

“Judicial Control Over The Appropriateness Of The Legislator’s And The Administrative Authorities' Use Of The Discretionary Power”

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Abstract:

The study investigated the issue of judicial control over the appropriateness of the administration’s use of its discretionary power. The idea of appropriateness is the instrument through which the judiciary exercises control over the use of the discretionary power by the entity to which the system authorized it, as well as the appropriateness of the measures taken in some aspects in which the legislator granted the discretionary power for an entity to take the appropriate actions it deems appropriate.

The judiciary, through this control, can achieve a balance between what actions are taken and what the legal centers related to such actions can be affected therewith. This control is conducted with no specific controls for the idea of appropriateness in general, but it is applied to each case separately, and then it is reviewed by the judicial authority unilaterally.

The criterion of appropriateness is that the action that was conducted in accordance with the powers granted to a certain entity does not exceed the achievement of the intended goal, and did not abuse, overuse or underuse the powers granted to it by the legislator, and that the use of the said discretionary power was merely for the benefit of the public interest, according to the circumstances surrounding each time the entity uses its discretionary power. Actually, the idea of appropriateness is a changing idea, so the legal actions which are taken according to what the legislator has authorized any entity of whatsoever discretionary power, must be subjected to the judicial control according to the criterion of appropriateness.

Key words: *judicial control, appropriateness, discretionary power.*

1. INTRODUCTION:

Judicial control over the administrative practices being part of its discretionary power is considered the most effective administration to prevent abuse of power and prevent any practices that may be characterized by lack of democracy or authoritarianism, especially if it is related to the public interests or rights and freedoms. Therefrom, the idea of appropriateness has emerged as the most important criterion that can be relied upon in all cases, to investigate the appropriateness of the actions taken by the administration that may affect some legal centers, whether they are specific centers such as one of the employees or they are undefined centers, such as the taken measures which affect the public interests.

Should the administration's action be appropriate to the circumstances that necessitated taking such actions, its action can be considered legitimate due to being appropriate, and if an abuse occurs, the administration's actions are labeled as illegitimate (lack of appropriateness). Accordingly, such issues can be controlled through the intervention of the judiciary to restore the balance or even cancel the administrative action to achieve the required appropriateness thereof.

The problem of the research lies in determining the idea of appropriateness, the legislative framework for this idea, and the mechanism for its implementation in the absence of a general framework for it or a set of basic ideas that can apply to all similar facts and govern them according to a unified standard. The idea of appropriateness differs according to each action. Meanwhile, granting the judicial authority the control over the extent of the appropriateness of administrative action without certain controls is considered to be a violation of the will of the legislator, which granted the administration an assessment of what it deems appropriate in terms of actions and procedures regarding a legal situation, and subjecting the assessment of the administration to the hands of the judicial authority, it has been necessary to develop a legal framework that governs such supervisory practices by the judicial authority, as well as a set of general criteria that can be referred to with the aim to measure the appropriateness of the administration's actions.

The concept of judicial control of appropriateness:

A decision or action that exceeds its goal is considered legally an unlawful action, and the matter becomes more specific if it relates to the basic public rights and freedoms.

Appropriateness in its broad sense means the extent of reconciliation and balance between one thing and another within the framework of the usual relationships that such bond or connection is supposed to be (Sami Jamal Al-Din, 2004).

The basic principle is that judicial control is limited to monitoring the administration's actions in terms of its legitimacy, appropriateness, and integrity of its purpose. However, the development of the concept of control in the judiciary has made judicial control go beyond that, as the judiciary monitors the appropriateness of the decision, procedure, or disposition with its necessitating reasons and the adequacy of such reasons and the adequacy of the measures that have been taken and not only the legitimate control or other traditional control powers thereof.

It is worth noting that the use of the administration of the discretionary power is the fertile field for the implementation of appropriateness control. If the disposition or procedure was carried out in accordance with the law and within the limits of what the legislator stipulated and its reasons are sound, and according to the mechanism established by the legislator, then the judicial control does not deal significantly with monitoring the extent of appropriateness, rather, the judiciary exercises its traditional control only.

Considering the work of the administration in which the legislator has granted the administration a discretionary power, the administrative entity which has taken the action or the procedure must in the first place take into account the idea of appropriateness regarding the actions taken, on the contrary of a number of other cases in which the administration has no discretionary power regarding the actions it must take governed by the text of the law. Appropriateness is nothing but a control over the action of the administration to make it logical and equivalent to the desire of the legislator, by granting the administration the discretionary power, and granting the judicial authority the power to control the use of such discretionary power.

Here, a set of factors unite to reach a clear idea of appropriateness that the will of the legislator seeks, which granted the administration the discretionary power and granted the

judiciary the power to monitor this authority. Thus, we are dealing with an idea of a philosophical nature that includes a set of elements, the first of which is the procedure taken to confront some situation, and the appropriateness of this procedure with the goal of taking it. Here, it is never possible to set a fixed rule in this case, as the reality is changing and the action taken by the administration was taken for a specific incident, for example, what the legislator authorizes the administration in the case of disciplining a governmental employee due to his negligence, which is legally permissible and the level of the penalty is subject to the discretion of the administration. Let us assume that the penalty was due to the governmental employee's negligence in performing one of his job duties. In this case, it can be said that there are a number of variable factors, for example:

- The entity for which the employee works: He may commit negligence to the same degree, but there will be no high risk, for example if that negligence was committed in another entity.
- Damage resulting from negligence: Here is the potential harm or that harm that is subject to determining the appropriateness for the administration's addressing therewith.

- The time of the occurrence of negligence: As if it occurred at a time of crisis or in normal circumstances ... etc. There are many changing circumstances that cannot be determined in advance. Then, it can be said that the idea of appropriateness is a very flexible idea and control over it must be characterized by the same flexibility.

Appropriateness in the field of administrative work aims at achieving harmony between the reasons for taking a decision, its goal and purpose, and the harm that may result from it on all scales.

The Islamic legal rooting for the idea of the action appropriateness of the administrative authorities:

The idea of appropriateness finds its root in the jurisprudential rules of Islamic jurisprudence in the rule of "the imam's (ruler) action over the parish is dependent on interest." So, the imam (ruler) must act in the matters of those under his jurisdiction (subjects) in a way that achieves their interests and wards off harm, otherwise his action becomes illegal and void and he must be held accountable for it (Al-Zarqa,p.309).

This rule indicates the appropriateness between the actions of the administrative authority and what is required by the public interest, so, its action is legitimate (appropriate) in this case, or such actions exceed the intended interest, and then the action is illegitimate. The principle is that the guardian(the administrative authority) is not required for itself, but is established to preserve what the owner entrusted, so it should not act unless otherwise authorized by the legislator(Ibn Hija,p.112).In this regard the words of the Messenger(PBUH) from the hadith of Abu Ali Muqal Bin Yassar said: I heard the Messenger of Allah say: "No slave to be authorized by Allah to care for his subjects, will die on the day he dies while he is deceiving his flock but Allah forbids him Paradise(Al-Emarah Book,p.1460). Taking the administrative action in a manner that contravenes the required appropriateness between the reasons for the action, its goal, and the consequences thereof means impeachment of the authority that God (Allah , the Almighty) has entrusted.

The appropriateness of the facts and the action taken in their regard is the subject of the study of appropriateness, as well as the means, goal and intended purpose of the action. The appropriateness is achieved if the reason for the decision is consistent with its context and the facts that led to its issuance, the action taken by the administration and its consequences thereof.

Gradual expansion of the application of the principle of appropriateness.

The application of the idea of appropriateness is no longer limited to domestic laws, but it is gaining increasing importance in many other branches of the law. Indicating examples are the general international law, and the international human rights law ... etc.

The principle of appropriateness in the international human law: The principles of international human law are based on two contradictory ideas, the first being humanity, which the military and political decision-makers must not overlook, and the second is the idea of military necessity, according to which different weapons are permitted without regard to their excessive effects (Ahmed Obis blessing Al-Fatlawi, 2009). This new principle is embodied in appropriateness according to which the warring parties are obligated to use methods and means of warfare commensurate with the military objective without inherently causing excessive effects on combatants or causing indiscriminate effects impacting the civilians in particular (Meziane Jafar,2011).

It can be said that the principle of appropriateness if it had originally emerged as a restriction on the exercise of the administrative control powers of their discretionary power and then on the administration in general, then the principle had developed, in the aftermath of the Second World War, to take the form of a basic legal principle that is binding, not only for the executive and the judiciary authorities, but also for the legislature.

The field of application of judicial control over the appropriateness of using the discretionary power.

The idea of appropriateness as a criterion for control is not limited to monitoring the work of the administration, but rather the judicial control over appropriateness may extend to the control of the entity issuing the legislation itself, such as monitoring the constitutionality of laws. So the legislator has discretionary power when exercising his right to issue legislation in which he assesses the circumstances calling for the issuance of legislation (Georgy Shafik Sari, 2000). Here, the judicial authority, while monitoring the constitutionality of laws, shall be entitled to examining the extent to which the legislation is compatible with the purpose of its issuance. Appropriateness must be taken into account in the legislation itself, so appropriateness in legislation is the link between the subject of the legislation itself, its cause and its context (Georgy Shafik Sari, 2000). So, the constitutional judiciary monitors the extent of appropriateness between the reason and context of the legislation by examining the existence of the facts, the correctness of their adaptation, the appropriateness of the facts and the legislation, that is, the reason with the context, and if there is no satisfactory and real appropriateness, the legislation is stigmatized as unconstitutional for lack of appropriateness (Hussein Jabr Hussain Al-Shuwaili, p.24) ,(Supreme constitutional,1996).

Here, it becomes obvious that the idea of appropriateness is characterized with flexibility, which makes it applicable as a standard for all legal actions, whatever they are, within the framework of achieving justice, general principles of law, even the constitution, or even the supreme constitutional principles.

The idea of appropriateness arises in the disciplinary penalty that the administration takes in what is known as the appropriate penalty for the violation. Once there is an incompatibility between the violation and the penalty imposed on the perpetrator, we are in the process of violating the idea of appropriateness. This necessitates the intervention of the judiciary in this case to monitor the administration's exercise of its discretionary power. In this case, we believe the judicial intervention will only take place if there is an evident violation of the idea of appropriateness. Once there is a full-fledged violation and the appropriate penalty was inflicted on the perpetrator, then there will be no need for the judiciary to intervene or the

case that the plaintiff is lacking the interest element. Therefore, in most cases there is more than one appropriate action before the administration and it is entitled to choosing one of them. Meanwhile, the judiciary is not entitled to intervening unless the action taken by the administration is tainted by inadequacy, in other words, if the administration abuses the use of its powers (Muhammad Maher Abu Al-Enein, p.153).

The idea of appropriateness can be one of the aspects of justice, so a score of jurists believe that the idea of appropriateness extends its basis to the ancient Greek philosophy, which considers justice as a balance and appropriateness. Aristotle mentioned two types of justice, one of which is the relative justice, which is intermediate justice between two extremes without which it is not appropriate and reciprocal justice, where this reciprocal justice is the guarantee of the union of people with one another based on appropriateness, and not on the basis of precise justice between them. It should be noted that the idea of appropriateness is not limited to the actions of the administration only, but extends to most of the actions in general. The concept of appropriateness has emerged under the principle of "fair war" in the international law, where the overall benefit of the war must be balanced with the damage it causes.

The constituent elements of the principle of appropriateness. *Applying the idea of appropriateness to the actions and procedures taken by the administrative authority means that the action which was taken was necessary to confront a certain legal situation, and it was necessary and appropriate to take this action in the manner that was done, within the framework of the discretionary power enjoyed by the administration.*

The enforcement of the idea of appropriateness requires that the action taken by the public authorities be reasonable and necessary, and that there be a reasonable appropriateness between the means and the desired goal of the legal action taken by the administration. Reasonability is one of the elements of appropriateness, such as the existence of a causal relationship between the target goal and the action taken. Ill reasonability is an evidence of lack of appropriateness and the action taken is stigmatized as transgression of authority and illegality.

Here, the judicial control is the decisive factor in determining the extent of appropriateness or its lack thereof. The supervisory entity should consider the time and cause and context of the action to be relevant also during the exercise of control over appropriateness, as well as the extent of the discretionary power granted to the administration. Here, the extent of the discretionary power granted to the administration is under scrutiny, as the extent of control is linked to the extent of the discretionary power granted to the administration in terms of its breadth and narrowness.

As well as the available means for the administration that it can choose from, the choice must be for the best means and the least harmful to the parties concerned and a restriction of the rights and freedoms protected by the law.

Appropriateness means studying the effects of the actions taken and whether they are not appropriate with the facts that are to be addressed by the administration's action and the interests that will be affected as a result of this taken action thereof.

The elements of appropriateness can be defined and determined in several overlapping and intertwining elements, and perhaps the most important of them are as follows: the reasonability of the action taken by the administration, the extent of the discretionary power granted to the administration, the interests which were affected as a result of this procedure, the nature of the desired goal of the action taken, and the circumstances in which the action

was taken. Here, the judge can monitor the appropriateness of the procedure taken in light of these elements and then decide whether it is appropriate or not.

The legal value of the principle of appropriateness.

appropriateness requires that every administrative action taken by the public authority be based on a fair assessment and balance between the various conflicting interests, as well as a reasonable choice between the available means or procedures. In other words, the administrative activity must be appropriate to its intended purpose.

The principle of

Appropriateness is one of the general principles of the law.

administrative judge goes beyond the mere application of the law, so he must search for the applicable rule in the absence of the legal text or the customary rule. His work almost sometimes approaches the role of the legislator who sets the legal rules where he translates the spirit of law and fits the general principles in the law to address a specific legal situation that he does not find an explicit treatment for it in the legal texts. That is to say the idea of appropriateness is one of the vague ideas that cannot be formulated whereby a legal text that clearly addresses it. Rather, all the principles related to society and the conditions prevailing in it are applied. Therefore, the administrative judge must work continuously to develop such principles in line with the development of the society and its circumstances and conditions (Aad Ali Hammoud Al-Qaisi, 2002, p.32).

The task of the

The administrative judge in this regard can refer to the basic principles and general rules, regardless of their source, even if their source is the culture, nature, or religious belief of the society. So the idea of appropriateness is originally ambiguous, and variable and is greatly influenced by time and place and the persons addressed by the law and a number of variables that cannot be counted. This matter opens the door for creativity in front of the administrative judge and shows his role that reveals the legal rules. The administrative judge is the one who invented most of the theories of administrative law and interprets their texts. So the role of the administrative judge in establishing the principles and rules of the administrative law has reached the point where the administrative judge has already invented the so-called general principles of the administrative law. Such principles have become a general legal rule binding on all the addressees therewith (Muhammad Kamal Lailiyah, 1968, p.118).

Appropriateness is one of the general principles of the law, with what it embodies in terms of fairness and justice, and its thrive for reasonability of the measures taken by the state, which often involve restriction of public or private rights and freedoms.

This principle finds its basis in a number of constitutions under an umbrella that suits the actions taken by the administration with the interests to be protected in the context of a number of surrounding and changing circumstances.

This principle cannot be limited to controlling the behavior of the administration. Rather, it extends to include all that can be done through which the rights and freedoms of individuals can be curtailed.

This principle is extended to the control of the state's actions during the exercise of its powers in general. This viewpoint increases the ambiguity and flexibility of the idea of appropriateness and links it more to the idea of justice according to the viewpoint of each cultural ideology, its adopted ideas and legal philosophy. Appropriateness represents a flexible judicial criterion through which it can assess the legitimacy of all actions and procedures taken by any entity that has been given discretionary power to take what it deems appropriate.

In the context of the constitutional law in particular, the principle of appropriateness is applicable mainly to the protection of the human rights and basic freedoms where the

principle of appropriateness is seen in the comparative constitutional judiciary as the most effective criteria for assessing the legitimacy of the state's intervention to restrict the exercise of the basic rights and freedoms. Even if the constitution does not explicitly provide for this principle, in most democratic constitutional systems, the constitutional judge considers the principle as one of the basic requirements of the rule of law.

The principle of appropriateness is applied in many branches of the law. In the administrative law, the requirement of appropriateness constitutes a restriction on the discretionary powers exercised by the public authorities. The principle also constitutes a criterion for judicial control that the administrative judge exercises over the administration's exercise of its discretionary powers. The same situation with regard to the highest and lowest levels, even in the case of enacting legislation, there is control that is exercised by the entity that controls the constitutionality of laws under the umbrella of appropriateness, as well as the measures that all authorities take must be justified by the reason for taking such discretionary power or in assessing its context, extent, or desired goal.

It can be said that the essence of the principle of appropriateness is the need for a balanced relationship between the components of the idea of appropriateness and the action taken by the authority competent to take such action, which practiced this procedure based on the discretionary power authorized by the system. With this description, appropriateness was considered one of the basic principles of the law, whether it was explicitly stipulated or extracted from the constitutional or legislative texts or international documents based on the spirit of the law and the principles of justice that require a balanced relationship between the activities or actions taken by the state and the realistic situations or situations to which these measures are applied in a manner that ensures that these procedures do not exceed what is necessary to achieve their legitimate goal. This indicates that the application of the principle of appropriateness guarantees the protection of the basic rights and freedoms and avoids abuse of the law.

Appropriateness is one of the constitutional principles.

The constitution

represents the social covenant and the basic law of the state, however, it is the one that establishes and defines the powers and specialties of the public authorities in the state. The constitution also includes an expression of the philosophy or doctrine adopted by the society. The constitution guarantees the basic rights and freedoms, and defines the restrictions on the power of the state. The constitution does not limit itself to explaining the way in which the state power is exercised, but it also defines the basic principles that govern society. The most prominent features of the constitutional systems prevailing in the contemporary democratic countries are reflected in the guarantee of the basic and inalienable human rights and the consecration of the principle of the legal state. One of the most important means of protecting such rights and freedoms is the existence of control over the constitutionality of the laws. Accordingly, it can be said that the essence and purpose of the constitution is to achieve a balance between the different facts and forces that must coexist and harmonize in order to ensure social stability, individual freedom and the legitimacy of the exercise of state entities. Hence, it can be said that the main purpose of the democratic constitution lies in the fair balance between the different realities, such as the individual interests and public interests. Such balanced relations constitute the essence of the constitution and achieve appropriateness that is imposed for the constitution with the aim to be democratic and real, given that appropriateness is one of the general principles of the law and supreme constitutional at the same time.

However, the link between the constitution and the principle of appropriateness means that the basic law is compatible with the social, political and economic needs of the state. The

constitutional rules can be amended and changed according to the new developments in whatsoever circumstances that may occur. These amendments introduced to the constitution of a country as a result of the occurrence of a certain variable are nothing but a translation aimed to apply the principle of appropriateness.

Appropriateness as a means of controlling the purpose of the discretionary power.

Granting the discretionary power to an entity authorized by the system to take a specific action according to its discretion, and that was only for a specific purpose, and the judicial control in this case would be the judge's means to control the appropriateness of the use of the discretionary power authorized by the system to the entity. These goals, as a general principle, are legitimate and constitutional. Should the entity owning the discretionary authority abuse it, its action or the action taken whereby this power is stigmatized as unlawful and exceeds the purpose of granting the entity the discretionary power, and hence the action must be canceled.

The purpose of the law is to achieve justice, and the goal of the discretionary power granted to the administration is to address an urgent situation in which there is no provision in order to achieve justice. If the discretionary power granted to the administration does not achieve the goal of justice, then the discretionary power has exceeded its goal and its actions have not become proportionate to the purpose of granting it such power. Here emerges the role of the judiciary in verifying the appropriateness of the action for the purpose taken according to the discretionary power granted to the administrative entity.

The role of the judiciary in relation to the purpose of the action that takes place based on the discretionary power is tantamount to the guardian of achieving the goal of granting the discretionary power and exercises this control taking into account the interests of society and its culture and all the circumstances surrounding the action taken by the entity bypassing the rigidity of legislation and granting the judge the power to establish appropriate legal rules for the period according to the existing variables.

Applying the principle of appropriateness to the administrative control procedures.

The application of appropriateness in the field of administrative control procedures requires the application of embracing this idea and its application to the administrative control procedures in general. That is to say that the courts examine whether the activity of the control authorities has been carried out for the purpose of achieving a legitimate goal, and whether this activity is appropriate to achieve this goal, and whether there were methods with less impact on the rights and freedoms that could achieve this legitimate goal. In some cases, the courts monitor whether there is a balance between the impact of the control authorities' activity and the benefits resulting from achieving the legitimate goal.

Application of the principle of appropriateness in facing the exceptional circumstances.

In the scope of facing the exceptional circumstances, the administration shall not use but only the means and procedures necessary to confront these circumstances, and if the administration exercises its authority to an extent that exceeds the extent necessary to overcome the exceptional circumstance, then its actions will be illegal in this case, as the necessity must be estimated in its extent. Accordingly, it is not possible to sacrifice the interests of individuals in order to achieve the public interest, except to the extent that necessity dictates. So, the administration's action must meet the exact exceptional circumstance (Ali Hadi Hamidi Al-Shakrawi) (Abdelghani Bassiouni, 1996, p.53).

Here, the administration may take extraordinary measures to confront the extraordinary circumstance “The permissibility of the forbidden by necessity while restricting it to the duration of the necessity”, otherwise the unauthorized action becomes disproportionate (Ahmed bin Sheikh Mohammed Al-Zarqa, 1989, p.189).

The application of the principle of appropriateness in the field of constitutional law.

It is recognized that the constitution has supremacy over all other legal rules. This supremacy can be explained on the basis of logical and moral foundations. As for the rationale, it is natural that the constitution is superior to the authorities it creates. As for the moral basis, it is represented in that the constitution is basic, because people who adopted it. Thus it reflects the will of the people. It has also become a recognized principle in most contemporary democratic countries the necessity of having a body of a judicial or political nature entrusted with monitoring the extent of the constitutionality of the legislation adopted by parliament. Perhaps this explains the saying that controlling the constitutionality of laws is based on the supremacy of the constitution. The constitutional judiciary is the guardian of the constitution, because it has the power to judge the unconstitutionality of laws that violate the constitution. Since control of the constitutionality of laws is necessarily severer or stricter than controlling the legality of the administrative decisions, it is likely that the role that appropriateness plays within the framework of the constitutional law is more important than that is performed within the framework of the administrative law. The most prominent role of appropriateness in the constitutional law is to protect the basic rights and freedoms in the face of restrictions imposed by the public authorities on them. In fact, these rights and freedoms are not, for the most part, absolute, but they are accompanied by a regulatory framework that determines the controls of their exercise. Hence, when there is a specific legislation that includes a restriction of one of the rights or freedoms, the need arises for a balance between the right subject to restriction and the intended legislative goal.

Likewise, the constitutional control authority for laws must take into account the appropriateness of legislation for all those addressed by it. In this regard, a segment of jurisprudence expresses this issue with the necessity of appropriate legislation for all those addressed therewith, which is known as appropriateness control (Javier Jimenez, et al, 1983, p.86).

The principle of appropriateness in the penal law: Should the legislative authority be entitled to assessing the issue of appropriateness of the penalty to be approved, however, the constitutional judge may decide the unconstitutionality of the legislative text if it includes an apparent inappropriateness between the crime and the penalty.

The entity entrusted with monitoring the constitutionality of laws monitors the appropriateness between the prescribed penalty and the protection of personal freedom. One of the rulings of the Supreme Constitutional Court of Egypt has the following: “In terms of the Supreme Constitutional Court’s judiciary is steady, the state’s compliance with the law is defined in light of the democratic concept that its legislation does not violate the rights that in democratic countries, recognition of them is considered a primary presumption for the establishment of the legal state, and a basic guarantee for the preservation of the human rights, dignity and integral personality, and includes a set of rights that, in view of their components closely related to the personal freedom guaranteed by the constitution in its forty-first article, and granting them the fullest and most comprehensive care to confirm their value. Among them, the penalty for the

crime is borne only by the person who is convicted in the sense of being responsible for it, and it is a penalty that must be balanced with the characteristics, weight and object of the crime. The penalty imposed by the state through its legislation shall not be insulting in itself or revealing its severity.

The constitutional judge extends his control over all the pillars and elements of legislation, whether that includes the elements for which the power of the legislator is considered a restricted authority or those for which the legislator enjoys the discretionary power.

The basic principle is that there is no authority in the legal state that is not subject to judicial control, regardless of the degree of the discretionary power that this entity enjoys. The constitutional judge's control over the appropriateness component of legislation is considered an application to control the element of reason in the legislation, which includes three elements: It is the incident that justifies the legislator to interfere with the issuance of legislation, the legal adaptation of this incident, and the appropriateness between the procedure chosen by the legislator, which represents the context of the law, and the goal whereby this legislation is issued, which is always the public interest in general, or a specific version of it, according to the circumstances (Yousry Mohammed Al-Assar).

A distinction should also be made between the constitutional judge's control over appropriateness in legislation, which relates to the element of reason and for which the legislator enjoys the discretionary power, and his control over the purpose of the legislation, for which the power of the legislator is always a restricted power targeting the public interest solely.

The Supreme Constitutional Court in Egypt extends its control over the appropriateness component of legislation, considering that control is a form of judicial control over the discretionary power of the legislator. Among the applications of this in the Supreme Constitutional Court is the monitoring of the extent of the necessity that justifies the issuance of Republican resolutions by laws in the event that the People's Assembly does not convene, which have the force of law based on Article (156) of the constitution and the assessment of the extent of social justice in taxes and fees, which Article 38 of the constitution made it the basis for the tax system.

2.CONCLUSION:

The principle of appropriateness plays a very significant role in controlling the behavior and actions of the entities that the legislator grants the discretionary power to assess the action to be taken by the entity that enjoys such authority. The matter is not only limited to the administrative authorities, but it also extends to monitoring the achievement of the principle of appropriateness in the legislation itself, in light of achieving the supreme goals of society as a whole, as it is assumed that all the laws issued and the measures taken in a country that is subject to the law in its broad sense will be appropriate to their goals and their reasons.

The researcher concluded a score of results through conducting this research, they are as follows:

- The principle of appropriateness contributes to forming and setting a framework for the judicial control on legislation, procedures and administrative decisions. The importance of this principle is evident in the area of controlling the administrative decisions and procedures. It also strengthens or restricts the discretionary power granted to whatsoever entity.

- The principle of appropriateness contributes to activating the judicial control over appropriateness in protecting the civil and political rights when the activity of the administration or the state is subject of conflict, for example , the local administrative authority prohibition of a demonstration to protect the public order, as well as monitoring the behavior of the administration regarding the discretionary power that the system authorizes it, for example, in the cases of discipline ,the judge extends his control over the appropriateness of the penalty with the violation, not just the legality of the penalty solely.
- Appropriateness is a flexible idea that has variable components according to the context and time of control, its object, time and place, and all the circumstances surrounding the context of the application of the principle that have an impact on its achievement.
- Appropriateness is not a novice principle. Rather, its origins are found and rooted in Islamic jurisprudence and jurisprudential rules that made appropriateness a requirement in the actions of the administrative authorities and allowed the prohibitions to be relevant to the emergency circumstances under the rule of “necessity permits prohibitions”.
- The principle of appropriateness is applied as an independent and broad criterion for examining the legality of the administrative decisions.
- Appropriateness has become a tool for monitoring the non-abuse of the discretionary power granted by the legislator to whatsoever entity, or even the discretionary power to the body issuing legislation, along with its justifications and context.

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