

Evaluating the Disciplinary System of Public Servants in Egypt: A Comparative Study

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Abstract: The development process in Egypt is faltering as a result of corruption and negligence of the public servant in performance. Therefore, the Civil Service Law issued in 2016 focused on increasing the number of penalties and amending disciplinary rules and procedures. Nevertheless, the performance of the public servant is still weak and neglected. There is no doubt that one of the reasons for this is the weak effectiveness of the discipline system. This study aims to identify these reasons and discuss the procedures for disciplining the public Servants in Egypt and comparing them with similar procedures in some Arab countries namely: (State of Kuwait, Sultanate of Oman, the Kingdom of Saudi Arabia) to identify The similarities and differences between them and a discussion of weaknesses of the disciplinary system in Egypt. The study also aims to identify the factors that help improve the effectiveness of the disciplinary system in reducing undesirable behaviors of employees in government institutions in Egypt The study found that the heads of administrative units and supervisors were not given sufficient powers to impose appropriate penalties for the gravity of the job violations. Also, there is an exaggeration in providing guarantees to the employee to reduce the chances of misusing the disciplinary power of the heads and supervisors in government units, and to provide a degree of independence for the employee and not to be subjected to pressure from supervisors in implementing the laws. The civil service law in Egypt and Saudi Arabia stipulated that the judicial authorities intervene in disciplinary measures against employees, which led to a huge waste of time in investigations and trial proceedings, and neglect of the principle of immediate punishment. All of which helped to weaken the effectiveness of the disciplinary system in Egypt. The study recommended that it is important to amend the disciplinary system in Egypt to limit the interference of judicial bodies. Also, an organizational climate should be provided that generates employee self-desire to avoid negative behavior.

Keywords: Discipline in Government Organizations, Disciplinary System in Egypt, Employee Performance

1. Introduction

All civil service laws in Arab countries have taken care of a disciplinary system for public servants in government organizations, but despite that there are many cases of corruption and negligence among public officials in these countries, and especially Egypt there is an abuse of functional authority by government officials [17]". Undoubtedly, one of the reasons that led to the spread of these negative behaviors in government institutions in Egypt is the weak effectiveness of the employee discipline system contained in Civil Service Law No. 81 of 2016, especially at the local level, where neglect and poor performance are spread in local administrative units.

The study raises the following questions:

- 1) What are the reasons for the weak effectiveness of disciplinary rules and procedures in Egypt?
- 2) What are the weaknesses in the current disciplinary system in Egypt compared to some Arab countries?
- 3) How can the effectiveness of this system be raised to reduce the negative and illegal behavior of the public employee in the Egyptian government agencies?

This study aims to discuss the procedures for disciplining the public officers in Egypt and comparing them with similar procedures in some Arab countries namely: (State of Kuwait, Sultanate of Oman, the Kingdom of Saudi Arabia) to identify The similarities and differences between them and a discussion of weaknesses of the disciplinary system in Egypt.

The study also aims to identify factors that help improve the effectiveness of the disciplinary system in reducing undesirable behaviors of public officers in government organization in Egypt.

This should be noted that the civil service law in the comparative countries includes two main topics:

First: determining the number of penalties, which may be imposed on the public servants,

Second: The disciplinary procedures that must be followed before imposing these penalties and who has the authority to impose them.

Therefore, this study will discuss these two topics. It will also discuss the factors that should be available in disciplinary systems in general. Hence, the study is divided into the following topics:

- 1) Factors that help the effective application of the disciplinary system in organizations
- 2) disciplinary penalties in Comparative Countries
- 3) Disciplinary Procedures for public servants in Comparative Countries
- 4) The disciplinary system in Egypt
- 5) Conclusion and Recommendations

2. Factors That Help the Effective Application of the Disciplinary System in Organizations

Enhancing and maintaining employee discipline is essential for the proper operation of the organization. However, the effectiveness of the disciplinary system is linked to the quality of its procedures, and that these procedures are characterized by stability, fairness, and permanent corrective measures. In general, it can be said that there are a number of factors that can help in the effective application of the employee discipline system in government institutions, the most important of which are:

- 1) The task of discipline should be reform, evaluation and raising the efficiency of performance, not revenge and domination. And that the primary objective of disciplinary management is to modify the undesirable behavior of the employee.
- 2) The supervisor and the senior manager must have appropriate disciplinary authority and be equal to his responsibility for carrying out the tasks assigned to him [6].
- 3) Legal guarantees must be available to the employee, which guarantees justice and that leaders a commitment to full objectivity and do not abuse their disciplinary authority [3].
- 4) It is also important to have a clear link between the misbehavior and the punishment by making the time interval between the undesirable act and the imposition and execution of the punishment as short as possible (immediate punishment) so that employees realize the negative impact of the misbehavior. [5]
- 5) Taking into account the proportionality of the penalty

with the severity of the misconduct, in other words it must be the penalty that fits the crime [3].

- 6) The reasons for disciplinary violations must be examined to find out the reasons that may exist in relation to the lack of clarity in work procedures, or the presence of an organizational defect, or a traditional organizational culture [8]. It is also important for the manager to use positive reinforcement with rewards to reinforce the desired behavior and to explain to the employee which behaviors will result in positive feedback. [9]"
- 7) Extenuating or aggravating circumstances must also be taken into account when imposing penalties.
- 8) It is important for the manager not to be pessimistic and believe that the public employee is unmotivated and dislike his work, and believes that punishment is the only way to urge the employee to avoid misconduct. [11]"
- 9) Finally, The work environment and organizational culture in organizations should encourage employees to improve performance and adhere to work ethics and reject deviation, laziness, and corruption [14]". An appropriate system of positive incentives must be in place and that public employee salaries should be adequate to provide for the basic needs of living, according to Maslow's basic needs theory.[7]" As the salaries of the public servant in Egypt are still low and he does not enable him to live a decent living.

3. Disciplinary Penalties in in Comparative Countries

Civil service systems in Arab countries specify a number of disciplinary penalties that managers and the competent authority can impose on a public employee, based on a legal principle that applies to penal sanctions, which is that there is: "no penalty except by the text of the law".

By comparing the mentioned penalties with the civil service laws in the comparison countries, it was found that most of these laws included two lists of penalties, as a separate list was allocated for non-leading positions and another for leadership positions, while the civil service system in the State of Oman specified only one list for all employees.

In any case, there is a great deal of agreement among the countries under comparison on the types and forms of these penalties for non-leadership positions, lists included penalties: warning, salary deduction, denial of bonus, dismissal, Oman added penalties: demotion the employee to a lower position in the career [12]" and both Kuwait and Oman added a penalty: Reducing the monthly salary [10]" the Kingdom of Saudi Arabia. [15] and the Sultanate of Oman also adding the penalty of: deprivation of the periodic increment [12].

As for the list of penalties for leadership positions, there is great agreement on it among the countries in question, as the penalties range in it between three or four. It consists of three

penalties in the Kingdom of Saudi Arabia, namely: censure, deprivation of one periodic bonus, and then dismissal. In the State of Kuwait, it includes: warning, censure then dismissal.

4. Disciplinary Procedures for Public Servants in Comparative Countries

The civil service laws in the comparative countries have restricted the supervisory officials and heads of government units in imposing any of these penalties contained in the previous lists against public officials in executive departments, where they may impose some simple penalties only.

According to the civil service laws in these countries, who has the right to impose severe penalties, the courts of the judicial authority or the supreme leadership (ministers), as we will explain later. Every country is affected its historical and social conditions. Some states have preferred to judicialize the disciplinary system for civil servants in order to ensure that the power to impose sanctions is not abused by administrative superiors, while other states tend to maintain an administrative character or a balance between administration and judicial character. The position of each of the comparative countries will be discussed in some detail, namely: Kuwait, the Kingdom of Saudi Arabia and the Sultanate of Oman.

While we find that disciplinary systems of a judicial nature restrict the powers of managers and administrative leaders to investigate their subordinates and impose penalties on them if they violate instructions and neglect their performance. These systems are based on the fact that disciplinary power can be abused by managers, and that guarantees must be provided for the independence of the public employee in government agencies in implementing laws related to maintaining public order without being pressured by his superiors. Accordingly, the disciplinary systems of a judicial nature restrict the disciplinary authority of supervisors and managers in the investigation and impose severe penalties on their subordinates, and it is decided that the judicial authority should intervene in the investigation of some cases and impose severe penalties in particular. Penalties: Referral to pension or dismissal from the civil service. If the employee commits grave and dangerous mistakes the supervisory officers or the higher competent administrative authority in this case must refer the matter to the administrative prosecution and the responsible administrative court that decides the required procedure. The following will discuss in some detail the disciplinary systems in the countries: Kuwait, Saudi Arabia and the Sultanate of Oman.

4.1. The Disciplinary System in Kuwait

As for the State of Kuwait, the Civil Service Law stipulates that penalties may not be imposed on an employee who has committed an administrative violation except after being investigated by the Legal Affairs Department of the Administrative Unit, and if this employee occupies a

leadership position, then the investigation it is only conducted after obtaining the approval of the Minister. As for the rest of the employees who do not occupy leadership positions, the approval of the undersecretary in charge of the investigation is obtained without the intervention of any judicial authority.

In the event that the investigation concluded that the employee should be punished, the Kuwaiti Civil Service Law stipulated two cases:

First: If the person who committed the disciplinary offense occupies a leadership position, the investigation in this case is referred to the competent minister, and he may only sign a warning penalty. [10]

If it becomes clear to him that this employee should be punished with a more severe penalty, he may refer the investigation to the Civil Service Council, because this Council, according to the Kuwaiti Civil Service Law, is only competent to impose a more severe penalty. And this council can impose either two punishments of censure. or dismissal.

Second: for non-leading positions, the Undersecretary of the Ministry is responsible for inflicting all disciplinary penalties on the occupants of the group of technical assistant positions. As for other jobs, he may inflict all disciplinary penalties, with the exception of dismissal from service for which a decision is issued by the Minister.

In all cases, the Minister may amend the decisions issued by the Undersecretary to reduce or aggravate the penalty. He may also cancel the decision, and no penalties will be imposed on the employee who was investigated. It is clear from the above that the Kuwaiti legislator granted the authority to refer for investigation and impose disciplinary sanctions to the higher administrative authority according to the administrative nature of the system. However, it is noted that neither the line manager nor the heads of administrative units were given the power to disable their subordinates, even for minor misconduct.

It should be noted here that the State of Kuwait tried to reduce the administrative nature somewhat in 1980, when a decree was issued that allowed the appeal to cancel administrative decisions related to employment affairs, including decisions issued to impose disciplinary sanctions, as the full court (the department concerned with administrative disputes) is concerned with this. [9] It is noted that the State of Kuwait does not have an administrative judiciary like the French judicial system.

4.2. The Disciplinary System in Kingdom of Saudi Arabia

For the Kingdom of Saudi Arabia 'It was also applied to a full administrative nature at first in a completely administrative nature until the public officers disciplinary system was issued in 1391 AH, which established two bodies, the "Control and Investigation Commission" and a judicial disciplinary bod, [15] The Saudi Disciplinary System specified that the Control and Investigation Commission is responsible for monitoring the performance of employees. and investigate them,

The Disciplinary Commission, it is a judicial body that

specializes in disciplinary cases filed by the Monitoring and Investigation Commission and the imposition of penalties on a public employee whose conviction the investigation results in. In order to ensure complete impartiality, the disciplinary system moved to another stage, where the disciplinary body was merged into the Board of Grievances, and disciplinary jurisdiction was transferred to it as a new body for the administrative judiciary. [16]

It is noted that the Saudi disciplinary system did not make disciplinary matters a monopoly on the Monitoring and Investigation Commission and the Board of Grievances, but rather left a clear part of this competence in the hands of the competent minister or someone at his level, and he has the right to impose all penalties except for dismissal. The explanatory note to the disciplinary system indicated that The minister is the supreme administrative head of his ministry, and that one of his basic duties is to monitor the employees in the ministry and to agree to refer the employee who violates the work rules for investigation, and his good exercise of his presidential powers requires that he leave in his hands some penal powers. Therefore, after the investigation is completed, the Monitoring and Investigation Board shall refer him to the competent minister and suggest the appropriate punishment for him and he may impose this punishment or choose another punishment he deems appropriate.. According to the disciplinary system, the minister is responsible for imposing all penalties except for the penalty of dismissal. And he may refer the investigation in this case to the Board of Grievances if he deems that the disciplinary violation requires the penalty of dismissal.

Thus, the Saudi disciplinary system granted the Minister or his authorized undersecretary the investigation and imposition of penalties, except for cases referred to the Disciplinary Court of the Board of Grievances. Thus, it can be said that the disciplinary system here is similar to the State of Kuwait, as neither of the two states granted the occupants of leadership positions in the administrative units an right to impose disciplinary sanctions despite their full responsibility for achieving the objectives. Despite this similarity between the State of Kuwait and the Kingdom of Saudi Arabia with regard to disciplining government employees, the system in the Kingdom of Saudi Arabia has combined the administrative and judicial nature by establishing an independent judicial body to investigate important and serious violations such as those discovered by the supervisory body or related to the misuse of public funds. In addition to the existence of an independent specialized administrative judiciary (the Board of Grievances) with jurisdiction to impose the penalty of dismissal and to consider appeals against administrative and disciplinary decisions.

4.3. The Disciplinary System in Sultanate of Oman

The disciplinary system in Oman tended to be administrative in a clear and explicit manner, and distinguished from previous countries in that it did not ignore the leaders of administrative units and the direct manager of administrative units. According to the Omani civil service

system, the head of the administrative unit has the right to impose the two penalties of warning or salary deduction for a period not exceeding thirty days per year and not exceeding ten days at a time. He also has the power to refer the employee who committed the disciplinary offense to the accountability council. [13]"

The head of the unit may also authorize the direct manager with regard to minor violations to impose a warning penalty or deduction from the salary for a period not exceeding three days at a time, and not exceeding fifteen days per year. The civil service system permitted the investigation to be orally for minor violations. The Omani system has allowed the employee to complain about the penalties within 30 days to the head of the unit and not to a judicial body, as is the case in the State of Kuwait.

Regarding the imposition of the most severe penalties, the Omani Civil Service Law stipulates the formation of accountability councils in administrative units consisting of three members, including the head of the unit. It is noted that this council is an administrative council and no member of the judiciary participates in its membership. These councils are responsible for imposing disciplinary penalties, except for those imposed by the head of the unit. It also decreed the formation of a higher accountability council that would be responsible for deciding on grievances and imposing penalties on occupants and senior positions.

5. The Disciplinary System in Egypt

The Civil Service Law in Egypt adopted the two-list system for penalties, whereby a separate list was allocated for non-leading positions and another for leadership positions. The list related to non-leadership positions in the previous law for employees of government agencies in Egypt included eleven penalties, and the list related to leaders includes four others. In the current Law No. 18 of 2015 the number of penalties in the first list has been reduced to eight Article 61 namely:

- 1) Censure
- 2) Deduction from salary not to exceed 60 days in a year
- 3) Precautionary suspension from work for a maximum period of six months, with payment of only half the wage (half pay)
- 4) Postponement of the due promotion for a maximum period of two years
- 5) Demotion of an employee to a position directly lower in the profession
- 6) Demotion to a lower position directly by reducing the salary
- 7) Referral to pension
- 8) Dismissal

As for the list for leadership, it includes four penalties:

- 1) Warning
- 2) Censure
- 3) Referral to pension
- 4) Dismissal from service

The Egyptian legislator took an approach similar to the

Saudi approach, as he mixed between the administrative and the judicial nature. An apparatus of a judicial nature called the Administrative Prosecution was established, which is competent to investigating the leaders of government agencies when they commit violations.

It is also concerned with investigating financial violations as a result of misuse or infringement of public funds, as well as investigating other violations entrusted to it. The Administrative Prosecution had no authority to impose disciplinary penalties on employees of state agencies under the previous law. The Civil Service Law No. 81 of 2016 Article 60 recently granted it the power to impose some penalties except for severe penalties, which are (degrading the rank to a lower job with a reduced salary, referral to a pension, and dismissal from service.) These severe penalties are imposed by the competent disciplinary court.

It must be noted that the judicial nature of the disciplinary system in Egypt helped to deprive the administrative leaders and competent authority of imposing severe penalties and led to the weakness of the effectiveness of this system due to legal restrictions and court procedures that usually take years until the issuance of judgments. As a result, employees lose the sense of the direct connection between the penalty and the violating act committed by the person being prosecuted, in addition to the fact that the disciplinary courts do not tend to impose the penalty of dismissal unless there is conclusive evidence that the employee has committed a grave mistake. Hence, an organizational and societal culture prevailed, to the effect that the employee in government organizations cannot be dismissed in any way, and that the public job achieves complete safety for him, even if his neglect and laziness in performing the duties of the job were proven. All this helped weaken the effectiveness of the disciplinary system in Egypt.

Also, one of the reasons for the weak effectiveness of the disciplinary system in Egypt is the restriction of the authority of line managers to impose severe penalties. The Egyptian Civil Service Law granted the direct supervisor the right to impose a warning penalty or a salary deduction that does not exceed twenty days per year and does not exceed three days at a time.

The last Civil Service Law No. 81 also did not grant the head of the administrative unit the right to impose severe penalties. He has the right only to sign a warning penalty or a salary deduction that does not exceed forty days in a year and does not exceed fifteen days at a time. In addition, the law granted the higher competent authority the right to impose any of the penalties stipulated and referred to above with the exception of penalties (demotion to a position at a lower level directly with reduced salary, referral to pension, and dismissal), as these severe penalties are the jurisdiction of the Disciplinary Court to impose.

6. Conclusion and Recommendations

The study showed that Egypt and Saudi Arabia do not allow direct superiors the power to impose severe penalties on their subordinates, especially dismissal from service or

referral to pension. According to the civil service law of the two countries, independent judicial courts are competent to impose these severe penalties. Egypt and Saudi Arabia also established a judicial body to investigate public officials in some cases. The aim of this is to provide guarantees for the employee and not to abuse the disciplinary authority of the superiors and supervisors in government organizations, as well as to provide a degree of independence for the employee in government organizations and not to be subjected to pressure from supervisors in implementing laws. Since the investigation and trial procedures take a long time, which usually takes more than a year, so there is no clear link between functional violations and penalties, there is no application of the immediacy of penalties. In addition, these judicial procedures led to the weakening of the authority of the direct superiors, and their orders and instructions to the subordinates became not respected or implemented as desired. Accordingly, the disciplinary system in the Sultanate of Oman and Kuwait was distinguished by the fact that it does not allow the judicial authority to interfere in the process of disciplining a public employee, except in cases of appeal against an administrative disciplinary decision.

Therefore, it is better to give the authority to impose these severe penalties on the leaders of governmental organizations, while giving the employee the opportunity to file an appeal before a judicial authority in the event that the authority to impose sanctions from leaders has been exceeded.

It should be noted here that the judicial investigation bodies in the countries of Saudi Arabia and Egypt are large organizations with regional branches in the governorates, and therefore have a high financial cost, despite the poor benefit from them in restoring discipline in government organizations. It is strange that these organizations in the two countries have administrative units affiliated to them organizationally that specialize in legal affairs and conduct investigations with public officials in most cases, with the exception of violations that the law provides for referral to the Administrative Prosecution.

Hence, there is no sufficient justification for the existence of a judicial body affiliated to the Ministry of Justice and independent of the state's administrative apparatus, which conducts investigations in some cases with public officials. Note that the law stipulates that in cases where a public official is suspected of committing a crime of bribery or embezzlement of public money, the Administrative Prosecution shall refer this case to the Public Prosecution Authority for investigation, and it may refer the investigation to the criminal courts if it deems it appropriate. It is necessary to think about reorganizing the Administrative Prosecution Authority in Egypt by including it with the Public Prosecution to rationalize public expenditures on the one hand, and activating the discipline system for public officials on the other hand.

Thus, the study recommends, that Egypt must make an amendment to the Egyptian Civil Service Law to grant direct superiors and heads of government units the power to impose appropriate penalties for the seriousness of the disciplinary violation, as this will help urge the public employee to refrain

from negative behaviors and obey superiors in carrying out the tasks specified for him. It is important that there be a proportionality between the powers of the heads of administrative units and their responsibilities in achieving the goals. It is also important to reduce corruption to modify the system of salaries and positive incentives in terms of promotion and financial rewards to be directly linked to good performance and to give superiors and line supervisors appropriate authority in preferential treatment against some members of their team.

It is also recommended to change the organizational climate and culture by systematically organizing internal workshops to train, guide and educate heads of departments and public officials on disciplinary procedures and their relationship to compliance with the rules of the organization.

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