

Administrative Police Powers in Emergency Situations in Iranian and Iraqi Law

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Abstract

The present study was conducted with the aim of meta-synthesizing the curriculum for legal literacy education for students and presenting a comprehensive conceptual model. The focus of the research was on identifying the main themes across five dimensions: (1) the content and classification of the concept of legal literacy and its dimensions and components, (2) strategies and educational interventions for enhancing students' legal literacy, (3) mapping outcomes to the knowledge, attitude, skills, and environment (K-A-S-E) framework and analyzing evidence, (4) identifying implementation barriers and facilitators, and (5) key recommendations for developing the desired conceptual model. The research method was qualitative and based on meta-synthesis using the Roberts model. The study population included all studies related to the curriculum of legal literacy education both inside and outside the country, from which 18 studies were selected as the final sample through purposive sampling and analyzed. The data collection tools were a checklist and a content analysis inventory, whose validity was confirmed by experts. Data were examined using descriptive systematic review, interpretive analysis, and thematic analysis, leading to the extraction of basic, organizing, and overarching themes. The results showed that legal literacy should be designed within an integrative framework consisting of knowledge, attitudinal, skill-based, and environmental dimensions, and that components such as justice, citizenship rights, responsibility, legal reasoning skills, interactive learning environments, family participation, and the involvement of social institutions play a fundamental role. Moreover, barriers such as a shortage of specialized teachers, lack of coherent content, and limited educational resources were identified, while solutions such as curriculum revision, professional development of teachers, the use of educational technologies, and the design of integrative approaches were proposed. Finally, a localized conceptual model was presented that can serve as a strategic framework for curriculum design, educational policymaking, and teacher professional development.

Keywords: Powers, Emergency Conditions, Security, Administrative Police, Public Order.

Received: 06 June 2025

Revised: 23 August 2025

Accepted: 26 August 2025

Published: 01 October 2025



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Citation: Ahmed, H. H. A., Vaezi, S. M., Javaheri Tehrani, M., & Salehi, H. (2025). Administrative Police Powers in Emergency Situations in Iranian and Iraqi Law. *Legal Studies in Digital Age*, 4(4), 1-11.

1. Introduction

The police constitute one of the most important components of the judicial system in any civilized society. The existence of a scientific and principled policing system reflects the government's respect for individual rights and freedoms, as well as its commitment to safeguarding public security (Abbasi, 2016; Tabatabaei Motameni, 2011). In the modern era, security and freedom are essential elements in the administration of every society. Within this framework, the administrative police are vested with the authority to regulate public order at various levels of the state. Here, the crucial element is the regulations related to administrative police, which enjoy significant privileges. These regulations may operate at the provincial level or extend to the national level. The understanding of such regulations must be grounded in constitutional principles (Katouzian, 2006; Malmiri, 2006).

In Iran's administrative law system, administrative police are formally recognized, and various institutions are engaged—sometimes concurrently and sometimes hierarchically—in managing this domain of administrative law (Navin, 2007; Vizheh, 2009). In fact, within these institutions, different authorities exist, and occasionally more than one administrative police authority can be observed within a single body. These authorities make decisions in light of the objectives that administrative police seek to achieve. The overarching function of the police is to maintain order and ensure public security, and for this purpose, they are endowed with public powers (Mahmoudi, 2011; Morsali, 2010).

As the authority responsible for maintaining order and security, the police maintain a direct and continuous relationship with citizens. While performing their duties, they are obligated to respect the rights of citizens, suspects, defendants, convicts, and victims (Mohaghegh Damad, 1985; Mousavi Khomeini, 1999). In other words, ensuring part of the body of citizens' rights—which is of great importance—is entrusted to this institution. Furthermore, the police, depending on circumstances, possess both mandatory and discretionary powers, and the exercise of these powers in emergency situations is accompanied by particular sensitivities. This is because, in such circumstances, unregulated exercise of authority may result in the violation of citizens' rights. Therefore, the legislature is obliged to enact necessary laws regarding emergencies so that the granting of powers and competencies occurs under the framework of law. This ensures that, when maintaining order and security during such circumstances, citizens' rights are protected, the police are supported, and the course of their duties is rendered fully clear and defined (Abbasi, 2016; Katouzian, 1996).

In Iraqi law as well, administrative police encompass a set of actions, decisions, and unilateral procedures adopted by competent public authorities with the aim of preserving public order (Abdul Amir Ali, 1981; Muhanna, 1973). These measures may include issuing directives and general circulars (such as traffic regulations and health standards), individual decisions (such as granting or revoking licenses, or prohibiting assemblies), and, in necessary cases, the use of coercive force. This concept constitutes the core of administrative police in Iraq and is emphasized by the vast majority of administrative law scholars (Ardabili, 1984; Mushrif, 1998; Najafi, 1983).

2. Concepts

2.1. The Concept of Necessity (*Iztirār*)

“Necessity” in the linguistic sense means helplessness, compulsion, and distress (Moin, 2006). In *Lisan al-Arab*, Ibn Manzur defines it as deriving from the root *ḍ-r-r*, meaning need, compulsion, and coercion (Ibn Manzur, 1968). Jurists describe necessity as a situation that cannot be endured, a harm that cannot be tolerated (Ardabili, 1984). It is a condition in which threatening and intolerable circumstances drive the actor toward a wrongful act (Mohaghegh Damad, 1985). Based on its linguistic meaning, the technical meaning of necessity can be expressed as: “a situation in which, in order to avoid an imminent and actual danger, a person is compelled to cause harm to another” (Katouzian, 2006).

The notion of necessity has also been reflected in the works of prominent jurists such as Mirza Qomi (*Rasā'il al-ḍarūrāt tubīḥ al-maḥzūrāt*), Sahib Jawahir (the rule of necessity), and Ayatollah Makarem (the rule of necessity). Sahib Jawahir equated the concept of necessity with that of compulsion (Najafi, 1983). However, some jurists maintain that necessity is broader than compulsion; a person may not be in a state of compulsion but necessity may still require an act to be done—such as when abstaining from it would harm Muslims or the Islamic government, or cause disrespect to a respected position (Mousavi Khomeini, 1999). The *Oxford Dictionary* defines necessity as “a sudden, serious, and dangerous event or situation requiring immediate action.” Similarly, in English legal terminology, numerous expressions are used for such urgent conditions, including “emergency situations,” “exceptional circumstances,” “alert conditions,” and “martial law.”

2.2. The Concept of Administrative Police in Iranian Law

The term “police” has two meanings: in the narrow sense, it refers to the body of officers, authorities, and organizations entrusted with maintaining public order; in the broad sense, it refers to all measures and actions imposed by public authorities on individuals in order to preserve public order, which necessarily limit their freedoms. In this broader sense, the word police is synonymous with restriction and regulation. Administrative police are one of the state’s traditional and important duties (Tabatabaei Motameni, 2011).

In this system, the state does not directly intervene in the affairs of individuals, as meeting needs and public interests is left to them; rather, the state only plays a supervisory role to ensure that private activities do not lead to infringement. Administrative police thus encompass a set of actions and institutions that establish rules and regulations to ensure controlled conditions for private activities linked to public matters (Abbasi, 2016). This definition corresponds more to the traditional understanding of administrative law, since modern law emphasizes the rights of the nation, namely citizens’ rights and freedoms (Malmiri, 2006).

Administrative police usually manifest as administrative regulations and are grounded in the principles of the liberal economic school. Advocates of this school argue that free competition is the best regulator of affairs, ensuring both private and public interests. Their well-known slogan is *laissez-faire, laissez-passer* (“let it be done, let it pass”), meaning that nature should be left to its own devices. In this perspective, state intervention is permitted only to establish regulatory measures and police functions. The state’s role is therefore largely negative—it refrains from interfering except to prevent harmful activities. For example, the sale of bread, a vital public necessity, is left to individuals because private initiative is deemed sufficient. Yet, without state supervision, abuses could occur: bakers might overcharge, provoke scarcity, or engage in fraud. Thus, state intervention ultimately results in administrative regulations restricting individual freedoms, such as governmental penalties law (*ta'zīrāt ḥokūmatī*).

The crucial question here is how to strike a balance between individual freedoms and the public order of society. This responsibility lies with the legislature, which, considering the requirements of public order, enacts rules and principles for citizens’ free activities, while the executive authority issues administrative regulations accordingly (Navin, 2007; Vizheh, 2009).

It becomes clear, then, that a proper definition of administrative police depends on a correct understanding of public order. In practice, administrative police officials must act with the goal of safeguarding public order. Although the relation of public order to social morality falls beyond the scope of this study, it is an important area for further elaboration.

Nevertheless, one may mistakenly assume that administrative police resemble other branches of police with a specific department, uniform, and director. In reality, administrative police should be understood as an “activity”—namely, a function of executive authorities to confront and regulate emerging circumstances (Morsali, 2010).

2.3. The Concept of Administrative Police in Iraqi Law

The ultimate aim of administrative police is to protect society from any intrusion or disturbance of public order (Muhanna, 1973). This goal is pursued through a dual set of instruments: legal measures (such as supervisory decisions, individual control orders, and administrative penalties) and material measures (such as direct enforcement). The fundamental difference between

these instruments and similar methods in other areas lies in their specific objective, namely, the protection of public order. These powers are delegated to competent administrative authorities to be exercised in pursuit of this aim (Abdul Amir Ali, 1981).

Administrative control, as Ibn Manzur explains, refers to the prevention of violations, transgressions, and disruptions of public order (Ibn Manzur, 1968). Even in the absence of explicit legal provisions, public administration is permitted to exercise such control in urgent circumstances. The justifications for restricting freedoms in this context may vary among legal systems but are always traceable to the protection of fundamental societal values under the general heading of “public order” (Mushrif, 1998).

This notion is a supreme and fluid requirement whose manifestations depend on temporal and spatial conditions. What is deemed a breach of public order at one time and place may not be regarded as such in another. Moreover, the concept reflects the political, economic, and social philosophy governing the state. Judicial practice emphasizes that the meaning of public order must be linked to the supreme public interests of society in each specific state (Katouzian, 1996).

The central point is that administrative police are preventive and precautionary in nature, exercised prior to the occurrence of disruption or harm to public order. Given the comprehensive and pervasive nature of public order across different branches of law, diverse interpretations by legislators in various statutes are possible, as are multiple judicial interpretations—even within a single ruling. This reality makes it essential to study in depth the origins, historical development, and particular meanings of public order to delineate its boundaries. The ultimate goal of administrative police is, after all, to secure society against threats to public order (Mahmoudi, 2011).

3. The Functions of Administrative Police

Administrative police encompass a range of duties and powers granted by law to certain administrative authorities with the aim of preventing violations of public order in society. Public security, public tranquility, public health, and good morals are considered the core elements of public order (Abbasi, 2016; Tabatabaei Motameni, 2011).

Public order is usually material and formal in nature and rarely extends to moral order (good morals). Nevertheless, there are cases where the law authorizes police authorities to prevent the dissemination of ideas or opinions if they threaten public order—for example, prohibiting the screening of immoral films (Morsali, 2010).

In summary, the functions of administrative police fall into four broad categories: public security, public tranquility, public health, and good morals. For each of these goals, laws and regulations exist, and various bodies legislate in these areas. However, it must be emphasized that the institutions enacting laws related to administrative police objectives are not themselves considered administrative police. For example, the Islamic Consultative Assembly (Parliament) is not an administrative police authority, even though it enacts laws concerning public order (Mahmoudi, 2011; Malmiri, 2006).

4. A Reflection on the Security Function of Administrative Police, Public Order, and Good Morals in Iranian and Iraqi Law

In Iranian law, the concept of “public order” has varied implications across different legal branches. Public order, as a set of rules restricting freedom of will, occupies a special and significant place in all legal systems. It is directly tied to public interests. The existence of order in society is an independent requirement of practical reason, accepted by all rational individuals, and its meaning is fluid. For this reason, some scholars argue that defining public order is impossible and refrain from doing so (Navin, 2007), while others, viewing it as one of the most important restrictions on free will, emphasize the necessity of defining it. According to them, “public order in domestic law refers to mandatory rules and regulations, such that individuals cannot refuse their application. In short, violating public order in Iranian law amounts to contravening imperative rules” (Morsali, 2010).

Thus, public order serves as a social mechanism to control individuals’ actions, preventing consequences harmful to the community’s collective interests. In other words, it guarantees the proper application of rules concerning public interests. Yet, the concept is fluid and ambiguous—constantly shifting—making it difficult to establish a fixed criterion for identifying it.

Hence, public order can be seen as relative. Indeed, it is connected to morality, politics, economics, and the civilization underlying a nation. Because these foundations differ from society to society, the concept and manifestations of public order also vary across countries. We therefore deal with “orders” and “moralities” rather than a single unified standard. This relativity is not only spatial but also temporal: within a single country, the concept and applications of public order may change over time.

Good morals (*akhlaq-e hasaneh*) are considered one of the unwritten sources of public order. Legal scholarship and judicial practice across countries demonstrate that good morals, though sometimes treated as an independent concept, in reality represent a specific manifestation of public order, inseparably linked to it (Katouzian, 1996; Vizheh, 2009). Some jurists view good morals as independent, while others see them as part of public order. Certain thinkers mistakenly assume that law can exist independently of morality, that law and morality are separate paths, and that in modern times—where law is comprehensive and regulates all aspects of life—society has no further need for morality. This perception, however, is far removed from reason, for in neither past nor present reality has such separation ever existed. Law and morality are interwoven: morality influences not only the creation of legal rules but also their application and interpretation. Thus, morality is a fundamental factor in law. In short, the influence of morality on law and their interrelationship is undeniable, as both are natural consequences of human social life, and their shared purpose is to regulate human conduct in society on the basis of peace and justice. Accordingly, good morals can be understood as a body of social norms (public beliefs) existing outside the realm of written law or custom but nonetheless cooperating with law to organize social life and achieve the goals of collective existence (Mousavi Khomeini, 1999).

In Iraqi law, administrative police—as the executive arm of the state in matters of public order—operate at the intersection of safeguarding collective interests and respecting individual rights. The preventive and precautionary nature of their interventions necessitates broad yet flexible powers, enabling effective responses to emerging and evolving threats to security, health, tranquility, and morality (Abdul Amir Ali, 1981; Muhanna, 1973). The fundamental challenge lies in delimiting these powers and ensuring they are not abused to violate citizens’ fundamental rights and freedoms. Proportionality, legality, and due process are among the most critical safeguards in this context (Mushrif, 1998).

The existence of the four pillars of public order expands and complicates the scope of responsibility for administrative police. Balancing and prioritizing these elements in specific circumstances (such as potential conflicts between security and civil liberties, or between public health and economic activity) requires prudence and decision-making based on the public interest. Administrative courts play a pivotal role in supervising police actions, reviewing the legality and proportionality of their decisions, and balancing state authority with individual rights. The weakness of administrative judicial precedents in some systems, such as Iraq, particularly in areas like public health, poses a serious challenge to the development of doctrine and to ensuring effective judicial protection of citizens against arbitrary administrative acts. Strengthening administrative judicial institutions and improving access to their rulings are essential steps in clarifying the scope of police powers and upholding the rule of law. Ultimately, administrative police will succeed in fulfilling their supreme mission—preserving public order in all its dimensions—only if they operate within a lawful framework, grounded in established legal principles, under effective judicial oversight, and in a manner that earns public trust (Abbasi, 2016; Mahmoudi, 2011).

5. Methods and Instruments of Administrative Police in Iranian and Iraqi Law

As the guardian of public order, administrative police utilize diverse and complex mechanisms to achieve their objectives. These methods and instruments form the connecting link between state authority and citizens’ rights (Mahmoudi, 2011), and they must operate within the framework of the rule of law (Malmiri, 2006). In accordance with the principle of proportionality, coupled with oversight and control, they seek to establish a reasonable balance between safeguarding collective interests and respecting individual freedoms (Vizheh, 2009). The preventive and precautionary nature of these mechanisms requires them to be flexible and responsive (Tabatabaei Motameni, 2011).

6. Powers of Administrative Police in Iranian and Iraqi Law

The administrative police, as one of the fundamental pillars of modern governance, represent a special mechanism through which the state administration regulates the conduct of citizens and its employees by issuing binding directives in the form of commands and prohibitions. The ultimate aim of this process is to organize societal affairs, protect the community against various harms, and prevent disorder in vital fields such as health, culture, housing, and education (Abbasi, 2016; Tabatabaei Motameni, 2011). A key feature of this form of control is that it is exclusively exercised by administrative and executive authorities, with neither the judiciary nor the legislature having direct competence in this area. Undoubtedly, the functions of the administrative police are among the earliest and most crucial duties of the state (Malmiri, 2006).

In ordinary circumstances, the exercise of administrative police authority is bound by the fundamental principle of legality, requiring that all administrative measures and decisions comply with the legal framework. Otherwise, such acts are deemed unlawful and subject to annulment (Vizheh, 2009). It is noteworthy that the powers of administrative police in times of peace are generally limited and constrained by legal principles. Disciplinary regulations inevitably impact individual rights and freedoms. For example, the state is not permitted to deprive citizens of their lawful right to hold peaceful assemblies, form associations, or even organize demonstrations within the limits prescribed by law. Since continuous administrative control may restrict public freedoms and infringe upon civil rights, it is essential to define the scope of competence and methods of exercising these powers (Morsali, 2010).

Accordingly, this section examines the scope of administrative police powers in the legal systems of Iran and Iraq, both under normal circumstances and during exceptional conditions. Within administrative structures, administrative police confer specific responsibilities upon administrative officials. It is important to distinguish between the concepts of administrative police and administrative supervision: when referring to state oversight of the actions of individuals, the meaning is administrative police, while administrative supervision primarily refers to superiors monitoring the actions of subordinates within the administrative hierarchy (Mahmoudi, 2011). Administrative police authorities—whether general or specialized—possess the competence to make decisions and issue binding orders (Katouzian, 2006).

6.1. Theoretical Foundations, Hierarchical Structure, and General Competence of Administrative Police

At the top of each ministry, the minister is responsible for leading, guiding employees, and organizing the administrative structure under his authority. As part of the executive power in a centralized administrative system, he directs lower officials by issuing binding instructions. These subordinate authorities, in turn, are obliged to follow the chain of command. This fundamental principle, known as the **principle of administrative hierarchy**, guarantees uniformity and coherence in the functioning of the administrative apparatus (Abbasi, 2016).

Within this framework, the competence of higher officials to exercise administrative police powers does not negate the responsibility of lower officials to fulfill their assigned duties. Subordinates may also enact regulations within their jurisdiction. However, while they may intensify sanctions determined by superiors, they may not reduce or annul them. Likewise, subordinates lack the competence to suspend or revoke orders issued by higher authorities, as such actions would undermine the very foundation of the administrative hierarchy (Tabatabaei Motameni, 2011).

Alongside centralized organizations, certain administrative institutions are governed on the basis of **decentralization**. This means that while they enjoy relative independence in decision-making, they operate under the general oversight of central authorities. Governors, within their territorial jurisdictions, act as senior representatives of the state, bearing the critical responsibility of implementing national policies in coordination with ministries, public institutions, state-owned companies, and other publicly funded bodies. The supervisory responsibilities of governors extend to revolutionary institutions, law enforcement agencies, Islamic councils, municipalities, and non-governmental public institutions. Military forces, in relation to regional security missions, also operate under the ultimate oversight of governors (Mushrif, 1998).

6.2. *Administrative Police Competence in Public Health and Environmental Protection*

Administrative police authorities bear the vital responsibility of protecting public health and safeguarding society from diseases. This responsibility is manifested through the following duties:

1. **Public Health Care:** Regulating and monitoring essential sanitary conditions for the community's environment, including:
 - Maintaining cleanliness of public spaces, streets, and residential areas.
 - Continuous supervision of drinking water quality and mandating purification from plankton, microbes, and impurities to ensure safety and potability.
 - Organizing sewage and wastewater disposal systems, including household, industrial, and surface water (sewage networks, wastewater channels, and storm drains).
 - Implementing compulsory vaccination programs for various age groups against dangerous and epidemic contagious diseases as a vital preventive measure ([Mahmoudi, 2011](#)).
2. **Health Standards in Institutions:** Establishing and monitoring compliance with health standards in all industrial, construction, commercial, and educational institutions (schools, universities), as well as other public facilities ([Malmiri, 2006](#)).
3. **Combating Infectious and Epidemic Diseases:** This domain includes control measures such as:
 - Monitoring the production, distribution, storage, and sale of food in shops, restaurants, and fast-food outlets.
 - Exercising the authority to immediately shut down any business or production unit that fails to comply with health regulations ([Vizheh, 2009](#)).
4. **Environmental Protection Against Pollution:** Ensuring a clean and healthy environment is considered a cornerstone of public health, emphasized in both international instruments and domestic laws. Environmental destruction is equated with the destruction of society itself. Administrative police authorities are obliged to take necessary measures to protect society from risks associated with environmental pollution and related diseases—whether of animal, human, or natural origin. These measures include:
 - Monitoring purification of drinking water and safety of water supply systems.
 - Organizing urban and rural sewage collection and disposal systems.
 - Inspecting and controlling facilities involved in food preparation, distribution, and storage, as well as related public venues (restaurants, cafes, kiosks).
 - Implementing programs to control stray and diseased animals (such as extermination of stray dogs and collection of stray cats) and preventing the transfer of diseased animals ([Ardabili, 1984](#); [Najafi, 1983](#)).

7. **Limitations of Administrative Police Powers in Emergency Situations in the Legal Systems of Iran and Iraq**

Emergency situations constitute a complex and critical sphere of modern governance in which the balance between the state's authority to control crises and the protection of citizens' fundamental rights is severely tested. This section, through a comparative analysis of the legal frameworks governing administrative police powers in exceptional circumstances in Iran and Iraq, seeks to clarify the scope of competence, supervisory mechanisms, and the challenges confronting the limitation of such powers. Confronting existential threats such as civil or international wars, catastrophic natural disasters, or widespread health crises requires granting extraordinary powers to the administrative apparatus. However, such powers must not become tools for the systematic violation of civil rights ([Abbasi, 2016](#); [Malmiri, 2006](#)).

7.1. *Philosophical Foundations and the Conceptual Framework of Emergency Powers*

In emergencies, administrative police possess a dual nature: on the one hand, as guarantors of state survival and public order, they require sufficient and immediate tools to repel imminent threats. On the other hand, such broad powers are inherently prone to misuse and encroachment upon individual rights and freedoms. The theory of exceptional circumstances and governmental necessity provides the philosophical foundation for granting these competencies. According to this theory, when

the state's existence or public order faces a serious and immediate threat, the administration is permitted temporarily to depart from ordinary legal rules. Such departure does not signal the invalidity of the rule of law but represents the principle of "exceptional legality," subject to four conditions: the existence of a genuine exceptional threat, the impossibility of managing the crisis with ordinary means, adherence to proportionality in measures, and the continuation of judicial oversight. The ultimate aim is not the absolute suspension of rights but the creation of a delicate balance between the necessity of preserving the state and safeguarding the core of human rights (Katouzian, 1996; Mohaghegh Damad, 1985).

7.2. *Legal Framework and Scope of Emergency Powers in Iranian Law*

The Iranian legal system, drawing inspiration from Article 79 of the Constitution, sets out a specific framework for exercising emergency powers:

1. **Absolute prohibition of martial law:** Article 79 explicitly forbids the establishment of martial law, a reaction to the widespread abuses of the former regime (Tabatabaei Motameni, 2011).
2. **Temporary imposition of necessary restrictions:** The government is permitted only to impose temporary restrictions, which must:
 - Be approved by the Islamic Consultative Assembly: obtaining prior authorization is a fundamental condition of legitimacy.
 - Be limited to a maximum of thirty days: restrictions expire automatically after this period.
 - Be renewable only through fresh parliamentary approval: extension requires repeating the legislative procedure.
3. **Scope of restrictions:** Necessary restrictions generally concern rights that are inherently subject to temporary suspension, such as freedom of assembly, freedom of movement, and certain economic activities. Non-derogable rights (the right to life, prohibition of torture, non-retroactivity of criminal law) remain protected even in emergencies (Morsali, 2010).
4. **Role of the Supreme National Security Council:** This institution, given its mandate in national security policymaking, plays an advisory and coordinating role in identifying the necessity and type of restrictions. However, the final decision to impose restrictions and to obtain parliamentary approval rests with the Council of Ministers.
5. **Judicial oversight:** Measures and decisions of administrative police during emergencies remain subject to judicial review, particularly by the Administrative Court of Justice. Judicial oversight focuses primarily on ensuring compliance with legal formalities (parliamentary approval), the principle of proportionality, and the protection of non-derogable rights. Jurisprudence emphasizes that the mere existence of an emergency does not justify arbitrary violations of rights (Mahmoudi, 2011; Vizheh, 2009).

7.3. *Legal Framework and Scope of Emergency Powers in Iraqi Law*

In Iraq, emergency powers are primarily defined in the National Safety Law No. 1 of 2004 (Defense of National Safety Law). This law, based on Article 25 of the Transitional Administrative Law, grants special powers to executive authorities:

1. **Competence to declare emergency status:** The declaration of emergency requires joint action by the President and Prime Minister, through an order specifying the reasons, geographical scope, and duration (Article 1).
2. **Periodic renewal:** Emergency status may be renewed periodically for a maximum of thirty days at a time. Failure to renew in writing leads to its automatic termination.
3. **Special powers of the Prime Minister during emergency:** Article 3 grants extensive powers, including:
 - Restricting freedoms: imposing limitations on the freedom of individuals (nationals and foreigners) in urgent cases, without prior judicial order, while ensuring the right to subsequent appeal.
 - Arrests and searches: detaining suspects and searching premises and persons on the basis of sufficient evidence.
 - Curfews: imposing restrictions on movement in critical areas.

- Seizure of property: restricting assets linked to security crimes (terrorism, armed rebellion).
 - Control of communications: monitoring postal and telecommunications linked to crimes.
 - Transport restrictions: limiting land, air, and sea transport.
 - Closure of institutions: suspending or temporarily dissolving institutions, associations, and shops linked to security threats.
 - Revocation of licenses: suspending or revoking licenses related to arms, explosives, and hazardous materials.
 - Military measures: adopting immediate and proportionate military and security decisions.
 - Cooperation with multinational forces: deploying such forces under UN Security Council Resolution 1546 (Abdul Amir Ali, 1981; Muhanna, 1973).
4. **Transparency requirement:** The Prime Minister is obliged to publicize emergency orders and decisions clearly through the media (Article 5).
 5. **Criminal sanctions:** Violations of emergency orders are punishable by imprisonment of up to three years and fines of up to one million dinars (Article 5).
 6. **Coordination of security agencies:** Stress is placed on the cooperation of armed forces, security services, and intelligence bodies in implementing emergency measures (Article 6) (Mushrif, 1998).

7.4. Supervisory Mechanisms and Limitation of Powers in Emergencies

Granting broad powers in emergency situations requires strong supervisory mechanisms to prevent abuse. These mechanisms, in both the Iranian and Iraqi systems, show similarities and differences:

Parliamentary Oversight

- *Iran:* The Islamic Consultative Assembly plays a central role in conferring initial legitimacy (approval of restrictions) and in continuous oversight (authorization of extensions). A simple majority generally suffices for approval and extension (Tabatabaei Motameni, 2011).
- *Iraq:* The initial declaration of emergency requires a joint request by the President and Prime Minister and approval by a two-thirds majority of the Council of Representatives (Article 61(a) of the 2005 Constitution). This strict requirement, due to Iraq's fragmented parliament, has at times made the declaration of emergency practically difficult. Thirty-day extensions depend on a joint written statement of the President and Prime Minister (Abdul Amir Ali, 1981; Muhanna, 1973).

Judicial Oversight

- *Iran:* The Administrative Court of Justice and general courts have jurisdiction to review citizens' complaints against administrative police actions during emergencies. Oversight focuses on compliance with legal procedures (parliamentary approval), proportionality of measures to the threat, and protection of non-derogable rights (Mahmoudi, 2011; Vizheh, 2009).
- *Iraq:* Iraqi courts (including administrative courts, if established) may review both the legality of declaring emergency status (compliance with Article 61(a)) and the legality and proportionality of specific administrative police measures (based on the National Safety Law and related legislation). However, the independence and effectiveness of the judiciary in practice remain contested (Mushrif, 1998).

Transparency and Accountability: Both systems stress the necessity of public notification of emergency declarations, their reasons, scope of application, and the new rights and duties created (Article 5 of Iraq's National Safety Law; Iranian government practice in public announcements) (Malmiri, 2006).

Temporality: The inherent temporality of emergency status (a maximum of 30 days per stage, renewable only under conditions) is the most important guarantee limiting such powers. This principle prevents the institutionalization of exceptional powers (Abbasi, 2016).

7.5. *Fundamental Challenges and Future Approaches in Limiting Emergency Powers*

Despite legal frameworks, the effective limitation of administrative police powers in emergencies faces serious challenges in both countries:

Ambiguity in Defining Exceptional Circumstances and Necessity: The constitutions and ordinary laws of Iran and Iraq lack precise and comprehensive definitions of emergency conditions—for example, “war” (Article 79 of the Iranian Constitution) or “serious danger” (Article 1 of Iraq’s National Safety Law). This ambiguity enables broad executive interpretation and potential abuse (Katouzian, 1996; Mohaghegh Damad, 1985).

Challenges of Parliamentary Oversight

- *Iran:* Weakness of mechanisms for continuous parliamentary monitoring of restrictions after initial approval.
- *Iraq:* The two-thirds majority requirement for initial approval in a fragmented and multiparty parliament can hinder swift state responses to acute crises, as seen in past security emergencies. Effective parliamentary oversight of the Prime Minister’s extensive powers during emergencies is also limited (Navin, 2007).

Limitations of Judicial Oversight

- Difficulty in verifying the reality of the threat: courts often lack the expertise and information to assess accurately the government’s claim of exceptional danger.
- Security and confidentiality considerations: governments frequently invoke the secrecy of security information to withhold complete evidence from courts.
- Broad administrative discretion: in determining necessity and proportionality, wide judicial deference is usually granted to the administration (Morsali, 2010).

Risk of Violating Non-Derogable Rights: The pressures of severe crises may lead to the violation even of fundamental rights (such as the prohibition of torture or the right to a fair trial) under the guise of necessity. Effective safeguards to prevent such violations are often insufficient (Ardabili, 1984; Mousavi Khomeini, 1999).

Weakness of Civil Society and Independent Media: In emergencies, the space for civil society organizations and free media—actors that play a vital role in exposing abuses—is typically narrowed. This undermines accountability and facilitates unchecked expansion of emergency powers (Vizheh, 2009).

8. Conclusion

Society requires law to clearly define the scope of duties and competences so that individuals act within the framework established by the legislature. Likewise, these legally defined competences must be subject to impartial supervisory authorities to prevent deviation from the law, encroachment on authority, or violation of others’ rights, ensuring balance, order, and security in society. Therefore, determining the discretionary and administrative competences of the police in Iran and Iraq is one of the essential requirements of public law in these countries within the framework of the rule of law.

In Iran, the practice of administrative police authorities has shifted from serving public security, health, and welfare toward emphasizing governmental security. In principle, administrative police authorities must make decisions in favor of the people, and such decisions should not create a gap between citizens and political power. As part of the executive branch, administrative police officials are required to prioritize the public interest. Moreover, civil liberties must be recognized within the administrative police system, and the rights guaranteed in the Constitution must not be undermined by secondary regulations enacted by administrative police officials. Achieving this goal requires proper education and intellectual reinforcement of police authorities.

In Iraq, the legislator often delegates to administrative authorities the competence to assess risks, evaluate dangers, and select the most appropriate measures. This means that within the framework of law, administrative police authorities enjoy discretionary power in decision-making. They may choose and implement actions suited to the specific circumstances of each case, considering the severity of risks and local or temporal conditions. The justification for this discretion lies in the complexity and diversity of daily issues that threaten public order.

Accordingly, the scope of intervention of Iraq's administrative police is inherently limited to safeguarding public order, with its three essential elements of security, health, and tranquility. This institution is not authorized to interfere in private matters or enter personal domains, unless activities within the private sphere directly and tangibly disrupt public order.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

Acknowledgments

Authors thank all who helped us through this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

According to the authors, this article has no financial support.

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