



Constitutional Organisations for the Freedom of Scientific Research

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The academic research study represents an essential pillar in the life of nations and peoples. It is a major part of the university's job. It is one of the most important tasks of a faculty member. It is the basis of all planning, and the backbone of every development; the basis of sound development plans. Economic, political, military, social, cultural, and educational factors are the difference between developed and developing countries. Freedom of scientific research is related to the social and political environment, whether appropriate, encouraging, or otherwise. Identifying and explaining the obstacles facing this freedom clarifies the judicial guarantees that constitute the most important guarantee of this freedom.

Key words: Economic, political, military, social, cultural and educational

Introduction

Scientific research is a fundamental basis for the lives of all nations. In addition, the process of research resembles the main support of any progress in developing countries. Identifying and explaining the obstacles facing this freedom clarifies the judicial guarantees that constitute the most important guarantee safeguarding against violation of this freedom.

Research Methodology

In our study, we will follow a scientific and analytical descriptive approach. We will compare the various concepts and principles for freedom in scientific research, by analysing constitutional texts, international treaties, and legal texts related to this freedom.

Research Aims

The research aims to answer the following questions:

1. What is the concept of freedom of scientific research, what is its constitutional basis, and what distinguishes it from other freedoms?
2. What are the restrictions and obstacles facing the freedom of scientific research?
3. What are the judicial guarantees for freedom of scientific research?

Research Problem

The search problem is summarised:

1. Insufficient legal provisions for the freedom of scientific research in a crisis.
2. Legal protections are weak and scattered, especially so far as they result from risks to this freedom.

Structure of research

We will discuss the constitutional organisation of the freedom of scientific research in four themes. The first is the concept of scientific research. The second is the constitutional basis for the freedom of scientific research, and the relationship of other freedoms. The third is the set of constraints and obstacles to freedom of scientific research. The fourth is the set of judicial guarantees for freedom of scientific research.

First Theme

The Concept of Scientific Research

Defining scientific research requires us to research the meaning of the language and terminology, and the jurisprudential differences in the definition of a specific term. Then the terms must be distinguished from other, similar terms. This is what we will try to clarify through this research, in two sections: 1) allocating the first to define scientific research, and 2) distinguishing it from similarities.

First Branch

Definition of Scientific Research

Defining scientific research requires clarifying its linguistic meaning, and then referring to the definitions developed for this term:

1. First: The Language of Scientific Research. The term consists of two words (research, scientific). Research is a language of the verb, a search and its search for the truth (Hanauer, 2019; Robert D., et al., 2019).

Science is defined by the Oxford Dictionary. This section of the study deals with a correlative body of fixed and categorised facts, governed by general laws and containing

reliable methods and methods for discovering new facts within the scope of this study (Magnus, 2016; Symonides, 2018).

2. Second: Scientific Research. The jurisprudence differs considerably in defining the concept of scientific research, exciting many definitions. In the jurisprudence, Ray argues that scientific research is the way leading to the discovery of facts in science, by a set of general rules that dominate the functioning of the mind, to arrive at a result of known reasons and appropriate solutions, in a neutral and unbiased manner of the problem (Perlin, 2019).

Another view is that scientific research is a systematic investigation using scientific methods and methods specific to scientific facts, to verify their validity, modify them or add new ones (Richard F., and Anita, 2015). It is also known as "mental work aimed at achieving a technical result which can satisfy the lacked needs of humanity", something new to society, or finding something that did not exist before (Hugh Murray, and Beulah, 2016). This was defined by UNESCO as "the processes of study and experimentation, and the formulation of concepts and the selection of theories that involve the generation of scientific knowledge" (Magnus, 2016; Symonides, 2018).

Looking at the previous definitions, we find that they did not consider scientific research as a system. Instead they focused on the final outputs of the scientific research, or focused on a particular approach, and did not go to complex groups of scientific research, integrated factors, and processes that interact together in a disciplined manner calculated to result in the so-called outputs or solutions to the problem (Terry, and Julie, 2012). Therefore, scientific research can be defined as a study or experiment carried out by a researcher or a group of researchers, to investigate facts in a particular problem or problems, by following a systematic scientific method, to achieve a valid result of generalisation on issues and similar problems. It increases scientific knowledge or provides something new and innovative, which is required to be subject to the evaluation of specialised professors, according to scientifically recognised conditions (Ewa, et al., 2015).

Section II

Distinguishing Scientific Research from what is Similar

After we have known scientific research and clarify its concept, we must distinguish it from, and find, similar terms often associated with it.

First: Distinguishing Scientific Research from Creativity

Creativity is the ability to create something new, to incorporate new ideas or to use imagination to develop and adapt views to satisfy needs in a new way, or to create something new; tangible or intangible (Collins, 2018) in one way or another. This is also known as new and unfamiliar ones that do not constitute an improvement and development of the existing pattern. Constitutional texts which refer to freedom of scientific research often refer to the manifestations of creativity, such as the Constitution of the Arab Republic of Egypt 1971 (Hiroshi, and Lawrence, 2017), the Constitution of the Republic of Yemen 1970 the Constitution of the Republic of Iraq 1970.⁽¹⁾ The text of the Constitution of Iraq is forced to take account of the state forever (P). The creativity in the constitutional text in general includes literary creativity⁽²⁾ art and culture, although scientific research and creativity are a manifestation of the use of the human mind. However, there are several differences between them, in terms of the following:

1. Interviewers

The activity and behaviours of the researcher differ from those of the artist and writer. With respect for the freedom of artistic and literary creativity, artists and writers use only their imagination. That is unlike scientists, whose work is the result of careful observation and study and testing and training. The basis of a set of scientific laws and abstract objectivity and these relationships is its determinism and probability, where objectivity prevails. Art on the other hand is based on skill and humanity, self-owners, individual talents, and imagination and self-sufficiency (Karen J., et al.,2019).

2. State intervention

The difference here seems clear, through the positive involvement of the state supporting scientific research. The state encourages and promotes scientific research, and finances research in strategic areas such as space and energy research (Zimbardo, 2017). As for the financing of creative activities, artistic and literary creativity does not occupy this status because it is less important for society.

3. Results

The final output of artistic activity is different from the final activity of scientific work. The former remains the same with the passage of time, without changing. It is the opposite of scientific activity which depends on the flow of science, in the sense that the scientific work may differ from previous work because it is based on solving existing problems. Science is

(1) Article 27 (c) states: "The State shall guarantee the freedom of scientific research, encourage and reward excellence and creativity in all other intellectual, scientific and artistic activities and the various manifestations of folklore."

(2) Article 34 (III) of the Constitution of the Republic of Iraq 2005 is in force.



constantly changing and every day creates new relationships and theories. Scientists tend to be more specific and artists tend to be comprehensive in their view of the world (Barry, and Craig, 2014)

Second: Distinguishing Scientific Research from Technological Research

Scholars do not agree on a single definition of technology. As a result of this disagreement, several definitions have been developed. Some define it as the systematic effort to use the results of scientific research, to develop the methods of performance of production processes, to reach new methods that are supposed to be useful to society (Chiara, and Henry, 2014). The knowledge used in the production of goods and services is different from technology, because technology means a set of processes used to produce certain goods and technology in creating this technology, and the ability to use it (Wang, and James, 2015). Technology has an applied content. Scientific research, on the other hand, does not have a productive activity since it is the result of scientific knowledge, where its theories are used to find solutions to the problems facing the applied side of technology. Scientific research precedes technological research, as scientific research comes with ideas and laws. Technological research turns this into applications.

Second Theme

The Constitutional Basis for the Freedom of Scientific Research and Its Relation to Other Freedoms

Jurisprudence upon scientific research differs from rights and freedoms in a different sense. Is scientific research considered a cultural right or individual freedom? Whereas the majority opinion in the jurisprudence considers it individual freedom? We support this view, that the freedom of scientific research is guaranteed to all without discrimination and imposition. It is a legal duty, to be implemented immediately, in addition to showing the positive role of the state in the exercise of this freedom. Further, the freedom of scientific research correlates to many other freedoms, and this is what we will try to discuss. Two branches we look at are the first constitutional basis for the freedom of scientific research, and the freedom of scientific research, other than as based on freedom (Molnár-Gábor, 2018).

First Branch

The Constitutional Basis for the Freedom of Scientific Research

Constitutions differ in their text, as to the freedom of scientific research. Some freedoms were not provided for by the constitutions of Iraq, in 1925 and 1958, and the United Arab Emirates Constitution of 1971. We believe that legislators were successful in providing for freedom. Scientific research is a positive step, compared to previous constitutions, regarding the state's



positive role in this area, and some constitutions went to an advanced stage of not allowing restrictions on this freedom, such as the Portuguese and Brazilian Constitutions (Somin, 2017).

The Iraqi constitution expresses the state's encouragement of scientific research for peaceful purposes, and for the benefit of humanity. However, we believe that legislators should have provided for the freedom of scientific research and not discouraged it. This increases the state's establishment of necessary institutions and provision of needs. In addition to fixing scientific research at not less than 2% of the gross output of scientific research, and the general importance of scientific research in the development of the country, there is a need for scientific research in all sectors of life (Peterson, 2018).

Section II

Freedom of Scientific Research and Its Relation to Other Freedoms

The freedom of scientific research is not different in the various constitutional texts. We have already indicated this, a similarity which may result in the resemblance of the freedom of scientific research, in part, to other freedoms. I relate the freedom of scientific research to other freedoms as follows:

First: Freedom of Scientific Research and Freedom of Expression

Freedom of expression is the ability of an individual to express one's views and ideas freely, regardless of the means of speech, letters or means of publication (Mellor, 2016). The constitution of the Republic of Iraq in effect provides for freedom of expression in a single text. It is also provided for by the Constitution of the Republic of Egypt in force (Richard, and Yaniv, 2018). This freedom is exercised by researchers, whether members of the teaching staff, or students entitled to express their opinions and criticisms aimed at the educational process. It can be said that the freedom granted to students stands at the limits of directing and influencing the educational process, to demand better performance, but cannot in any way justify exceeding the required boundaries of respect for educational and administrative bodies, beyond the boundaries between students and professors. However, despite the interrelationship between the freedom of scientific research and freedom of expression, they differ. Public knowledge is different from scientific knowledge. The latter needs greater freedom; that is, general knowledge is relevant to cultural aspects and the dissemination of news, and may contribute to the production of knowledge and technology innovations (Richard, and Yaniv, 2018).



Second: The Freedom of Scientific Research and the Right of Criticism

The right of criticism is defined as a suspension or judgment on a particular act or work, without intent to harm the person of its owner. Scientific research relates to the right of criticism, which is the basis for the freedom of scientific research. The right of criticism for the scientific researcher is part of one's professional freedom, using complex scientific and technical work skills, where appropriate terms are used and not exceeded, and being responsible for exceeding the limits of one's right (McCutcheon, 2012). Except as a description of the right of criticism, especially in its political aspects, the right of criticism is found in Iraqi legislation in Article (38) of the Constitution of the Republic of Iraq of 2005, which establishes freedom of expression in all media outlets. Thus, the Constitution clearly guarantees the exercise of all kinds of freedoms related to the expression of opinion, thought, rights of criticism, and any other freedom recognised by international covenants that are not contrary to public order and morality.

Based on this, the researcher criticised that he did not read the references related to the subject of his research or that his plan does not conform to the scientific method and that the findings are not suitable for application and the insistence on that to say that this author is no longer the same scientific research sufficient or the possibility The mind is limited or is the lowest level of another researcher where all this falls within the scope of the right of criticism and the researcher does not get the honour of the critic and that places criticism of social importance and that the arbitrariness of the researcher in the use of the right of criticism which adheres to the limits of public order and public morals.

Third Theme

Limitations and Impediments to Freedom of Scientific Research

Various enactments restrict the freedom of scientific research. Further, the face of this freedom impedes the full exercise of this freedom. This is what we will examine in two sections; restrictions on the freedom of scientific research, and the constraints that face this freedom.

First Branch

Limitations on Freedom of Scientific Research

Legislation has imposed many restrictions on the exercise of freedom of scientific research, including:

First: The Limitations of Nuclear Testing

The emergence of nuclear technology and the expansion of its use in the field of lethal weapons have led to the emergence of global risks, as well as the possibility of radiation leaking from stations designed for this purpose, with dangerous consequences for the state and even neighbouring countries, given the seriousness of these materials' movements, such as the Chernobyl nuclear reactor disaster (Gheorghe H., et al., 2018). As a result, some international controls and prohibitions have been developed, distinguishing between the use of nuclear energy for peaceful purposes and their military use. In 1967 a treaty was made, on Principles Governing the Activities of States in the Field of the Discovery and Use of Outer Space, including the Moon and other Celestial Bodies. It pointed out that the moon and celestial bodies should be used for peaceful purposes (Gheorghe H., et al., 2018). Other treaties include:

1. The Comprehensive Nuclear-Test-Ban Treaty (CTBT): It prohibits full nuclear testing, and was a requirement for non-nuclear states from the beginning of the Non-Proliferation Treaty (NPT) Review Conferences in 1975 until the NPT Review and Extension Conference in 1995 obliged the nuclear states to conclude the treaty before the end of 1996 (Gheorghe H., et al., 2018).
2. The Nuclear Safety Convention. The preparation of the Nuclear Safety Agreement was initiated by certain EU countries. It resulted in the convening of the International Conference on Nuclear Safety in September 1991, which recommended that a nuclear safety agreement should be concluded. It was natural that the initiative come from Europe which suffered the radiological effects of the Chernobyl accident in 1986. The Convention on Nuclear Safety was the first international legal framework for regulating the safety of nuclear installations, and nuclear energy uses; an important step in the international regulation of nuclear uses. However, "nuclear facility" is narrowly defined, being confined to nuclear power plants and the storage and handling facilities of radioactive materials directly related to the operation of civil nuclear power plants.

This makes the Convention only cover civil installations for the generation of electricity, which extends to military installations, research facilities, and sea-borne installations; it does not extend to other parts of the nuclear fuel cycle, such as waste treatment⁽³⁾.

Iraq has ratified the Treaty on the Non-Proliferation of Nuclear Weapons which states: "Each State Party to the Treaty with a nuclear weapon undertakes not to transfer to any recipient, no

(3) Dr. Adel Mohamed Ali, Legal and Regulatory Organisation for the Peaceful Uses of Nuclear Energy, Working Paper presented to the Scientific Forum Peaceful Use of Nuclear Energy and its Impact on Environmental Security 18-20 / 3/2014, College of Strategic Sciences, Manama, Bahrain, 2014.



matter nuclear weapons or other nuclear explosive devices, or to control such weapons or explosive devices directly or indirectly, or in any way assist, encourage or induce any State which is not nuclear, to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices or to control such weapons or explosive devices”. Iraq participated in a treaty banning nuclear weapons tests in the air included in Moscow (1963). Iraq also joined the Arab Cooperation Agreement on the Use of Atomic Energy for Peaceful Purposes (Pietzonka, and Udo, 2018).

The Constitution of Iraq 2005 emphasised the promotion of scientific research for “peaceful purposes”. We should examine this term and “peaceful purposes”. It is referred to as undefined. There is no definition as there are no international, regional or internal documents that set clear criteria for the scope of research for peaceful purposes. Further, states are completely confidential in conducting non-peaceful experiments and research.

I believe that the identification of scientific research for peaceful purposes is detrimental to the interests of the country, and to its finances, as a result of the increasing demand for arms imports. This statement contradicts security requirements and national sovereignty considerations. In addition, there is a fundamental difference between the import of arms and expenditure on scientific research, production and development of weapons. The first non-productive commercial contracts consist of the allocation of funds for procurement; the second involve industrial investment to meet domestic needs and may progress to include support for the trade-by-export profile.

Second: Restrictions on Marine Scientific Research

Marine scientific research, beyond areas subject to the sovereignty or jurisdiction of the State, is one of the legitimate uses of the high seas and the exercise of freedom, exculpating various uses from the freedoms guaranteed by article 87.1 of the 1982 United Nations Convention on the Law of the Sea. However, the freedom of scientific research in those areas cannot be guaranteed.

Article (87) of the 1982 UN Convention “expressly” provides for the freedom of marine scientific research. However, this freedom is restricted by sections VI and XIII. Article 257 specifies the exercise of this freedom in the water column, beyond the boundaries of the exclusive economic zone. Under the new Convention, the seabed was part of the continental shelf, extending beyond 200 miles and part of the international zone, and marine scientific research in those areas was subject to a system distinct from that of the overseas.

This article has shown that all States, regardless of their geographical status, have the right to conduct marine scientific research. States regularly provide and exchange scientific



information on statistics in various areas, such as catch, fish stocks, the protection of mammals on the high seas, with the participation of international organisations and the participation of all States concerned.

Article 240 sets forth the general principles for the conduct of marine scientific research on the High Seas, under four principles:

- a. The research shall be conducted for peaceful purposes only.
- b. The research shall be carried out by appropriate scientific means and methods consistent with this Convention.
- c. The research shall not unjustifiably interfere with other uses of the sea compatible with this Convention and shall be duly respected in the course of such uses.
- d. The research shall be carried out in accordance with all relevant regulations adopted in accordance with this Agreement, including those relating to the protection and preservation of the marine environment (McCutcheon, 2012). The Convention thus created a balance. Iraq ratified the Treaty on the Prohibition of the Status of Nuclear Weapons and Other Weapons of Mass Destruction at sea and the bottom of the ocean, which provides for the common interest of mankind in advancing the exploration and use of the seabed, and the bottom of the ocean for peaceful purposes (McCutcheon, 2012).

Section II

Obstacles to Freedom of Scientific Research

It is recognised that scientific research is the main element in the development and progress of humanity, as developed countries race to monitor large budgets and attract qualified human cadres; as well as to provide all the possibilities that help to improve the welfare of members of society. The lack of availability is a barrier to this freedom. The success of this will be discussed in this section, in terms of the most important obstacles facing the freedom of scientific research.

First: Insufficient Funds Allocated for Scientific Research

The advancement of scientific research requires financial allocations, as a necessary condition for the exercise of freedom of scientific research. That is because of the required availability of infrastructure and incentives for work and institutions, as well as the high costs of some types of research, because of the need for laboratories with particular specifications. However, Iraq and other Arab countries suffer from the lack of financial allocations necessary for this lack of spending, and are characterised by two attributes:

1. Double the volume of expenditure compared to domestic output and the tracking of expenditure ratios which are very low, compared to the importance of scientific research and the result obtained in any area. The proportion in Iraq up to 0.2%, while in Egypt, 0.5% while 2.9% Germany and 3.4% in Japan.
2. The correlation of this expenditure to the general budget. The funds allocated to scientific research are derived from budget appropriations. This results in the absence of a relationship between governmental scientific research institutions and industrial projects in the private sector. Thus, technological development in Iraq and the Arab countries has declined, in terms of expenditure on directed scientific research ⁽⁴⁾.

One solution is to amend the constitutional text guaranteeing the freedom of scientific research contained in Article 34/3, by stipulating the allocation of at least 2% of the national product to scientific research. This would be similar to the Egyptian Constitution of 2014, which allocates at least 1% of the national economic product to scientific research.

Second: The Migration of Iraqi Competencies

We mentioned in advance that the lack of human cadres is an obstacle to the freedom of scientific research. Scientific research requires the special qualities of a researcher and particular competencies. A relatively modern concept of brain drain arose to express an old phenomenon within international relations. Exchanges of materials and morals vary. Their type and intensity has been defined by UNESCO as an abnormal type of scientific exchange between countries, characterised by the flow in the most advanced trend. It has become a scientific phenomenon at the general level, and Arab countries' statistics indicate that:

- Approximately 100,000 people emigrate from the professions, headed by scientists, doctors and engineers from countries (Iraq, Syria, Lebanon, Egypt, Tunisia, Morocco, Algeria, Jordan). Of these emigrant scientists, 70% do not return.
- From 1977 to 2011, more than 750,000 Arabs emigrated to the United States of America.
- The statistics show that 50% of doctors, 23% of engineers and 15% of scientists of total Arab competencies emigrated to Europe, Canada and the United States of America.
- Iraqi and Arab doctors make up 34% of doctors working in Britain.

There are many reasons for the brain drain. However, politics are the main reason, which is linked to the other reasons. Brain drain is one of the most serious problems facing the community. This migration of the minds was not born today but is continuing since the 1950s. However, it has undergone a major transformation; specifically numerically. After the occupation of the country, the decision by the American civil administrator, Paul Bremer, to

4. The proportion of Iraq's expenditure on research and development in 2015 to 0.04% of GDP according to World Bank indicators is available at:
data.albankaldawli.org/indicator/GB.XPD.RSDV.GD.ZS Last visit 11 / 7/2018

remove the people who occupy the top four positions in the organisation of the Ba'th Party excluded more than 2,000 university professors, representing 15% of the total of about 14,000 professors⁽⁵⁾. In addition to the organised targeting of minds in Iraq, and the desire of these to provide security for them and their family members, many Iraqi personalities emigrated to the Gulf countries or Europe and America. This caused the weakness and deterioration of the level of education and scientific research. It is crucial in the process of development and progress. The educated human resource, technically and culturally trained, is the first capital of the development process and has an active role in the progress of any nation. Its presence in society is a national and vital resource for various aspects of economic, social and cultural development.

Based on this, we believe that the migration of scientific competencies has three main dimensions that are interrelated and cannot be separated:

1. *The scientific dimension*: Countries seek to withdraw scientific cadres through different methods in their favour, since these cadres have solid scientific qualifications and expertise through which they work on quality education for their members, in addition to supporting all sectors with scientific research.
2. *The economic dimension*: The migration of competencies constitutes a significant material gain for the developed countries. These countries get ready, scientific cadres without any financial spending on them, as countries spend very large amounts to qualify scientists.
3. *Political dimension*: The scientific elite in any country constitutes the political and scientific nucleus because of their direct role and influence on political, economic, social and cultural life and events.

In spite of all the efforts made by the Iraqi government to return these competencies, they did not return them except for only a few. That was due to the lack of living conditions in Iraq, compared to other countries. This led to the continuation of the problem which remains unresolved. We believe that Iraqi legislation is still incomplete in this aspect. This requires the issuance of legislation providing for the protection of scientific competencies, through the construction of special complexes to facilitate their protection, in addition to granting material and moral concessions (Chiara, and Henry, 2014).

(5) Dr. Omar Ismail Hussein, the Migration of Iraqi Competencies and their Impact on the National Economy (1990-2009), Economic Department, Ministry of Finance, 2012, p16.

Third: Judicial Guarantees for Freedom of Scientific Research

The modern state is based on the principle of legality. It summarises the rule of law, in that the state's actions are subject to law, and individuals can monitor the performance of state functions (McDonald, 2005) which they can correct whenever the state exceeds legal limits; whether deliberately or negligently. This guarantees the freedom of scientific research in many and numerous exercises, but we will discuss the judicial guarantees only through two sections; the first is devoted to the guarantees of the constitutional judiciary, and the second to the guarantees of administrative justice (McDonald, 2005).

First Branch

Guarantees of Constitutional Jurisdiction

The constitutional provision for freedom of scientific research is insufficient to guarantee it. In practice, it can be restricted or derogated from through ordinary legislation, thus exploiting discretionary power, contrary to the constitutional text guaranteeing the supremacy of the Constitution, so as to emerge from theoretical descriptions to practical applications. The real purpose of the report on the right to control the constitutionality of laws is to protect the rights and freedoms of individuals, from the risk of aggression against them by any authority. Before the Supreme Federal Court established by Law No. 30 of 2005, and in our search for freedom of scientific research, we found no judicial applications except the appeal filed on Article (38) of the Law of the Ministry of Higher Education and Scientific Research. It prevented the courts from considering certain matters, including the granting of scientific degrees and titles which are directly related to the freedom of scientific research. It was ruled that these matters are not immune, and cannot be challenged through the minister or committees formed for this purpose and thus, are not contrary to the provisions of the Constitution (Claus, 2005).

The Supreme Constitutional Court in Egypt has stressed the importance of scientific research in more than one decision. It has noted that creativity in the life of nations is an enriching and not an in-depth luxury of their mission to change lifestyles. Further, the court referred to the role of the state which should not be negative in the field of education, withdrawn or limited, but effective and influential in its development to be more useful and not absorbed in the realities of the age; the state is limited and it promotes its role in the independence of university education and centres by urging the variegated mission of scientific development (Claus,2005).

The German Federal Constitutional Court affirmed similarly, in a comprehensive constitutional decision, known as the universities' ruling on the establishment of two tracks, for the protection of the freedom of scientific research. On the one hand, the state should

facilitate and encourage scientific research and transfer it through generations through the use of all necessary means, and financial support for scientific research and the establishment and support of research centres and studies. On the other hand, the State, through its public authorities, must sponsor research activities through its means and public capabilities, as well as through organisations related to scientific research. Thus, the freedom of scientific research remains protected and guaranteed within limits that do not conflict with legitimate public obligations, and within the protection of the fundamental rights of others. A part of the constitutional jurisprudence in its commentary to this provision states that the principle of protecting the fundamental right to scientific research, is a restriction on the legislator. It is necessary for them to form research groups on priority issues identified by relevant bodies in the field of research, focusing on the following foundations:

- (A) Groups of university teaching staff should be differentiated from each other, in accordance with the research objectives to be achieved under their plans and priorities.
- (B) Such groups shall have the power to report definitively on matters relating to scientific research by a majority vote.
- (C) Any role of administrative bodies in research matters shall be excluded.

Section II

Guarantees of the Administrative Judiciary

Judicial control over the legality of the conduct of the government administration represents an important guarantee for individuals' rights and freedoms. The judiciary plays an influential role through the principle of legality, the rule of law, and the balance between power and freedom and the protection of individuals' freedoms from tyranny among authorities. The administrative judiciary in Egypt has to protect the. In another ruling, the Administrative Court of Justice addressed the administration's error in applying the law, which entailed delaying a researcher's registration, to the degree of a mistake that required compensation for material and moral damages (Hogg, 1976).

In France, if there is any material or legal error on the part of the student, the Council of the State of France has the right to postpone the debate, until the condition has been fulfilled. In all cases it is prohibited. The judge should discuss the merits of the evaluation and impose its control over the decisions of a scientific nature, as he oversaw the apparent error in cases of disputed scientific nature and similar decisions (Smyk, 2019).

The diplomas given by the National School of Administration are not at the level of the diplomas scheduled for entry into the competition.

Returning to Iraq, the Administrative Judiciary has proceeded to respond to certain cases against the government. Article 38 of the Law of the Ministry of Higher Education and Scientific Research No. 40 of 1988 limited the administrative judiciary, _ However, that does not mean that it does not exist. A ruling of the Administrative Court of Justice said that the consent to postpone a student's study, because of serious illness, became an acquired right after the approval of the Department affiliated with the employee. may not then closed the student file because of postponement . This decision shows a change in court direction to the administration, to accept the consideration of the suits that belong to the students, in the protection of the freedom of scientific research, because graduate students bear important elements of this freedom (Bernick, 2018).

A judgment of the Supreme Administrative Court addressed an academic employee entitled to return amounts disbursed during the course of study, if his studies failed. In another decision, the student must pass the foreign language learning period specified by law.

In the judgment of the Staff Court, the supervision of postgraduate students in universities requires qualities of degree, efficiency and scientific trust in the university professor. In the absence of these qualities, the university professor is prevented from supervising by order of the administration, but this prohibition should not be so excessive as to extend into the future, as it is possible for the professor to recover these qualities, to be re-assigned again⁽⁶⁾. In addition, the Staff's Court ruled that a university professor should be deprived of the right to participate in discussion committees for two years, because there was no legal basis for it.

Despite the constrained decisions, we hope that in the near future the Iraqi Council of State will play a large role in protecting both the freedom of scientific research and its own control over Administration decisions, which include the right to arbitrarily counter this freedom. This body is one of the most important guarantees of human rights and freedoms, including the freedom of scientific research.

Conclusion

After completing our research (titled Constitutional Organisation for the Freedom of Scientific Research in Iraq), we must pause in anticipation of the most important findings of this study, and draw attention to the most important recommendations to be made regarding the future of this freedom in Iraq, for the benefit of the process and scientific studies.

(6) The Decision of the General Assembly of the State Consultative Council No. (298 / Discriminatory Discipline) on 26/8/2009, the Decisions and the Advisory Opinion of the State Consultative Council 2009, p. 409.



First: Results

1. The non-provision of the freedom of scientific research in constitutions, or its merely implicit stipulation, does not mean that it is not protected. The freedom of scientific research is found in many international treaties and conventions.
2. The freedom of scientific research faces many constraints, not only in underdeveloped countries but also in developed countries, deliberately restricting their freedom for political and economic reasons, such as their monopoly on research on nuclear energy and preventing other countries from that research.
3. Lack of financial allocations for the freedom of scientific research indicates the lack of interest in this freedom, although it is the cornerstone of building a strong state.
4. There are limited, special judicial provisions to protect this freedom, through the prohibition in Article 38 of the Law of the Ministry of Higher Education, and Federal Supreme Court support for scientific research. However, a number of provisions were issued as a guarantee for the freedom of scientific research.

Second: Recommendations

1. Amend the constitutional text guaranteeing the freedom of scientific research, and add at least 2% of the freedom of scientific research to support, develop and produce the results of scientific research because scientific research is the cornerstone for building a developed country.
2. Establish an independent body for scientific research, whose objective is to support researchers and turn scientific research into reality. The results of these researches, especially those that solve the problems of society, through the periodic reports on the research carried out by the departments of studies and research in all ministries To the Scientific Research Authority, to unify efforts and study them by specialised professors.
3. Support material researchers for every solid research published in journals with an influence coefficient.



REFERENCES

- Hanauer, David I., Cheryl L. Sheridan, and Karen Englander. "Linguistic injustice in the writing of research articles in English as a second language: Data from Taiwanese and Mexican researchers." *Written Communication* 36.1 (2019): 136-154.
- Ashford, Robert D., et al. "Defining and operationalizing the phenomena of recovery: a working definition from the recovery science research collaborative." *Addiction Research & Theory* 27.3 (2019): 179-188.
- Curl, James Stevens, and Susan Wilson. *The Oxford Dictionary of Architecture*. Oxford University Press, USA, 2015.
- Perlin, Michael L. "'Deceived Me into Thinking/I Had Something to Protect': A Therapeutic Jurisprudence Analysis of When Multiple Experts Are Necessary in Cases in which Fact-Finders Rely on Heuristic Reasoning and 'Ordinary Common Sense'." *Available at SSRN 3409157* (2019).
- Fellows, Richard F., and Anita MM Liu. *Research methods for construction*. John Wiley & Sons, 2015.
- Trist, Eric, Hugh Murray, and Beulah Trist, eds. *The Social Engagement of Social Science, a Tavistock Anthology, Volume 1: The Socio-Psychological Perspective*. Vol. 1. University of Pennsylvania Press, 2016.
- Magnus, Richard. "The universality of the Unesco universal declaration on bioethics and human rights." *Global bioethics: The impact of the UNESCO international bioethics committee*. Springer, Cham, 2016. 29-42.
- Symonides, Janusz. "The United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the Promotion and Protection of Human Rights." *The Universal Declaration of Human Rights: Fifty Years and Beyond* (2018): 45.
- Anderson, Terry, and Julie Shattuck. "Design-based research: A decade of progress in education research?." *Educational researcher* 41.1 (2012): 16-25.
- Deelman, Ewa, et al. "Pegasus, a workflow management system for science automation." *Future Generation Computer Systems* 46 (2015): 17-35.
- Collins, Hilary. *Creative research: the theory and practice of research for the creative industries*. Bloomsbury Publishing, 2018.



- Itoh, Hiroshi, and Lawrence W. Beer. *The constitutional case law of Japan: Selected Supreme Court decisions, 1961-70*. University of Washington Press, 2017.
- Saywitz, Karen J., et al. "Effects of interviewer support on children's memory and suggestibility: Systematic review and meta-analyses of experimental research." *Trauma, Violence, & Abuse* 20.1 (2019): 22-39.
- Zimbardo, Philip G. "On the ethics of intervention in human psychological research: With special reference to the Stanford prison experiment." *Cognition*, □(□) (2017).
- Bozeman, Barry, and Craig Boardman. *Research collaboration and team science: A state-of-the-art review and agenda*. Springer, 2014.
- Franzoni, Chiara, and Henry Sauermann. "Crowd science: The organisation of scientific research in open collaborative projects." *Research policy* 43.1 (2014): 1-20.
- Wu, Lingfei, Dashun Wang, and James A. Evans. "Large teams develop and small teams disrupt science and technology." *Nature* 566.7744 (2019): 378.
- Aberbach, Joel D., and Tom Christensen. "Academic autonomy and freedom under pressure: severely limited, or alive and kicking?." *Public Organisation Review* 18.4 (2018): 487-506.
- Somin, Ilya. "Immigration, freedom, and the constitution." *Harv. JL & Pub. Pol'y* 40 (2017): 1.
- Peterson, V. Spike. *Revisiting gendered states: feminist imaginings of the state in international relations*. Oxford University Press, 2018.
- Mellor, David. "Updating animal welfare thinking: Moving beyond the "Five Freedoms" towards "a Life Worth Living"." *Animals* 6.3 (2016): 21.
- Uhl, Matthias, Patrick Pietzonka, and Udo Seifert. "Fluctuations of apparent entropy production in networks with hidden slow degrees of freedom." *Journal of Statistical Mechanics: Theory and Experiment* 2018.2 (2018): 023203.
- Albert, Richard, and Yaniv Roznai. "Religion, secularism and limitations on constitutional amendment." *Research Handbook on Law and Religion*. Edward Elgar Publishing, 2018.
- McCutcheon, Russell T. *Critics not caretakers: Redescribing the public study of religion*. SUNY Press, 2012.



- Popescu, Gheorghe H., et al. "The emergence of the effects and determinants of the energy paradigm changes on European Union economy." *Renewable and Sustainable Energy Reviews* 81 (2018): 768-774.
- Rich, Leigh Elizabeth. *Rolling the bones: Decisional law and the risks of treating the body as property*. University of Colorado at Denver, 2004.
- McDonald, Barry P. "Government Regulation or Other Abridgements of Scientific Research: The Proper Scope of Judicial Review under the First Amendment." *Emory LJ* 54 (2005): 979.
- Claus, Laurence. "Constitutional Guarantees of the Judiciary: Jurisdiction, Tenure, and Beyond." *Am. J. Comp. L.* 54 (2006): 459.
- Hogg, Peter W. "Is Judicial Review of Administrative Action Guaranteed by the British North America Act." *Can. B. Rev.* 54 (1976): 716.
- Smyk, Grzegorz. "Administrative Judiciary in the European Doctrine of Administrative Law at the Turn of the 19th and 20th Centuries." *Annales Universitatis Mariae Curie-Skłodowska, sectio G–Ius* 65.1 (2018): 141-154.
- Bernick, Evan D. "Is Judicial Deference to Agency Fact-Finding Unlawful." *Geo. JL & Pub. Pol'y* 16 (2018): 27.