of Media and Civil Society in Combating Corruption*, *Journal of Communication in the Humanities and Social Sciences*, Jama'a Annaba, No. 51, Algeria, 2017.
29. Mohammed Al-Azazi Ahmed, *The Role of Civil Society and the Media in Rationalizing the Government Sector*, Round Table Forum: The New Roles of Government, Arab Administrative Development Organization, Arab Administrative Development Organization, Istanbul, June 2008.
30. Kroufi Bilal, *Local Governance and its Role in Combating Corruption in Local Councils - A Case Study of Algeria*, Master's Thesis, Faculty of Law and Political Science - Kasdi Merbah University - Ouargla, Algeria, 2012.
31. Haya bint Dakhil Allah Al-Muraibed, *Officials of the Board Members of Joint Stock Companies in the Framework of Corporate Governance in accordance with the Saudi Law*, op. cit., p. 103.
32. C. Zoelner: *Transparency: An analysis of an Evolving Fundamental Principle in national Economic Law*, (2006) 27 *Michigan Journal of International Law* .
33. Dr. Nada Saleh Hadi, *Securities Crimes - A Comparative Study*, 1st Edition, Al-Wafa Legal Library, Alexandria - Egypt, 2020.
34. Dr. Marwa Mohamed Al-Essawy, *The Compatibility of Disclosure in Commercial Contracts with the Principle of Confidentiality*, 1st Edition, National Center for Legal Publications, Cairo, Egypt, 2016.
35. Doaa Emad Mashhour, *Registered Owner and Beneficial Owner in the Stock Market*, 1st Edition, Master's Thesis, National Center for Legal Publications, Cairo - Egypt, 2016..
36. S. Evenett, "Is there a Case for New Multilateral Rules on Transparency in Government Procurement" Chapter III of the *Singapore Issue and the World Trading System*, available at:
37. <http://www.wto.org/>

38. S. Thomsen "Business Ethics as Corporate Governance" *European Journal of Law and Economics*". vol 11 «No 2 (2001) .
39. LS Paine "Is Ethies Good Business!" *Challenge* vol 46.no 2. March April (2003) .