

أنظمة القانون الإداري في نيجيريا والعراق وماليزيا: دراسة مقارنة من منظور القانون الدولي لحقوق الإنسان

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Administrative Law Regimes in Nigeria, Iraq, and Malaysia: A Comparative Analysis through the Lens of International Human Rights Law

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ABSTRACT

This comparative study examines the administrative law regimes in Nigeria, Iraq, and Malaysia, with a focus on their legal frameworks, institutions, and practices as well as their compliance with human rights and international law standards. The research aims to identify the convergences and divergences in the administrative law regimes of these three countries, and to explore the implications of these similarities and differences for governance, rule of law, and human rights. By analyzing the legislative, judicial, and administrative frameworks of each country, this study provides insights into the strengths and weaknesses of each regime, and offers recommendations for reform and improvement. The comparative approach adopted in this research provides a unique perspective on the complexities of administrative law in diverse legal and cultural contexts, and contributes to the ongoing debate on the role of administrative law in promoting good governance and human rights.

ملخص

تتناول هذه الدراسة المقارنة أنظمة القانون الإداري في نيجيريا والعراق وماليزيا، مع التركيز على أطرها القانونية ومؤسساتها وممارساتها، فضلاً عن مدى توافقها مع معايير حقوق الإنسان والقانون الدولي. يهدف البحث إلى تحديد أوجه التقارب والاختلاف في أنظمة القانون الإداري في هذه الدول الثلاث، واستكشاف آثار هذه التشابهات والاختلافات على الحوكمة وسيادة القانون وحقوق الإنسان. من خلال تحليل الأطر التشريعية والقضائية والإدارية لكل دولة، تقدم هذه الدراسة رؤى ثقافية حول نقاط القوة والضعف في كل نظام، وتقدم توصيات للإصلاح والتحسين. يوفر النهج المقارن المعتمد في هذا البحث منظوراً فريداً حول تعقيدات القانون الإداري في سياقات قانونية وثقافية متنوعة، ويسهم في النقاش الدائر حول دور القانون الإداري في تعزيز الحوكمة الرشيدة وحقوق الإنسان.

Introduction

Despite its importance, the development and implementation of administrative law regimes vary greatly across different jurisdictions, reflecting diverse legal traditions, cultural norms, and institutional contexts (Butchenko, & Kravets, 2022). Administrative law is a crucial component of modern governance, regulating the exercise of executive power and ensuring that public authorities act in accordance with the law (Schotel, 2021). Its role in promoting good governance, protecting human rights, and preventing abuses of power is what makes it so important (Tripathi, 2011). Nigeria, Iraq, and Malaysia are three countries with distinct legal and administrative systems, molded by their own histories, cultures, and political experiences. Nigeria, a federal republic in West Africa, has a complex structure of governance, with a combination of federal and state institutions (Oikhala, 2020). After years of conflict and instability, Iraq, a federal parliamentary republic in the Middle East, has had a difficult time reconstructing its administrative structure (Ali, Musa, & bin Abd Rahman, 2022). The administrative structure of Malaysia, a federal constitutional monarchy in Southeast Asia, is well-established and places a high value on accountability and efficiency (Ristawati, 2020).

The objective of this comparative study is to analyze the legal frameworks, institutions, and practices of the administrative law regimes in Nigeria, Iraq, and Malaysia. Through an examination of the similarities and differences among these three nations' administrative law systems, this study aims to advance knowledge of the intricacies of administrative law in various legal and cultural contexts. Their adherence to international law and human rights norms will be investigated. The international human rights framework serves as the study's foundation, specifically the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The analysis evaluates the respect, protection, and fulfillment of human rights, such as the right to life, the right to be free from torture, and the right to a fair trial, by the administrative law regimes in Nigeria, Iraq, and Malaysia.

The remainder of this study is organized into five sections in the frame of human rights law. Section 1 provides literature review and the overview of the



research methodology. Section 2 examines the legal frameworks for administrative law in Nigeria, Iraq, and Malaysia. Section 3 analyzes the institutional frameworks for administrative law in the three countries. Section 4 discusses the practices and procedures for administrative law in Nigeria, Iraq, and Malaysia. Section 5 concludes the study by summarizing the key findings, and recommending reforms and improvements.

Review of literature

A key element of contemporary governance, administrative law regulates the interaction between the state and its people (Schotel, 2021). Since they offer a framework for making sure that state acts are legal, rational, and respectful of individual rights and freedoms, effective administrative law regimes are crucial for advancing human rights, the rule of law, and good governance (Stewart, 2005). Administrative law is important for a number of reasons. For example, it controls how state authority is used, making sure that government officials and agencies follow the law and respect people's rights and liberties (Kingsbury, 2009). By guaranteeing that state acts are open, accountable, and responsive to citizens' needs, it fosters good governance (Chesterman, 2008). By offering a framework for guaranteeing that state actions uphold and advance individual liberties and rights, it safeguards human rights (Sharaburina, 2011).

The legal systems of Nigeria, Iraq, and Malaysia are different; Nigeria has a common law system, Iraq has a civil law system, and Malaysia has a hybrid system that incorporates aspects of Islamic law, common law, and customary law. These nations all have different governance issues, such as institutional flaws, corruption, and insecurity. Through comparative analysis, best practices, obstacles, and areas for reform can be identified thanks to the selection of these nations.

Nigeria

Nigeria's colonial heritage has had a big impact on its administrative law system. Nigeria acquired a legal system based on the British model since it was formerly a British colony (Olowu, 2001). Nigeria's administrative law system has been influenced by this tradition for a long time, influencing its laws, institutional frameworks, and practices. Based on the British common law heritage, the British imposed their own legal system on Nigeria throughout the colonial era (Ekhaton, 2016). Nigeria now has a complicated and frequently contradictory legal environment as a result of this foreign legal system being imposed on top of the country's traditional legal systems (Obilade, 1979).

Nigeria's administrative law regime has suffered from the imposition of a foreign legal system in a number of ways. For example, the country's institutional frameworks, including the legislature, executive branch, and court, were based on British models (Olowu, 2001). Nigeria's colonial past is still evident in these institutions, despite their adaptation to the country's needs. Nigeria's laws and regulations, notably those pertaining to administrative law, were inherited from British colonial authority (Ekhaton, 2016). Even though these laws have been updated and modified over time, the colonial legacy of

the nation is still reflected in them. British colonial control also left behind the nation's administrative law practices and procedures, including the employment of administrative tribunals and judicial review (Obilade, 1979).

The governance and human rights record of Nigeria are significantly impacted by the institutional flaws in the administrative law regime (Aiyede, 2009). The absence of efficient checks and balances on executive power is one of the main institutional flaws. The notion of separation of powers is a key feature of democratic governance, guaranteeing that authority is separated among the legislative, executive, and judicial departments of government (Montesquieu, 1748). The purpose of the separation of powers is to keep each arm of government from growing too strong by acting as checks and balances on it. A division of powers between the legislative, executive, and judicial departments of government is established by Nigeria's institutional frameworks, which include the Constitution, laws, and regulations (Constitution of the Federal Republic of Nigeria, 1999). The system of checks and balances has been undermined in practice, nevertheless, as the executive branch of government has frequently overpowered the other branches. Nigeria's governance and human rights record are significantly impacted by the absence of strong checks and balances on presidential power. The executive branch of government has frequently used its authority arbitrarily, disregarding the rule of law and human rights, which is one of the main ramifications (Aiyede, 2009). Human Rights Violations: According to Human Rights Watch (2020), the absence of effective checks and balances on executive power has led to arbitrary detention, torture, and extrajudicial killings, among other human rights violations in Nigeria. Additionally, corruption has been exacerbated by the executive branch of government frequently abusing its authority to enrich itself and its allies (Transparency International, 2020).

Nigeria's administrative law regime is marked by institutional flaws, particularly a lack of effective checks and balances on executive power. These weaknesses have significant implications for the country's governance and human rights record, including arbitrary exercise of power, human rights violations, and corruption. Addressing these deficiencies is vital for establishing good governance and human rights in Nigeria.

Iraq

Post-conflict reconstruction efforts, especially after the US-led invasion in 2003, have had a substantial impact on Iraq's administrative law regime (Al-Mahdi, 2013). International actors, such as the United States, the United Nations, and other coalition forces, have influenced the nation's legal system (Qader, 2016: 81), notably its administrative law regime. A variety of state-building initiatives, such as the creation of new institutions, laws, and policies, have been hallmarks of international intervention in Iraq (Fearon & Laitin, 2004). The country's stability, security, and sound governance have been the goals of these initiatives.





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Iraq's administrative law regime has been greatly influenced by international actors, especially in the areas of constitutional development, where the United Nations and other international actors have supported and offered technical assistance for the creation of the country's 2005 adopted constitution (United Nations, 2005). International players have also aided Iraq's legislative reform initiatives in this area, which includes the creation of new rules and laws pertaining to judicial review and administrative processes (USAID, 2013). The judiciary, executive, and legislative branches of government in Iraq have also received training and capacity-building assistance from foreign actors (World Bank, 2013).

Notwithstanding these initiatives, the administrative law system in Iraq continues to face difficulties and disputes. According to some opponents, foreign players have dominated Iraq's state-building process, eroding Iraqi capability and ownership (Chandran, 2013). Significant institutional flaws in Iraq's administrative law system still exist, such as a lack of transparency, corruption, and insufficient judicial review procedures (Al-Mahdi, 2013). Human rights issues in Iraq, such as extrajudicial executions, torture, and arbitrary detention, are still present (Human Rights Watch, 2020). To this purpose, post-conflict reconstruction efforts, especially after the 2003 US-led invasion, have had a substantial impact on Iraq's administrative law regime. Although there are still issues and disputes surrounding these initiatives, foreign players have been crucial in forming the nation's institutions, laws, and policies. In order to advance stability, security, and sound government in Iraq, these issues must be resolved.

Limited institutional capacity, particularly ineffective judicial review and supervision mechanisms, is a defining feature of Iraq's administrative law regime. The nation's governance and human rights record, especially the arbitrary use of authority, corruption, and human rights abuses, are significantly impacted by this weak institutional capacity. In order to promote accountability, human rights, and the rule of law in Iraq, these restrictions must be addressed. Limited institutional capacity is a defining feature of Iraq's administrative law regime, which has important ramifications for the nation's governance and human rights record (Kadhim, 2015). The ability of institutions to carry out their duties in an effective, efficient, and accountable manner is referred to as institutional capacity.

Iraq's administrative law regime has limited institutional capacity in a number of areas. For example, the judiciary lacks the independence, impartiality, and efficacy to review administrative decisions and ensure accountability, and the country's judicial review mechanisms are limited (Kadhim, 2015). Iraq's oversight systems, such as audit and legislative oversight bodies, are likewise weak, lacking the authority, funds, and autonomy necessary to properly monitor administrative operations (Al-Mahdi, 2013). The country's administrative tribunals, which are in charge of examining administrative



judgments, are likewise constrained; they lack the authority, funds, and independence necessary to do so successfully (Kadhim, 2015).

Iraq's governance and human rights record are significantly impacted by the administrative law regime's limited institutional capacity. For instance, the absence of efficient judicial review and oversight mechanisms permits administrative authorities to exercise power arbitrarily, undermining both human rights and the rule of law (Kadhim, 2015). According to Al-Mahdi (2013), corruption is also a result of Iraq's administrative law regime's insufficient institutional capability, which permits the abuse of authority and resources due to a lack of proper oversight and accountability systems. Human rights abuses such as extrajudicial executions, torture, and arbitrary detention are also exacerbated by the administrative law regime in Iraq's weak institutional capability (Qader, 2016: 5399; Human Rights Watch, 2020).

Iraq is one of several nations impacted by the widespread and intricate problem of corruption. According to Transparency International (2020), corruption in the context of administrative law is the misuse of authority by public servants for private benefit, undermining the rule of law and sound governance. Iraq is regarded as one of the world's most corrupt nations. In 2020, Iraq received a score of 16 out of 100 on Transparency International's Corruption Perceptions Index (CPI), placing it 160th out of 180 nations (Transparency International, 2020). Under Iraq's administrative law system, corruption can take many different forms. For instance, bribery is a prevalent practice in Iraq, when public officials request or accept payments in return for services or favors (Al-Mahdi, 2013). Another type of corruption in Iraq is embezzlement, in which public servants steal resources or money for their own benefit (Kadhim, 2015). Under Iraq's administrative law system, nepotism is also common, with public officials elevating friends or family members to positions of authority (Human Rights Watch, 2020).

Iraqi administrative law is greatly impacted by corruption, which also threatens good governance and the rule of law by eroding public confidence in government agencies and the rule of law, which causes widespread disenchantment and disengagement (Transparency International, 2020). In addition to undermining human rights in Iraq, especially the rights to equality, justice, and fair treatment (Human Rights Watch, 2020), it skews decision-making processes, producing capricious and unjust rulings that benefit those in positions of authority and influence (Al-Mahdi, 2013). Under Iraq's administrative law system, corruption poses a serious threat to both good governance and the rule of law. A comprehensive strategy that upholds human rights, encourages accountability and openness, and fortifies institutions is needed to combat corruption.

Malaysia

A hybrid legal system that incorporates aspects of common law, Islamic law, and customary law characterizes Malaysia's administrative law regime (Hooker, 1976). The nation's history of colonization, Islamic influence, and





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varied cultural and religious traditions are all reflected in this hybrid system. The common law system, which Malaysia inherited from British colonial rule and which places a strong emphasis on the rule of law and judicial precedent, is one of the components of Malaysia's hybrid legal system (Hooker, 1976). Malaysia's legal system heavily relies on Islamic law, sometimes referred to as Shariah law, especially when it comes to issues pertaining to inheritance, family law, and Islamic finance (Ahmad, 2013). Based on traditional Malay conventions and practices, customary law, sometimes referred to as Adat law, is acknowledged in some legal fields, including family law and land law (Hooker, 1976).

The common law element of Malaysia's hybrid legal system allows for judicial review of administrative judgments, which contributes to accountability and openness. This feature has a major influence on the country's administrative law regime (Lee, 2013). In Malaysia, administrative decision-making is heavily influenced by Islamic law, especially when it comes to family law and Islamic finance (Ahmad, 2013). Malaysian land law protects indigenous land rights and acknowledges traditional Malay norms and practices, all of which are recognized under customary law (Hooker, 1976). Common law, Islamic law, and customary law are all included into Malaysia's hybrid legal system, which is what defines its administrative law regime. The domains of judicial review, Islamic law and administrative decision-making, customary law and property rights, and administrative law in Malaysia are all significantly impacted by this hybrid system. Promoting efficient governance and the rule of law in Malaysia requires an understanding of the intricacies of the nation's hybrid legal system. Effective judicial review procedures that serve as checks and balances on executive power are a defining feature of Malaysia's administrative law system (Lee, 2013). A key component of administrative law is judicial review, which guarantees that executive actions are just, reasonable, and compliant with the law. Malaysian courts have the authority to examine administrative decisions to make sure they are legal, rational, and equitable. The country's judicial review processes are made up of various parts (Lee, 2013). A crucial element of Malaysian judicial review is the ultra vires concept, which guarantees that administrative judgments fall within the authority granted by the applicable statute or constitution (Abdul, 2015). A key component of Malaysian judicial review is the natural justice principle, which guarantees that administrative judgments are rendered fairly and impartially (Tan, 2017). Administrative law is greatly influenced by Malaysia's efficient judicial review procedures, which serve as a crucial check on executive authority and guarantee that administrative judgments are just, rational, and compliant with the law (Lee, 2013). Because administrative officials are aware that their choices could be reviewed, judicial review encourages accountability and transparency in administrative decision-making (Abdul, 2015). Because the courts have the authority to examine administrative decisions that can violate an individual's



rights, judicial review is also essential to Malaysia's human rights protection (Tan, 2017).

Effective judicial review procedures, which operate as checks and balances on executive power, are a defining feature of Malaysia's administrative law system. The ultra vires theory and the natural justice principle are two of the elements of Malaysian judicial review that guarantee the legality, reasonableness, and equity of administrative judgments. Judicial review has a major influence on Malaysian administrative law, advancing accountability, openness, and human rights.

Corruption is a pervasive and complex issue that affects many countries, including Malaysia. In the context of administrative law, corruption refers to the abuse of power by public officials for personal gain, which undermines the rule of law and good governance (Gomez, 2012). Corruption in Malaysia's administrative law regime takes many forms, bribery is a common form of corruption in Malaysia, where public officials demand or accept bribes in exchange for providing services or favors (Gomez, 2012). Embezzlement is another form of corruption in Malaysia, where public officials misappropriate public funds or resources for personal gain (Salleh, 2017). Nepotism is also prevalent in Malaysia's administrative law regime, where public officials appoint or promote family members or friends to positions of power (Gomez, 2012).

Malaysian administrative law is greatly impacted by corruption since it erodes public confidence in governmental institutions and the rule of law, resulting in widespread disenchantment and disengagement (Gomez, 2012). Furthermore, it erodes Malaysian human rights, especially the rights to equality, justice, and fair treatment (Tan, 2018) and distorts decision-making processes, resulting in capricious and unjust decisions that benefit those in positions of power and influence (Salleh, 2017). Under Malaysia's administrative law system, corruption poses a serious threat to both good governance and the rule of law. In Malaysia, bribery, embezzlement, and nepotism are examples of corruption that have a big influence on administrative law, especially when it comes to human rights, decision-making, and public trust. Effective anti-corruption measures, such as bolstering institutions, encouraging accountability and openness, and defending human rights, are necessary to combat corruption.

Methodology

This comparative study uses a qualitative research design that incorporates aspects of comparative and content analysis. The paper examines the legal frameworks, institutions, and practices of the administrative law regimes in Nigeria, Iraq, and Malaysia in light of international law norms and human rights. The following techniques for collecting data are used in order to meet the goals of the study: To provide a theoretical framework for the study, a thorough review of the body of literature on administrative law, human rights, and international law is carried out. The legislative, judicial, and administrative frameworks of each nation are examined to find similarities and differences in



their administrative law regimes. Relevant case law from each nation is examined to show how administrative law principles are applied and how they affect human rights. Finally, a comparative analysis of the administrative law regimes in Nigeria, Iraq, and Malaysia is carried out to find best practices, obstacles, and areas that require reform. Nigerian, Iraqi, and Malaysian constitutions, laws, rules, and court rulings. A qualitative content analysis approach has been employed to study the collected data, which includes thematic analysis, comparison analysis, coding and categorization, and more. In order to make inferences about the administrative law regimes in Nigeria, Iraq, and Malaysia, data is coded and categorized according to themes, concepts, and patterns. A comparative analysis of the data is then carried out to find similarities and differences between the three nations' administrative law regimes.

The legal frameworks for Administrative law in Nigeria, Iraq, and Malaysia

Nigeria

Nigeria's Constitution, which forms the basis of all laws and state authority, is the cornerstone of the legal framework for administrative law in that nation (Adegbami & Ganiyu, 2023). The rule of law, the division of powers, and the defense of fundamental human rights are among the administrative law tenets that are outlined in the Constitution. The constitution, which is the ultimate law of the land and establishes the framework for national governance as well as the authorities of the several branches of government, is the primary source of administrative law in Nigeria. Statutes, rules, and recommendations are examples of primary and subsidiary legislation, which makes up the second source. The judicial rulings and precedents that influence how administrative law is interpreted and applied constitute the third source. Thirdly. Finally, Nigeria is a signatory to numerous international treaties and conventions that have an impact on administrative law, such as the African Charter on Human and Peoples' Rights (Nabiebu & Out, 2019). Nigeria's administrative law is still influenced by English common law and equity principles.

Nigerian administrative powers are divided into four groups. The National Assembly and State Houses of Assembly have the Legislative Power to make laws. The President and State Governors, when applicable, have the executive authority to carry out laws. The courts have the judicial authority to interpret laws, while administrative tribunals and agencies have the quasi-judicial authority to make judgments that impact individual rights (MacAlex-Achinulo, 2023). Ultra Vires, the idea that administrative activities must fall within the bounds of the authority granted to the administrative authority, is one of the fundamental ideas and principles of Nigerian administrative law. The Justice of Nature the need that decisions made by administrative bodies be unbiased, equitable, and compliant with natural justice principles. Fair Hearing The ability of administrative authorities to make decisions based on their own judgment, according to the norms of administrative law, and the requirement



that people be given a fair hearing prior to administrative decisions (Oikhala, 2020).

Iraqi

The country is a federal state with a republican government, as established by the 2005 Constitution, which places a strong emphasis on the rule of law, the division of powers, and the defense of human rights. According to Alwash (2019), the Constitution establishes a power balance between the federal government and the governorates, provinces, and regions. The Administrative Procedures Law, which controls administrative processes such as issuing rules, rulings, and directives, is the focal point of Iraq's legislative framework (Katzman, K., & Humud, 2016). The Anti-Corruption Law seeks to prevent and combat corruption in the public sector, whereas the Civil Service Law governs the civil service, including the hiring, advancement, and termination of civil officials. The Federal Supreme Court, the highest court in Iraq and the body tasked with interpreting the Constitution and laws, is one of the three institutions that make up the nation's judicial framework. The Administrative tribunals are specialized tribunals that examine administrative decisions and actions, while the Court of Cassation, the highest court for appeals, is in charge of examining rulings from subordinate courts (Bammarny, 2019).

In the sense that the Constitution stresses the rule of law, guaranteeing that all people and institutions are subject to the law, the fundamental ideas and concepts of administrative law are accountability, human rights, separation of powers, and the rule of law. The legislative, executive, and judicial departments' respective powers are likewise divided under the Constitution. The Constitution and laws place a strong emphasis on accountability, including the duty of public authorities to act in the public interest. It also defends human rights, such as the rights to life, liberty, and personal security (Katzman & Humud, 2016).

Malaysia

The Constitution, legislative, and judicial systems of Malaysia influence its administrative law framework. According to the 1957 Constitution, which emphasizes the rule of law, the separation of powers, and the defense of human rights, the nation is a federal state with a parliamentary system (Chuan, 2008). The federal government and the states are further separated in authority under the Constitution. Within the legislative framework, administrative procedures, such as issuing regulations, decisions, and orders, are governed by the Administrative Procedures Act 1957. The Public Officers (Conduct and punishment) Regulations of 1993 regulate the conduct and punishment of public officers, whereas the Judicial Review Act of 1957 allows for judicial review of administrative decisions and acts (Liew, 2021). The Federal Court, the nation's highest court and the one tasked with interpreting the Constitution and laws, is part of Malaysia's judicial system. The High tribunals, the principal tribunals for administrative law issues, are in charge of evaluating administrative decisions and acts, while the Court of Appeal, the second-





highest court, is in charge of reviewing decisions made by subordinate courts (Hashim, 2019).

Since the Constitution places a strong emphasis on the rule of law and guarantees that all people and institutions are subject to it, the concepts of rule of law, separation of powers, human rights, and natural justice are the main tenets and ideas of administrative law in Malaysia. The legislative, executive, and judicial branches are each given an equal share of authority under the Constitution. Human rights, such as the rights to life, liberty, and personal security, are safeguarded by the Constitution. In administrative law disputes, the natural justice principle is employed to ensure impartiality and fairness.

The Institutional Frameworks for Administrative Law in Nigeria, Iraq, and Malaysia

Nigeria

The purpose of Nigeria's administrative law institutional structures is to guarantee the efficient application of administrative law and advance good governance. The four separate institutions that comprise the frameworks are as follows: In Nigeria, the judiciary is essential to the interpretation and implementation of administrative law (Adegbami & Ganiyu, 2023). Administrative law cases fall under the purview of the Supreme Court, Court of Appeals, and High Courts. The President leads the Executive branch, which is in charge of carrying out administrative law. The President receives administrative advice from the Federal Executive Council, which is made up of ministries and other senior officials. The legislative branch, which is made up of the senate and house of representatives, has the authority to enact laws, including those pertaining to administrative law, and to assign administrative tribunals, like the National Industrial Court and the Administrative Court of Appeal, to handle particular administrative law cases (MacAlex-Achinulo, 2023). The fact that Nigeria's judiciary is, in theory, autonomous and that the courts have the authority to examine administrative judgments and guarantee accountability informs the country's institutional framework for administrative law's strengths. Second, the division of powers among the legislative, executive, and judicial branches guarantees that no one of them has excessive authority.

Lastly, a specific forum for settling disputes pertaining to administrative law is offered by Nigeria's administrative tribunals. Although corruption is a major problem in Nigeria's institutional frameworks and many administrative personnel engage in corrupt acts, the framework's overall viability has inherent flaws. Finally, Nigeria's institutional frameworks frequently struggle with funding, which can impair their efficacy. The nation's bureaucracy is also frequently slow and ineffective, which causes delays and frustration in administrative decision-making. Additionally, many administrative officials lack the skills and training required to effectively implement administrative law.

Iraq



The purpose of Iraq's administrative law institutional structures is to guarantee the efficient application of administrative law and to encourage sound governance. The Frameworks included intricate interactions between the judiciary, which is essential to the interpretation and implementation of administrative law in Iraq. Administrative law cases fall under the purview of the Federal Supreme Court, the Court of Cassation, and the Supreme Judicial Council (Katzman & Humud, 2016). The Prime Minister leads the executive branch, which is in charge of carrying out administrative law. The Prime Minister receives administrative advice from the Council of Ministers. Iraq has set up administrative courts, like the Administrative Court and the High Commission for Human Rights, to address particular administrative law disputes, and the Council of Representatives has the authority to enact laws, including those pertaining to administrative law (Alwash, 2019).

The Constitution's framework for administrative law, which emphasizes the rule of law, separation of powers, and human rights, is one of the nation's institutional system's strongest points. Iraq's administrative tribunals offer a specialized forum for resolving disputes pertaining to administrative law, and the judiciary is also independent. The courts have the authority to examine administrative judgments and maintain accountability. But the framework is not without flaws. For example, corruption is a major problem in Iraq's institutional frameworks, with many administrative officials participating in fraudulent activities, much like in Nigeria. Iraq's security issues, such as terrorism and violence, affect the efficacy of its institutional frameworks, and the country's bureaucracy is frequently slow and ineffective, which causes delays and dissatisfaction in administrative decision-making.

Malaysia

The purpose of Malaysia's administrative law institutional structures is to guarantee the efficient application of administrative law and to encourage good governance. In Malaysia, the court is essential to the interpretation and implementation of administrative law (Chuan, 2009). Administrative law cases fall under the authority of the Federal Court, Court of Appeal, and High Courts. The Prime Minister leads the executive branch, which is in charge of carrying out administrative law. The Prime Minister receives administrative advice from the Cabinet. The nation has set up administrative tribunals, like the Administrative Court and the Industrial Court, to address particular administrative law disputes, and the Parliament has the authority to enact laws, including those pertaining to administrative law (Shuaib, 2018).

One of Malaysia's strengths is its independent judiciary, which may examine administrative actions and guarantee accountability. A specialized forum for settling disputes pertaining to administrative law is offered by the nation's administrative tribunals. Its constitution's explicit division of powers between the executive, legislative, and judicial branches is another one of its strong points. Malaysia has also put in place efficient administrative processes, such as the Administrative Procedures Act 1957 (Chuan, 2009). The country's



administrative law framework may be limited in terms of public participation, with few opportunities for citizens to participate in administrative decision-making. Additionally, Malaysia's executive branch possesses substantial powers, which may result in an excessive emphasis on executive power and a lack of checks and balances.

The Practices and Procedures for Administrative Law

Nigeria

In Nigeria, administrative law refers to the policies, guidelines, and practices that control how government organizations and agencies are run. The four essential pillars of administrative procedures, judicial review, administrative tribunals, and Ombudsman institutions form the basis of the nation's administrative law practices and procedures.

Before enacting new regulations, government agencies must notify the public and solicit their opinions. They can also hold public hearings to get feedback from interested parties and impacted parties, and they can use administrative adjudications to settle disputes or make decisions that impact individual rights. Using the theory of ultra vires, courts can examine administrative judgments in the field of judicial review to make sure they fall within the agency's purview. Courts can also examine administrative judgments to make sure they are fair and consistent with natural justice principles, as stated in the natural justice doctrine (Adegbami, & Ganiyu, 2023). A provision for judicial review of administrative judgments also exists, allowing courts to examine administrative decisions for reasons like illegality, irrationality, or improper procedure.

In a similar vein, administrative tribunals are set up to offer a dedicated setting for settling administrative conflicts. When the tribunals adhere to certain protocols, such as notice, hearing, and decision-making criteria, they can hear appeals from administrative judgments or settle conflicts between people and government organizations. The Ombudsman institutions, which were set up to look into complaints against government agencies, are the final organ. Ombudsmen are empowered to look into complaints and offer suggestions for how to resolve them. They receive complaints, look into them, and submit their findings according to certain protocols (Adegbami, & Ganiyu, 2023).

Iraq

In Iraq, administrative law refers to the policies, guidelines, and practices that control how government institutions and agencies are run. Similar to Nigeria, the main practices and procedures alternate between administrative procedures, judicial review, administrative tribunals, and Ombudsman institutions. Iraq utilizes a decree-law system for administrative processes, meaning that decrees issued by the Prime Minister and Council of Ministers are legally binding. Ministerial decisions, in which ministers make choices that carry out laws and regulations within their ministries, are also a component of the administrative process. Governmental organizations also issue administrative directives to carry out laws, rules, and ministerial decisions (Alwash, 2019).



The Federal Supreme Court can examine administrative decisions and make sure they comply with the law according to the judicial review process. Additionally, administrative courts have the authority to examine administrative decisions and actions. They can do so on the basis of procedural irregularities, illegality, or irrationality (Katzman & Humud, 2016). On its part, the administrative tribunals offer a dedicated venue for settling administrative conflicts. By adhering to certain protocols, such as notice, hearing, and decision-making criteria, the tribunals can settle conflicts between people and government organizations or hear appeals from administrative decisions. Ombudsman institutions are set up in Iraq to look into complaints against government authorities, just like in Nigeria. They have the authority to look into complaints and offer solutions by following certain protocols, which include receiving complaints, looking into them, and reporting their findings.

Malaysia

Administrative law in Malaysia encompasses the rules, regulations, and procedures governing the administration of government agencies and institutions. The country's administrative law procedure has a strong sense of similarities with that of Nigeria and Iraq.

In terms of administrative procedures, the Federal Constitution is the supreme law of the land, outlining the framework for administrative law in Malaysia. The country has a comprehensive legislative framework, including the Administrative Procedures Act 1957 and the Interpretation Acts 1948 and 1967 (Hashim, 2019). Government agencies issue policy documents, such as circulars and guidelines, to implement laws and regulations. The judicial review process empowers the Federal Court which is the highest court in Malaysia, to review administrative decisions and ensure they are in accordance with the law. The Court of Appeal also has jurisdiction to review administrative decisions and actions. Similarly, high Courts have jurisdiction to review administrative decisions and actions (Liew, 2021).

Administrative tribunals were created to offer a specific setting for settling administrative conflicts. Tribunals can hear appeals of administrative rulings or settle conflicts between people and government organizations by adhering to certain protocols, such as notification, hearing, and decision-making criteria. In order to look into complaints against government agencies, ombudsman institutions are also set up. The Ombudsmen have the authority to look into complaints and offer suggestions for how they might be resolved by following certain protocols, which include receiving complaints, looking into them, and reporting their findings. A cornerstone of Malaysia's administrative law system is the rule of law. Administrative choices must be commensurate to the goal being sought, and natural justice standards such as fairness and impartiality are employed in this process (Liew, 2021).

In light of the aforementioned context, all three nations share constitutional frameworks that guarantee the fundamental human rights, separation of powers, and rule of law as tenets of administrative law. In addition to having



established processes for administrative decision-making, such as the need for public notices, hearings, and appeals, all three nations have well-established political systems with distinct institutional frameworks, including the Executive, Legislative, and Judicial branches. The judiciaries of all three nations have the authority to examine administrative decisions and make sure they are reasonable and legal. The three countries do differ, nonetheless, in that Iraq was colonized by Britain and subsequently influenced by the United States, whereas Nigeria and Malaysia were colonized by Britain. The administrative law regimes of Malaysia and Iraq are heavily influenced by Islamic law, whilst Nigeria takes a more secular stance. In comparison to Malaysia, corruption is more prevalent in Nigeria and Iraq. Malaysia's economy is more advanced than that of Nigeria and Iraq.

Analysis and Implications

Nigeria

Ineffective administrative law institutional structures in Nigeria result in corruption and inefficiencies. The nation's colonial past and past governance issues, which have solidified corruption in the system, are mostly to blame for this. For example, Nigeria's 1999 constitution has been criticized for its flaws, such as the concentration of power in the executive branch of government (Sections 5 and 148), which results in insufficient institutional frameworks and ineffective checks and balances on power (Oikhala, 2020). According to Section 88 of the 1999 Constitution, the National Assembly has been charged with ineffectively supervising the executive branch, which results in a lack of accountability (Oikhala, 2020). The Economic and Financial Crimes Commission (EFCC) and other anti-corruption organizations in Nigeria have come under fire for their ineffectiveness and lack of independence (EFCC Establishment Act, 2004). Additionally, there is little judicial scrutiny of administrative decisions, which leaves executive power unbridled and accountability lacking. According to Section 6(6)(b) of the 1999 Constitution, the Nigerian Constitution restricts the reach of judicial review, making it challenging for citizens to contest administrative decisions (Nabiebu & Out, 2019). The judiciary's independence and capacity to adequately evaluate administrative decisions have been threatened by claims of executive meddling (National Judicial Council Act, 1991). Cost, delay, and lack of legal representation are some of the major obstacles that many Nigerians must overcome in order to obtain justice (Nigerian Bar Association Act, 1969). Nigeria's administrative law system faces serious problems with corruption and a lack of transparency, with the private sector being especially susceptible to corruption. A significant degree of perceived corruption is indicated by Nigeria's persistently low ranking on Transparency International's Corruption Perception Index (CPI) (Transparency International, 2020). According to a Natural Resource Governance Institute report, corruption and inefficiencies result from Nigeria's government procurement procedures' lack of openness (Natural Resource Governance Institute, 2019). According to a Nigerian

Chamber of Commerce poll, bribery and extortion are two major corruption-related issues that many private sector companies in Nigeria must deal with (Nigerian Chamber of Commerce, 2019).

Corruption, inadequate judicial scrutiny, and institutional framework flaws in Nigeria have serious ramifications for international human rights legislation. This is because abuses of civil and political rights, including the right to life, liberty, and personal security (Article 3 of the Universal Declaration of Human Rights (UDHR), can result from corruption, a lack of effective checks and balances on authority, and a lack of judicial scrutiny. Because people in positions of authority may try to stifle critics and dissenting voices, corruption and a lack of transparency can result in limitations on the right to free speech and assembly (Article 19 of the UDHR and Article 21 of the International Covenant on Civil and Political Rights (ICCPR)). The right to liberty and personal security, as well as the right to a fair trial, are violated by limited judicial review and corruption, which can result in unfair trials and detention (Article 10 of the UDHR and Article 9 of the ICCPR). The principles of equality and non-discrimination (Article 2 of the UDHR and Article 2 of the ICCPR) can be violated by corruption and a lack of transparency, which can prolong discrimination and inequality, especially against marginalized groups. Accountability and Remedies: Victims of human rights violations may find it challenging to obtain remedies and hold offenders accountable due to inadequate institutional frameworks and judicial review, which can violate their right to an effective remedy (Article 8 of the UDHR and Article 2 of the ICCPR).

Nigeria is required to respect, defend, and uphold the human rights of every person under its jurisdiction, including the rights to life, liberty, and personal security, as a signatory to several international human rights treaties, such as the African Charter on Human and Peoples' Rights (ACHPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR). Nigeria must make sure that those who violate human rights are held accountable and that victims have access to efficient remedies. Nigeria must encourage accountability and openness in public institutions and the government, especially by putting in place strong anti-corruption measures. Therefore, Nigeria can better meet its international human rights commitments and foster a culture of respect for human rights by addressing the shortcomings in its institutional frameworks, restricted judicial review, and corruption.

Iraq

The efficient application of administrative law in Iraq is seriously threatened by issues of security and corruption. Many people and businesses feel pressured to pay bribes in order to obtain contracts or basic services, making it a common practice that characterizes the nation's corruption landscape (Transparency International, 2020). Iraq has a high perceived level of corruption, as evidenced



by its persistently low ranking on Transparency International's Corruption Perception Index (CPI) (Transparency International, 2020). Accusations of resource theft and embezzlement have been made against public authorities, undermining the rule of law and sustaining inequality (International Crisis Group, 2020). The rule of law and efficient governance have been threatened by Iraq's severe security issues, such as terrorism and sectarian bloodshed (International Crisis Group, 2020). The state's capacity to uphold the law and deliver essential services has been undermined by the nation's security issues, which include terrorism and insurgency (United Nations, 2020). Iraq's administrative law framework has been undermined by security and corruption issues, resulting in inefficiencies, corruption, and human rights abuses (United Nations Development Programme, 2019). Effective checks and balances on authority are absent from the nation's institutional frameworks for administrative law (World Bank, 2020). Because Iraq's judiciary lacks independence, it is challenging to hold officials accountable and conduct an effective review of administrative judgments (Human Rights Watch, 2020). Human rights abuses, corruption, and inefficiencies are caused by Iraq's insufficient administrative processes (United Nations Office of the High Commissioner for Human Rights, 2019). These issues have important ramifications for international human rights. For example, the high number of civilian deaths and extrajudicial killings (Article 3, Universal Declaration of Human Rights (UDHR)) indicates that the right to life has not been adequately protected due to corruption and security issues. The right to liberty and security (Article 9, UDHR) has been violated by arbitrary detention and torture as a result of insufficient judicial scrutiny and control. The absence of accountability and openness in the legal system is proof that corruption and judicial independence have weakened the right to a fair trial (Article 10, UDHR).

The right to education (Article 26, UDHR) has been violated by insufficient financing and resources for education as a result of corruption and ineffective government. The right to health (Article 25, UDHR) has been infringed by the absence of efficient healthcare services and corruption in the healthcare industry. The right to work (Article 23, UDHR) has been violated by high unemployment and poverty rates brought on by corruption and ineffective governance. During armed conflict, civilians, including women and children, are not adequately protected due to corruption and security issues (Geneva Conventions, 1949). The Convention Against Torture (1984) forbids torture, and reports of torture and other cruel treatment have been brought about by the absence of adequate judicial assessment and control.

Malaysia

The Administrative Procedure Act 1954 (Revised 1972), the Specific Relief Act 1950 (Revised 1989), and the Government Proceedings Act 1956 (Revised 1988) are all part of Malaysia's extensive administrative law legislative framework. The judicial review system in Malaysia effectively serves as a



check and balance on the executive branch. According to Article 8(1) of the Federal Constitution, the system permits judicial review of administrative decisions. (Section 18 of the Specific Relief Act 1950) Court review of executive activities. Malaysia has set up a number of institutional frameworks to assist administrative law, such as the Public Complaints Bureau (PCB) to process public complaints against government agencies and the Malaysian Anti-Corruption Commission (MACC) to fight corruption. Courts in Malaysia have shown that they are prepared to examine administrative rulings and hold the executive branch responsible. In the *Sivarasa Rasiyah v. Badan Peguam Malaysia* [2010] 1 MLJ 737 case, for instance, the court determined that the Bar Council's decision to deny a lawyer's application for admission was irrational and beyond its authority. In general, the Malaysian judiciary is believed to be unbiased and independent. In terms of judicial independence, Malaysia came in at number 47 out of 113 nations on the World Justice Project's Rule of Law Index 2020.

But according to Transparency International's Corruption Perception Index (CPI), Malaysia has continuously received low rankings. With a score of 51 out of 100, Malaysia came in at number 57 out of 180 nations in 2020 (Transparency International, 2020). Concerns have been raised over the opaqueness of government procurement and decision-making procedures. The 1MDB affair, for instance, made clear the necessity of more accountability and transparency in government transactions (The Edge Markets, 2020). Malaysia continues to encounter major obstacles in the fight against corruption. With 1,039 corruption instances filed in 2020 alone, the MACC's 2020 Annual Report stated that corruption is still a significant concern (MACC, 2020).

Both positive and negative effects on international human rights result from these. For the former, it is important to highlight that Malaysia's extensive administrative law legislative framework and efficient judicial review system offer a solid basis for defending human rights, such as the right to equality before the law and the right to a fair trial (as guaranteed by Articles 10 and 8 of the Universal Declaration of Human Rights (UDHR)). The independence and impartiality of the Malaysian judiciary guarantee that people have access to efficient remedies for human rights violations (Article 8 of the UDHR), and the presence of institutional frameworks like the MACC and PCB encourages accountability and transparency in government decision-making and procurement processes, which is crucial for protecting human rights (Article 21 of the UDHR). The protection of human rights, such as the right to equality before the law and the right to a fair trial (Articles 8 and 10 of the UDHR), is jeopardized by Malaysia's low ranking on the Corruption Perception Index and worries about the opaqueness of government decision-making and procurement procedures. It is significant to remember that human rights breaches, such as arbitrary detention, torture, and maltreatment, can result from corruption and a lack of transparency (Articles 3, 5, and 9 of the UDHR). Upholding human rights requires accountability and the rule of law, both of which are threatened





by Malaysia's ongoing corruption and lack of transparency (Article 8 of the UDHR).

Conclusion

Promoting human rights, the rule of law, and effective governance all depend on efficient administrative law frameworks. The administrative law frameworks of Nigeria, Iraq, and Malaysia are analyzed to identify important opportunities and problems for advancing human rights and efficient governance. All three nations struggle to ensure accountability, transparency, and the rule of law, despite differences in their institutional frameworks, judicial review processes, and levels of corruption. However, they can advance effective governance and human rights if they are committed to reforming and strengthening institutional frameworks, fostering accountability and transparency, and maintaining judicial independence.

The analysis's main conclusions are that the three countries have institutional flaws that compromise human rights and efficient governance, such as weak anti-corruption measures, insufficient legislative frameworks, and restricted judicial independence. In all three nations, corruption and a lack of transparency pose serious challenges to human rights and effective governance, sustaining inequality, violating human rights, and eroding public confidence in the government. The analysis emphasizes how crucial judicial independence is to upholding the rule of law, accountability, and transparency. In this sense, Malaysia's comparatively autonomous court serves as a good illustration.

Recommendations for Reform

1. Strengthen institutional frameworks: All three countries should strengthen their institutional frameworks, including legislative frameworks, judicial review systems, and anti-corruption mechanisms.
2. Promote transparency and accountability: Governments should promote transparency and accountability, including through the establishment of effective anti-corruption mechanisms and ensuring access to information.
3. Ensure judicial independence: Governments should ensure judicial independence, including through the establishment of effective mechanisms for judicial oversight and accountability.



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