

# The Role Of The Electronic Public Administration In Protecting The Principle Of Equality Between Citizens In The Public Unities In Jordanian Legislation

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## **Abstract**

In light of Jordan's orientation and its transformation to electronic management in managing public utilities and providing services to service recipients. They ensure the Jordanian constitution and legislation the right to equality and non-discrimination in general, and to public utilities in particular. This study determined the role of the transition to electronic administration in Jordan. It is also came to ensuring the principle of equality and the provision of services to service receivers, and its ability to get rid of administrative problems related to traditional administrative methods, especially patronage, nepotism, and discrimination in the provision of services.

The study concluded that the public authority must respect the principle of equality; regardless of the methods it manages the public utility. The provision of services electronically and the transition to electronic administration would ensure equality, non-discrimination, disposal, and elimination of administrative corruption and the disadvantages of traditional administration. The study recommended accelerating the transformation towards applying electronic administration in Jordan, as this will develop the administration, increase its effectiveness, struggle against administrative corruption and reduce the expenses that the government seeks to achieve.

## **Introduction**

The scientific and technological revolution that the world witnessed recently has brought great changes in all lifestyles, means of production, methods of work, and dealing at the local, regional and global levels. This prompted countries to develop the working methods of their public administration and improve their outputs, through the trend towards electronic society and digital technology, which led to the emergence of a modern administrative concept that is a transformation in administrative practice represented in the electronic public government system.

Electronic management is a developed administrative method providing the highest level of services and access to what advanced countries have achieved in the digital and technological revolution that currently prevails in the world. The electronic administration provides a distinguished service in a simple way, high quality, less time, effort and costs. Moreover, it shortens the routine procedures that the customer suffers with the traditional administration, achieves more transparency and clarity, reduces dependence on paperwork and its negative effects, and achieves a higher performance level for the public administration.

One of the most prominent manifestations of the legal state and the application of democracy and

human rights is to bring a comprehensive development in various aspects of life. These aspects are judged on a degree of justice, equality, and non-discrimination, respecting the human being and striving for his progress and achieving the highest levels of well-being for citizens through the state's public facilities. Consequently, one of the most important legal principles governing the work of these facilities is the principle of equality before the law stipulated in the Universal Declaration of Human Rights. Most constitutions of the countries have adopted it in their legal systems, including the Jordanian legal system. Therefore, the Jordanian administrative authority must apply and respect this principle in the dealing of users of public utilities in Jordan.

Jordan, like other countries, has sought electronic transformation through the enactment of Electronic Transactions Law No. 15 of 2015. It adopted a national strategy for the process of transition to electronic management, aware of the positive outcomes that will result from this transformation, especially with regard to struggling against corruption, fighting patronage and nepotism, and providing services to beneficiaries and those dealing with the administration on the basis of equality and based on constitutional and legal rules.

This study will be divided into two parts; the first one is about the concept of electronic management and what distinguishes it from other synonymous terms. The second one is about the right of equality in general, the principle of equality in public utilities, and the role of electronic administration in protecting and achieving this.

### **Research significance**

The significance of this study represented in shedding the light on the extent of the electronic administration's contribution and success in

promoting the application of what was stipulated in the Jordanian Constitution (M/1/6) "Jordanians are equal before the law. There is no discrimination between them in rights and duties, even if they differ in race, language or religion," especially addressing the principle of equality before public utilities in Jordan, in light of the failure of the traditional public administration to struggle against administrative corruption, to eliminate the privileges and influence of classes and sects.

### **Research problem**

Equality is one of the most governing principles and rights firmly rooted in the lives of individuals and peoples. The strength of society, the integrity of its structure, and good citizenship are derived from it. For this importance, the Jordanian constitution explicitly stipulates the achievement of equality among Jordanians, but there are some shortcomings in applying this principle due to the traditional methods of administration, therefore, to what extent can equality be preserved and respected in light of the transition to electronic management? This problem can be addressed by answering the following questions:

- What is meant by electronic management and the reasons for its superiority over traditional administrative methods?
- What is meant by the right to equality in international human rights law and Jordanian legislation?
- What is the constitutional and legal value of the principle of equality of Jordanian citizens before public utilities?
- To what extent can the electronic management system respect and protect the principle of equality for citizens before public utility services?

### **Research methodology**

This study used descriptive and analytical approaches to achieve its aims. They reviewed Jordanian books, studies, and legal texts related to electronic administration and its role in promoting the principle of equality for citizens before public utilities and analyzed these texts to show the impact of the application of electronic administration on strengthening the constitutional value of the equality principle.

### **The first topic**

#### **The concept of electronic management and the methodology of its application**

The rapid development in communication and information systems and networks has brought a development in the administrative and financial systems. In this term, it was positively reflected on facilitating the work and interests of citizens and investors because of the efforts of governments and their transformation in their methods of work to electronic management.

To clarify what is meant by this modern administrative term, this topic will be divided into two parts: first, we define electronic management and distinguish it from other synonymous terms in the second part.

The first part: the definition of electronic management

The term electronic management stems from what has been presented by the recent literature in management related to the development of electronic technologies, such as digital government, e-marketing, e-commerce, e-business, e-offices, and others.

Electronic administration is defined as the administration that depends on the use of computers, internet networks, various websites, and digital information technology in the completion of administrative transactions, providing utility services, and communicating

with citizens in a more democratic manner (Qabilat, Hamdi (2019), Electronic Public Administration Law, House of Culture, Amman, p. 32).

It is defined as the administrative process based on the distinct capabilities of the Internet and business networks in planning, directing, and controlling materials to achieve the desired goals. (Najm, Abboud (2009), Management and Electronic Knowledge, Al Yazouri Scientific Publishing and Distribution House, Amman, p. 160)

The World Bank defines it as the process of government institutions using information and communication technology to increase the efficiency, effectiveness, transparency, and accountability of the government in the services it provides to the citizen and the business community, and empowering them with information, in a way that supports all government procedural systems, eliminates corruption and gives citizens the opportunity to participate in all stages of the political process and related decisions that affect various aspects of life, and it contributes to increasing citizens' conviction of the role of government institutions in protecting them.

The United Nations defined it as the use of the Internet and the World Wide Web to provide government information and services to citizens. (<http://ar.wikipedia.org/wiki>)

Some defined it as implementing government procedures in various fields electronically through government websites placed on the Internet or on a special extranet. This implementing based on the nature of the procedures to provide services to all categories of beneficiaries, bypassing the spatial and temporal communication factor to achieve quality and excellence and ensure confidentiality and information security. (Al-Ali, Muhannad Al-

Nasser (2019), E-Government and its Implications for Public Administration, Tishreen University Journal - Economic and Legal Sciences Series, Volume 5, Issue 33, pp. 32-36)

It is defined as the function of completing work using electronic systems and means (Yassin, Saad Ghaleb (2005), Electronic Administration and the Prospects of its Arab Applications, Institute of Public Administration, Riyadh, p. 22).

It also means converting all paper-based administrative processes into electronic ones using modern technologies and developing the information structure within the institution. (Kafi, Mustafa Youssef (2009), Electronic Government in the Light of the Contemporary Scientific and Technological Revolution, Dar Raslan for Printing and Publishing, Damascus, p. 28.)

Due to the keenness of the Jordanian legislator and his awareness of the necessity of switching to electronic management to keep pace with the acceleration of technological progress and the wealth of knowledge associated with it, and to employ modern technology for the benefit of society, the Jordanian Electronic Transactions Law No. 15 of 2015 permits government departments and public institutions to provide their services electronically.

Article 4 stipulates that “Any ministry, official public institution, public institution, or municipality may conduct its transactions using electronic means, provided that the requirements for electronic dealing contained in this law, regulations, and instructions issued hereby.

### **The second demand: Distinguishing electronic management from similar terms**

There is a debate about the Synonyms and convergent terms of electronic management, Such as e-government, smart government, and others. To find out the truth of these differences, we refer to the following:

### **First: Distinguishing electronic administration from traditional public administration**

The traditional public administration is defined as the administrative entity formed by nations and states to manage the affairs of the country and to make strategic decisions that will affect one way or another political, economic and social future of citizens. This entity covers many activities at the country's management level, from economic and military strategic planning, to developing the country's relations with its surroundings. It is also from managing disasters and crises to promoting and developing the national product through multiple means and ways that vary according to the circumstances of the time stages the country is going through. In addition to preserving the citizen and ensuring his security and health, and setting educational plans to produce a new generation of citizens qualified in the future to take over the public administration, including its complexities (Badran, Abbas (2004), e-government from strategy to implementation, the Arab Institute for Studies and Publishing, Beirut, p. 27).

Electronic administration uses new methods in the public administration to achieve its goals through electronic participation with citizens in a way that achieves transparency and speed in conducting transactions and avoiding bureaucracy and routine. It also uses a new pattern of performance at all levels, whether in its external relationship with citizens or suppliers or its internal relationship with its employees. That is, electronic management is the next stage for the traditional government, which moves society into the era of the communications revolution (Zaki, Iman Abdel Mohsen (2009), e-government, an integrated administrative approach, the Arab Development Organization, Cairo, p. 26).

## **Second: Distinguishing electronic administration from smart government**

The smart government is the natural development of the electronic management model, as it is a government that provides services to beneficiaries in integration with other electronic bodies, to obtain the data necessary to provide the service automatically to the beneficiary. This entity also plays its role in integrating and providing the data of the beneficiary of the service to other electronic entities.

The smart government and its applications interact directly and simultaneously with the data spread in the community and its various components linked to the Internet, such as surveillance cameras, climate sensors, energy and electricity consumption measuring devices linked to the government internet network, and other tools that help in developing a new electronic environment. The government may benefit from it in operating and maintaining its services in a more efficient, less costly manner and less vulnerable to human errors or administrative abuses (Al-Aboud, Fahd bin Nasser (2016), Smart Government, Scientific Application of E-Government Transactions, 3rd Edition, Obeikan Publishing, Riyadh, p. 19).

## **Third: Distinguishing between e-government and electronic management**

There is a debate between the concept of e-government and e-management, as some consider e-management to be the whole and e-government is part of its applications. The term electronic administration is more extensive than electronic government, as it is a large umbrella from which different applications branch out, such as e-commerce, e-business, and e-government (Ayoub, Nadia (2004), Electronic Administration: Management and New Variables. The Second Forum, The Saudi Arab Association. Riyadh, p. 3)

While others believe that the term e-public administration should be used instead of e-government, because the government's task in the term of e-government is limited to its administrative aspect in managing public utilities and providing its public services to the public regularly and steadily, i.e. the activity of the administrative authority or public administration in the organic sense. If the public administration invested the data of scientific progress and the information network instead of paper, this does not mean that administration has turned into a government. Even if the government uses electronic means, this does not mean that it is an electronic government, as there is a huge difference between an electronic government and governmental electrons, that is, its use of electronic data (Al-Majzoub, Tariq (2005), Public Administration, the Administrative Process, Public Service, and Administrative Reforms, Al-Halabi Human Rights Publications, Beirut, p. 912).

There are those who call for neglecting the difference between the two terms, as there is no difference on the main goal of electronic administration or e-government, which is continuous improvement and achieving better services for citizens and those dealing with the administration (Al-Hassan, Hussein (2009), electronic management between theory and practice (The International Conference on Administrative Development towards Distinguished Performance in the Governmental Sector. Institute of Public Administration. Riyadh, p. 14))

## **The second topic**

### **The situation of the electronic administration from the right of equality and non-discrimination**

The right to equality and non-discrimination is one of the most important human rights and a

basic principle in democratic systems. It is a general right from which other human rights are branched. This was confirmed by Article 7 of the Universal Declaration of Human Rights: "All human rights are based on equality and non-discrimination; they are equally entitled to the protection of the law without discrimination, they are also entitled to equal protection from any discrimination in violation of this Declaration and from any incitement to such discrimination."

This topic will be divided into two requirements to talk about this right, especially in front of public utilities. The first is about the concept of equality before the law. The second is about the principle of equality before public utilities.

The first requirement: electronic management and the concept of equality before the law

Legal equality or equality before the law means that everyone has the same rights and has the same obligations from those of equal capabilities, qualifications, and legal positions. There is general equality that all enjoy it equally. Special equality, which is equality between a group of individuals who enjoy the same qualifications, and it, is not permissible to discriminate in treatment because of race, color, religion, political or intellectual tendencies (Al-Fatlawi, Suhail (2016), Human Rights, 5th edition, House of Culture, Amman, p. 174)

Discrimination is the other face of inequality, and it means differentiation or disparity in treatment between individuals of similar legal positions, whether by giving advantages or imposing burdens, provided that this differentiation in treatment is for a prohibited reason for discrimination such as race, gender, language, etc. Discrimination may be perpetrated by public authorities, employers, or private organizations (Alwan, Muhammad Youssef (2014), International Human Rights Law, House of Culture, Amman, p. 99) Ibrahim, Bahaa El-Din

(2008), Human Rights between Legislation and Application, Alexandria, University House, pg. 428)

Human rights sometimes allow deviations from the principle of equal treatment if there is an objective and reasonable justification for the distinction, so that the measures adopted are proportional to the legitimate goal that is desired to be achieved. Therefore, it does not conflict with the right of inequality, discrimination on the grounds of biological differences, individual traits, mental abilities, diligence, discernment, vigilance, negligence, honesty, and betrayal, or restricting some rights to citizens only (Alwan, International Law of Human Rights, previous reference, pp. 104-511) (Makhademeh, Muhammad Ali (2015), Human Rights in the Jordanian and International Legal System, Irbid, p. 162).

Through the electronic administration, these differences in treatment can be taken into account by preparing in advance for this through a strategic plan for the administration and transferring this to a computer program in a professional manner, so that it applies to all those covered by these differences without any discrimination.

The Jordanian legislation was following the Universal Declaration of Human Rights and the international conventions maintained by Jordan related to this matter. The Jordanian constitution, which is the supreme law and the source of all rights and freedoms enjoyed by the Jordanian citizen, stipulates the right to equality of Jordanians before the law and non-discrimination between them in rights and duties. Article 6/1 of the Jordanian constitution stipulates that "Jordanians are equal before the law, with no discrimination between them in rights and duties, even if they differ in race, language or religion." This means Jordan's commitment to implementing the right to equality and non-

discrimination, in terms of refraining from any discriminatory practices, enacting laws and taking all appropriate measures to eliminate any violations of this right, and setting national policies that are mandatory for its full implementation (Khazraji, Orouba (2012), International Human Rights Law, 2nd Edition, House of Culture, Amman, p. 399).

As for the Jordanian civil service system, which is the Jordanian legislation concerned with public utilities and their management, it is noted that it is concerned with the right of equality and non-discrimination in regulating these utilities, whether in appointment to public office or providing services to beneficiaries. The system was based on a set of principles and values based on justice, equality, impartiality, equal opportunities, and non-discrimination based on gender, race, religion, or social status. (Article 4 Civil Service System No. 9 of 2020 and its amendments)

The Jordanian civil service system mandated the public employee to perform his job with impartiality, complete equality, and without discrimination. When the employee is appointed, he takes the following oath: "I swear by God Almighty, to work honestly and faithfully, to preserve the state's property and prestige, and to perform my job and its duties impartially and without any discrimination." (Article / 67 / A Civil Service Law No. 9 of 2020 and its amendments).

The system also obligated the employee with a code of conduct and ethics for the job based on treating the service recipients with respect and appreciation and providing services to them in the best possible way, based on impartiality, objectivity, and justice without discrimination between them based on gender, race, religious beliefs or any form of discrimination (Article /68/c/ Civil Service Law No. 9 of 2020 and its amendments)

The second requirement: the impact of electronic management on the principle of equality before public utilities

The principle of equality before public utilities is considered one of the most important general legal principles that govern the work of public utilities, regardless of their type of activity or the way they are managed. It is considered a source of legality in administrative law, even if it is not mentioned in a legal text, and it means that there is no discrimination between the beneficiaries of these facilities who have similar legal positions (Sheha, Ibrahim Abdel-Aziz (2010), Principles and Provisions of the Lebanese Administrative Judiciary, The new university house, Beirut, pp. 108-110.).

This principle is based on the commitment of the authorities in charge of managing public utilities to perform its services for all those who request them from the public based on legal equality, who have similar legal positions, and who meet the conditions for benefiting from them. Equality before public utilities is not absolute, and the administration can distinguish between the beneficiaries of the treatment because of their different objective circumstances. Equality between individuals is in terms of costs and burdens, and not only in terms of privileges and services (Al-Khalayleh, Muhammad (2018), The Mediator in Administrative Law, 2nd Edition, House of Culture, Amman, p. 196).

The Jordanian constitution did not explicitly stipulate the principle of equality before public utilities, but he spoke about the principle of equality before the law in general, which one of its natural and inseparable results is the principle of equality before public utilities. Article 6/A of the constitution stipulates that Jordanians are equal before the law and that there is no discrimination between them in rights and duties even if they differ in race, language or religion.

The use of the electronic management system in public utilities ensures the achievement of equality between the beneficiaries. This ensured in a way that exceeds the traditional system, by preventing or reducing discrimination between individuals on the basis of personal relations, kinship and nepotism, or political or sectarian affiliations and other matters. This will be clarified through:

First: Achieving the neutrality of the public facility electronically

The traditional management system depends on human elements that may seek to achieve and give priority to their interests in the public interest. The electronic management system ensures the achievement of the impartiality of the public facility by dealing with all individuals in the same way without consideration for political trends, special interests, or favoritism. Under electronic administration, the beneficiary can complete his transaction while sitting at his home by submitting the application via the computer and waiting for the result. The use of electronic management leads to getting rid of the problem of nepotism and patronage that the traditional management system suffers from and helps in increasing efficiency, effectiveness, integrity, and transparency (Kabelat, Electronic Public Administration Law, previous reference, p. 70)

To achieve the effectiveness of the principle of equality before public utilities, in light of the increase in the spread of the Internet and its uses, the presence of people in society who are not fluent in using computers and modern technologies, or who do not have computers, and cannot access the Internet from their homes; thus, to ensure the principle of equality, it is crucial to provide the necessary infrastructure and electronic devices for this and to make them accessible to all. This is done through the establishment of electronic kiosks through organized urban planning in all regions, enabling

these people to enter the electronic administration network and equate them with others who can enter, to obtain its services (Al-Mobaideen, Safwan (2011), E-Government Models, Applications and International Experiences, Al-Yazuri Scientific Publishing and Distribution House, Amman, p. 36), (Al-Kidwa, Mahmoud (2010), E-Government and Contemporary Management, Osama House for Distribution and Publishing, Amman, p. 182) and (Qubilat / Electronic Public Administration Law, previous reference, p. 72)

In sum, the state can achieve the principle of equality through electronic management by providing an opportunity for everyone, securing the requirements for benefiting from electronic management services, removing all obstacles to those who are unable to use computers, accessing the information network, and roaming between its sites.

Second: the emergence of new applications of relative equality

The most important impact that the electronic management system of the local public utility achieves on the principle of equality is the stipulations contained in the regulatory rules under which electronic communication services are provided. The most important of which is the lack of distinction between individuals and the determination of the usage fees required to establish electronic portals. The administrative development must include all administrative work procedures and without differentiating between the new services that are available through the Internet and the regular traditional services, so that there is no individual who is not included in the development and facilitation of government services. If the administration shows flexibility in dealing with an electronic document, the requirement of the principle of equality requires it to generalize this flexibility over traditional paper documents. Nevertheless,



electronic means in government transactions will continue to pose a constant threat to the principle of equality between individuals before the public utility, until the state works to maintain the traditional methods of dealing with government departments in parallel with modern electronic channels while encouraging the latter through incentives that do not violate the principle of equality (Gustav Johnson (2003), E-Government and Administrative Law, Working Paper Presented to the First Kuwait Conference, on E-Government, October, p. 1)

The relative equality of the use of the public utility will have some applications under the e-government system. This is done by encouraging citizens to deal with the e-government by providing some incentives, such as exemption from some fees, or granting them some advantages, as the legislator permitted discrimination between the beneficiaries without considering this as a violation of the principle of equality when certain circumstances necessitate this distinction (Qubilat / Law of Electronic Public Administration, previous reference, p. 73)

### **Conclusion**

In this study, we dealt with e-management and its role in achieving and maintaining the principle of equality before public utilities, through which we dealt with the definition of e-management and distinguishing it from other synonymous terms. We dealt the concept of the right to equality in general, and the principle of equality before public utilities in international law and Jordanian legislation. We also explained the effects of the use of electronic management and electronic transformation, in maintaining the principle of equality and enjoyment in it and getting rid of all the negatives that threaten it, such as nepotism and patronage, which find the appropriate environment for it under the traditional administration.

The study concluded with a set of results and recommendations, the most prominent of which is that electronic transformation in Jordan will ensure the preservation of the right to equality in general and the preservation of this principle in front of public utilities in particular.

### **Results and recommendations**

#### **First: Results**

- 1- The public authority must respect the principle of equality, whatever the method of managing the public facility, whether it is directly administrative through the central authority, the local administration, or by providing its services electronically.
- 2- Providing public utility services electronically and switching to electronic administration would ensure equality and non-discrimination between individuals in obtaining these services, and would help in eliminating administrative corruption and the negatives of traditional administration.

#### **Second: Recommendations**

- 1- Accelerating the transformation towards the application of electronic administration in Jordan to provide public services to those who are dealing with the public administration. This accelerating will develop the administration, increase its effectiveness, fight against administrative corruption, achieve justice and equality, get rid of nepotism and patronage, and reduce the expenditures that the government seeks to achieve.
- 2- The electronic transformation in our public administrations should be compatible with the capabilities of the government and service recipients, and

gradually until we reach the level of the countries that precede us in this field.

- 3- Studying international experiences in the field of electronic management and benefiting from the experiences of developed countries in this field, in order to reach an effective electronic administration that is compatible with our capabilities, circumstances and the culture of our society.

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