DISCIPLINARY SAFEGUARDS FOR FACULTY MEMBERS IN PALESTINIAN UNIVERSITIES: A COMPARATIVE ANALYTICAL STUDY OF THE ARAB AMERICAN UNIVERSITY

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ABSTRACT

Objectives: The main focus of this study is to provide an in-depth analysis of the disciplinary safeguards in place for faculty members at Arab American University and other higher education institutions. The research seeks to identify and highlight specific shortcomings and weaknesses in the current system, while also proposing practical solutions and recommendations to rectify these issues. Ultimately, the aim of this research is to promote a well-functioning educational system that prioritises the job security and well-being of all educators.

Methods: Our study utilises a descriptive, analytical, and comparative approach in examining the disciplinary guarantees of faculty members at Arab American University and comparing them to other institutions of higher education.

Results: The results showed that it was prohibited to impose any penalty, except after the investigation. In addition, the First Instance and Appeal Disciplinary Board at the Arab American University should be formed by the Deans’ Council. Moreover, the system does not require the presence of a member of the Faculty of Law in the disciplinary councils.

Conclusion: It is concluded that faculty members in higher education institutions hold a critical role in society as they serve as the foundation of the educational process. However, these esteemed professionals may occasionally make mistakes, which require accountability. In such instances, it is essential to ensure that any disciplinary measures are fair, just, and transparent. Such measures will not only maintain psychological stability but also establish trust between faculty members and the university administration.

Keywords: disciplinary system, administrative investigation, provisional suspension, erasure of disciplinary punishment, academic staff.

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RESUMO

Objetivos: O foco principal deste estudo é fornecer uma análise aprofundada das salvaguardas disciplinares em vigor para os membros do corpo docente da Universidade Árabe-Americana e de outras instituições de ensino superior. A investigação procura identificar e realçar deficiências específicas no sistema atual, propondo simultaneamente soluções práticas e recomendações para retificar estas questões. Em última análise, o objetivo desta investigação é promover um sistema educativo que funcione bem e que dê prioridade à segurança no emprego e ao bem-estar de todos os educadores.

Métodos: Nosso estudo utiliza uma abordagem descritiva, analítica e comparativa na análise das garantias disciplinares dos membros do corpo docente da Universidade Árabe-Americana e comparando-as com outras instituições de ensino superior.

Resultados: Os resultados mostraram que era proibido impor qualquer penalidade, exceto após a investigação. Além disso, o Conselho de Disciplina de Primeira Instância e Recurso da Universidade Árabe-Americana deve ser formado pelo Conselho de Reitores. Além disso, o sistema não exige a presença de um membro da Faculdade de Direito nos conselhos disciplinares.

Conclusão: Conclui-se que os membros do corpo docente em instituições de ensino superior têm um papel crítico na sociedade, pois servem como base do processo educacional. No entanto, esses estimados profissionais podem ocasionalmente cometer erros, que requerem prestação de contas. Nesses casos, é essencial garantir que todas as medidas disciplinares sejam justas e transparentes. Tais medidas não só manterão a estabilidade psicológica, mas também estabelecerão a confiança entre os membros do corpo docente e a administração da universidade.

Palavras-chave: sistema disciplinar, inquérito administrativo, suspensão provisória, supressão de punição disciplinar, pessoal acadêmico.

1 INTRODUCTION

1.1 PROBLEM STATEMENT

Higher education institutions have taken the significant responsibility of promoting the importance of science in developing societies and preparing future generations. In order to achieve this, universities are committed to organising and revamping their administrative processes to enhance their academic systems (Ghenkis A.Ezcurra-Zavaleta and others, 2023).

This is accomplished by striking a balance between the principles of effectiveness and guarantee, while focusing on the best interests of the students. The principle of effectiveness aims to ensure that the teaching process in higher education institutions serves the educational system. On the other hand, the principle of guarantee affirms the
faculty member's right to procedures and guarantees that offer legal and psychological stability. This helps in motivating them to work hard and respect the dignity of the educational process. Establishing universities as institutions that prioritise common interests requires a robust disciplinary system.

This system should include legal rules that outline the job duties of each faculty member and provide consequences for any harmful behaviours that undermine the educational environment. The primary objective of this research is to delve into the importance of striking a balance between the principles of effectiveness and guarantee in higher education institutions. More specifically, it shall scrutinise the administrative procedures and regulations that foster scientific excellence while simultaneously ensuring the protection of the rights of teaching personnel. With the establishment of an environment that is steadfast and supportive, this study endeavours to promote the provision of top-notch education and research.

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The research problem is insufficient disciplinary protections for faculty members in Palestinian higher education institutions. The study will seek to answer the following questions:

1. What measures are in place to safeguard the rights of faculty members when facing disciplinary action?
2. How do these protections align with ensuring the uninterrupted delivery of education?
3. What are the strengths and weaknesses of the current disciplinary safeguards?

2 METHODS

Our methods included a descriptive, analytical, and comparative approach in examining the disciplinary guarantees of faculty members at Arab American University
and comparing them to other institutions of higher education. To ensure we cover this topic thoroughly, we divided our study into two main sections. The first section focuses on contemporary disciplinary guarantees, specifically investigating and suspending faculty members from their work. The second section covers subsequent disciplinary guarantees, including appealing and erasing disciplinary punishments. In this study, we will focus on these two requirements as they represent contemporary disciplinary assurances. Specifically, we will examine the administrative investigation process and the potential need for suspensions in the interest of a just investigation.

3 THEORETICAL FRAMEWORK

3.1 CONTEMPORARY DISCIPLINARY GUARANTEES FOR IMPOSING PENALTIES

It is crucial for Palestinian universities to maintain the continuity of their educational process, and this can be achieved through the full commitment of their staff, particularly the teaching staff. Article 3 of the disciplinary procedures for faculty members at Arab American University emphasises this. Similar instructions can be found in Article 31 of the teaching staff's instructions at Al-Istiqlal University, Article 30 of the academic staff's bylaw at Birzeit University, and Article 21 of the faculty's bylaw at Palestine Ahliya University.

Ensuring justice and fairness within a university's disciplinary system is of utmost importance. The teaching staff members should not be subjected to arbitrary punishment and must be provided with sufficient guarantees to defend themselves against any disciplinary actions brought against them. The disciplinary process should be administered with proper controls and adherence to the guidelines outlined by, which provide the necessary framework for the faculty member's punishment. It is crucial to maintain a just and fair environment for all individuals involved in the disciplinary process, and to uphold the rights of the teaching staff members (Zain El-Din in 2010).

The disciplinary procedures for faculty members at Arab American University are marked by two critical factors that ensure fairness and equity. Firstly, prior to any disciplinary action being taken, a faculty member must undergo a thorough investigation. Secondly, if deemed necessary for the investigation, the faculty member may be suspended from work.
3.2 INVESTIGATING A FACULTY MEMBER

When an accusation of misconduct is made against a faculty member, a thorough investigation is conducted to determine the veracity of the claim. This investigation serves two important purposes. Firstly, it is established as an essential step in the disciplinary process, providing the accused faculty member with an opportunity to refute the allegations and defend their reputation. Secondly, it is a practical stage that requires administrative authorities to adhere to the guarantees and regulations outlined in university policies. This ensures that the process is fair and transparent, and that all parties involved are held to the highest standards of professionalism and integrity.

Upon conducting an in-depth analysis of the regulations and guidelines pertaining to disciplinary procedures for faculty members in Palestinian universities, it becomes apparent that they are equipped with contemporary and appropriate measures to ensure the fair and just conduct of investigations.

3.3 CONFRONTING THE FACULTY MEMBER WITH THE CHARGES AGAINST HIM AND GIVING HIM THE RIGHT TO DEFEND HIMSELF

A fundamental guarantee for any accused individual is the ability to defend themselves, allowing them to address any injustice done to them using all legitimate means. This principle aligns with the values of justice and fairness (Yaqout, 2006).

Typically, when addressing allegations made against a faculty member, the recommended course of action is to initiate a confrontation. This confrontation should involve the faculty member being informed of the allegations levied against them, granting them access to their personal file to prepare their defence, and allowing them to submit any supporting evidence that may aid in their defence. This approach is designed to ensure a fair and just process for all parties involved (Nikolai Pauzin and others, 2022).

3.3.1 Confronting the Faculty Member with the Charges Against Him

In any dispute, justice and fairness dictate that all parties have the right to discuss and challenge the evidence presented by their opponent. Similarly, when a faculty member is facing disciplinary action, it is essential that they are made aware of the charges against them and given the opportunity to prepare a defence. This not only ensures the legitimacy of the accountability procedures but also allows the faculty member to understand the gravity of their situation. (Al-Tarawneh, 2011).
According to Article (6) of the Disciplinary Procedure Instructions at Arab American University, disciplinary action against a faculty member cannot be imposed, intensified, or reduced without first providing them with a fair hearing and the opportunity to defend themselves. This same guarantee is also outlined in Article (24/b) of the faculty system at Palestine Ahliya University, Article (34/b) of the faculty instructions at Al-Istiqlal University, and Article (33/b) of the academic staff system at Birzeit University.

The manner in which a notification is sent does not have a specific form, but it is necessary that it clearly states the reason for the notification. It is also important that the notification is kept confidential and sent directly to the faculty member's email or delivered by hand. The administrative body has a responsibility to inform the faculty member in a clear and unambiguous way to enable them to defend themselves.

It is imperative to acknowledge that disregarding a notification can result in a deficiency in procedures, rendering any disciplinary action unlawful. Failing to apprise a faculty member of charges being brought against them undermines the investigation's guarantees, leading to an invalid disciplinary penalty. Conversely, if the administrative authority shares the charges with the faculty member and invites them to respond in a non-confidential setting, the faculty member can take legal action against anyone who intentionally discloses the information, asserting moral damages.

In order to maintain a fair and just investigative process, it is imperative that faculty members are not only informed of any charges brought against them but also given unfettered access to the entire case file, including all pertinent documentation and evidence. This right of access is not only a critical aspect of ensuring the validity and reliability of the investigative process but is also established as a lawful guarantee of peace of mind for the faculty member in question. Abu Al-Ezz (2004) noted that this right to access is an essential component of any equitable and just investigative process.

3.3.2 Ensuring the Right to Self-Defence

The right to self-defence is a crucial and fundamental guarantee for any individual who is accused of a wrongdoing until they have had the opportunity to address and refute any unjust accusations against them. It can be particularly unjust for a faculty member to have their hands tied or be denied the chance to defend themselves against any charges made against them. As such, the right to defence is a sacred and important right that should be upheld.
When reviewing the disciplinary procedures at Arab American University, Article Six outlines a faculty member's right to provide a written or verbal defence. While verbal investigations are allowed, they must be documented in writing. Additionally, a faculty member can choose to remain silent without it being seen as an admission of guilt (Al-Shteiwi, 2013).

As per the guidelines set forth by Al-Istiqlal University and Palestine Ahliya University, academic staff members are entitled to access their investigation files. This provides them with the opportunity to review the procedures that were followed during the investigation process, as well as any relevant documents, reports, or papers. Additionally, it enables them to take any necessary steps to defend themselves against any accusations. Article (38/b) and Article (28/b) of the aforementioned guidelines underscore the importance of uncovering the truth and safeguarding the rights of academic staff members.

Faculty members possess the entitlement to seek legal counsel, even if it is not explicitly outlined in university regulations. This entitlement is crucial in upholding the principles of justice and impartiality and is formally recognised under Article (89/2) of Executive Regulations No. 45/2005, which pertains to the Palestinian Civil Service Law.

In the Instructions for Disciplinary Procedures for Faculty Members at the Arab American University, Article No. (10/b) specifies that a faculty member under investigation can seek assistance from a representative belonging to the university's workers' union or the administrative and academic staff. A similar provision is stated in Article (33/b) of the academic staff system at Birzeit University, and Article (28/b) of the faculty system at Palestine Ahliya University also addresses this issue.

The approach implemented by Palestine Ahliya University's faculty members proved to be more effective in addressing this issue. Their system grants faculty members the freedom to seek assistance from anyone they choose, regardless of whether they are affiliated with the university or not. It is crucial that we consider adopting a similar approach to allow faculty members to obtain the necessary support they require, whether it be from within or outside the institution.

It is imperative to acknowledge that the right to self-defence for a faculty member is not without limitations. In the event of a penalty, a faculty member is granted a specific period to file an appeal with the Appeals Council. Failure to do so within the allotted time frame would result in the forfeiture of this right. As outlined in Article (14) of the
disciplinary procedures for faculty members at the Arab American University, an appeal may be submitted to the Appeal Committee within (15) days of receiving notification of the penalty.

One way a teacher can overstep their self-defence boundaries is by refusing to attend an investigation committee session even after being notified and invited to present their defence. This absence violates their right to defend themselves (Fouda, 2010).

In instances where a teacher declines to participate in an investigation committee session despite being duly notified and invited to present their defence, they may be breaching their self-defence boundaries. This absence is a violation of their right to defend themselves, as stipulated by (Fouda 2010). According to Article (13) of the disciplinary procedures for faculty members at the Arab American University, if a member is absent from any of the disciplinary council sessions without an acceptable excuse, disciplinary measures will be taken against them in their presence. Similar protocols are set forth in the teaching staff regulations at Palestine Ahliya University (Article 31) and Al-Istiqlal University (Article 41).

3.3.3 Formation of the Primary Disciplinary Council

At the Arab American University, faculty members are held accountable through a quasi-judicial disciplinary system. This system involves the administrative head and disciplinary councils to ensure fairness and guarantees. The system strives to strike a balance between the public interest of ensuring smooth progress in university work and the private interest of faculty members. This way, we can provide the best possible guarantees. The administrative head collaborates with disciplinary councils to achieve this goal (Abdul Salam, 2021).

Per the instructions for disciplinary procedures for faculty members at the Arab American University, Article (7/a) stipulates that: “A- The Primary Disciplinary Council shall be formed for a period of one year, subject to renewal, by a decision of the Deans Council, consisting of five members of the faculty at the university, to take into account, as much as possible, that they hold the rank of professor, and in cases of necessity, one or two of them may be members of the committee with the rank of associate or assistant professor, and the Council of Deans appoints a chairperson from among its members, and the Council of Deans may exempt any of them from the membership of the Council or accept his exemption”.
Upon thorough review of the previous text, it becomes apparent that it offers a number of assurances to faculty members who may be referred to the disciplinary council. Specifically noteworthy is the guarantee that the members of said council are chosen by the Deans' Council, as opposed to being solely selected by the university president. Such an approach promotes impartiality and helps to ensure that the council remains independent of the university president. Furthermore, council members serve a renewable term, and the president of the disciplinary council is chosen by the council of deans. It is also worth noting that the council of deans is responsible for either accepting or dismissing any member of the disciplinary council.

According to the regulations set by Al-Istiqlal University, particularly Article (35), the disciplinary council is established through a decision made by the university president, who holds complete authority over matters related to this council. This raises concerns about the impartiality and independence of the council, as there is no assurance for the faculty member under investigation.

Regarding the academic disciplinary process at Birzeit University, it is worth noting that there is no provision for the establishment of a disciplinary council. Instead, a committee is formed by the university president in cases where dismissal is being considered. However, this means that once the committee completes their investigation, their work is done, and there is no assurance of a neutral disciplinary council for the faculty member in question.

In reference to the Palestine Ahliya University's faculty members system, Article (25/a) states that a Disciplinary Council must be formed for a year, with the possibility of renewal by the university president. The president will appoint a council president from among the members, who will have the authority to grant exemptions. However, there are no guarantees for faculty members who are under investigation, as the council's formation is entirely subject to the administrative head's discretion.

Faculty members referred to the Disciplinary Council are guaranteed that the council will convene within two weeks from the date the case is referred to them. Members of the council are also prohibited from disclosing any information about the case under penalty of liability. However, there is criticism that the text does not specify a specific time frame for the council to end their investigations, which could harm the reputation of the faculty member being investigated, especially if they are suspended from work during the investigation. These guarantees are subject to Article (11) of the
Procedure Instructions for faculty members at Arab American University, as well as the academic staff system at Birzeit University through Article (34) and Article (29) of the faculty system at Palestine Ahliya University.

However, there are some deficiencies in this text. For instance, it fails to mention that a member of the Faculty of Law should be a part of the disciplinary council (Abdul Salam, 2021). Having a member from the Faculty of Law on the council ensures a comprehensive understanding of the legal aspects of the case, including the philosophy of punishment and its objectives. This individual can also become familiar with the investigation's subject matter and review all university-related protocols and procedures to ensure their proper implementation.

It has been observed that the recommendations made by the Primary Disciplinary Board, upon completing their investigation procedures and submitting them to the university president for the issuance of penalties, are not necessarily valid. The disciplinary board's decisions are not binding on the president, who may choose to follow them or not. Ultimately, the fate of the disciplinary board's work rests with the administrative head. It is important to note that the decisions made by the disciplinary boards are considered administrative decisions that are subject to judicial oversight.

As per the guidelines from Al-Istiqlal University faculty, we understand that the Disciplinary Board's recommendations are contingent upon the approval of the university president. In the case of a final warning or termination from employment, individuals have the right to appeal these decisions before the Council of Deans, as stated in Article (33), paragraph (c).

At Palestine Ahliya University, the faculty members' disciplinary decisions are treated as recommendations and sent to the university president, as outlined in paragraph (c) of Article (23). However, the penalty for delaying a promotion can only be issued by the Disciplinary Board's decision, as per university regulations.

An important point to consider is that a faculty member maintains the right to appeal a disciplinary decision, regardless of whether or not it was directly imposed by the authority in question. This affords the faculty member the opportunity to defend their teaching and present their case during the appeals or judicial oversight process.

At Birzeit University, the academic staff system was more compatible than that of the comparative faculty. Article (34/b) of the system specified that any recommendation made by the investigation committee must be justified with proper reasoning “...b- The
committee issues its justified recommendations and informs the president who issues a decision”.

### 3.3.4 Suspending Faculty Members

In instances where an individual is undergoing an investigation, it may be necessary for the disciplinary authority to implement a precautionary measure of suspending them from their work duties. This step is crucial, especially if the allegations against the individual relate to their integrity and honour. By removing them from the workplace, the investigation can be conducted with the utmost integrity and impartiality, minimising the risk of evidence tampering or concealment. Ultimately, this measure ensures that the investigation procedures are conducted fairly and effectively.

### 3.3.5 The Concept of Endowment

According to Article No. (10/c) of the disciplinary procedures for faculty members at the Arab American University, the president has the authority to suspend a faculty member who is referred to the Disciplinary Council, prosecutor, or courts. In this case, the faculty member's salary and allowance will be suspended, but the president may provide up to half of it during the suspension period. This same provision is also stated in Article (28/c) of the faculty system at Palestine Ahliya University.

Precautionary suspension can be described as the temporary removal of an accused employee from their job duties. This is done in order to aid any investigation that may be underway, whether it be criminal through the Public Prosecution or administrative. The competent disciplinary authorities must be informed of the suspension (Abdul Hamid, 2016).

In the event of an employee's suspension from work, it is important to understand that this is a temporary measure and does not constitute termination of their employment. While the individual remains employed, they must continue to adhere to their job duties and any violations of said duties may result in disciplinary action. It should be noted, however, that during this period, the employee may be relieved of certain responsibilities directly related to their job performance (Al-Adgham, 2003).

Suspension is a weighty administrative judgement that carries legal implications. This includes a prohibition from work and a reduction in salary. Nonetheless, an opportunity exists for independent appeal of these repercussions (Khalifa, 2006).
There is a distinction between provisional work suspension and suspension by law. The latter is mandated by the rule of law, and the competent authority does not have the discretion to choose whether or not to implement it. The suspension is enforced as soon as its reasons, such as precautionary detention or imprisonment due to a judicial ruling, are present (Hind, 2004).

It is crucial to acknowledge that there are two distinct types of suspensions in the workplace: precautionary and disciplinary. Disciplinary suspension is implemented when an employee commits an offence that requires punishment. On the other hand, a precautionary suspension is imposed to ensure the integrity of an ongoing investigation. In this regard, it is plausible for a faculty member to receive a work suspension as a precautionary measure during an investigation to prevent any interference with the investigation process.

To ensure the legality of a precautionary suspension from work and prevent any abuse of it, proper controls must be in place. This includes having the provisional suspension carried out by the competent authority, as stated in the regulations of the universities being studied. For instance, the university president may be authorised to issue a decision for preventive suspension from work.

To ensure the legality of precautionary suspensions from work, there must be a time restriction imposed on the competent authority. This is a serious procedure with significant implications, which is why it is important to have clear guidelines. In the past, the university president had the power to suspend a faculty member without specifying a time period for the suspension. However, this is no longer the case and such suspensions must now have a set time limit (Al-Houri, 2004).

It is evident that the current regulations lack clarity by not outlining a specific timeframe for suspending a faculty member during investigations. This oversight undermines the integrity of disciplinary protocols, and ultimately places undue power in the hands of the president, whose decision-making could be deemed unlawful due to the absence of a clear and defined suspension period.

To ensure that the precautionary suspension from work is legal, there are specific legal controls in place. The suspension can only be justified if an investigation is underway with the faculty member. Furthermore, the president cannot issue a decision to suspend the faculty member from work unless the administration confirms the validity of a violation that occurred. Additionally, the moratorium must be in the interest of the
investigation and justified to protect the progress of the employee referred for investigation, particularly if they hold influence and authority in their work.

Even though there are no specific university regulations governing temporary work suspensions for the sake of public interest, this practice is still imposed. As a result, employees can only be suspended from work if it is deemed necessary for the public good and investigative purposes.

3.3.6 The Effects of the Precautionary Suspension

In the event that a faculty member is subject to a suspension from work, their employment status is temporarily halted until a thorough investigation is conducted. During this time, the individual is prohibited from performing any work-related duties within the university. It is important to note that such a decision may have financial implications, including potential impacts on their salary and allowances.

According to university regulations, the university president has the authority to temporarily suspend a faculty member from work while an investigation takes place. This means revoking their functional mandate and preventing them from starting work, especially when their behaviour and actions are deemed illegal or inappropriate (Al-Aqeel 2007). According to university regulations, the university president has the authority to temporarily suspend a faculty member from work while an investigation takes place.

A temporary suspension severs the link between a faculty member and their university, preventing them from fulfilling their duties for a certain period of time. Despite this, they remain dedicated to keeping their work confidential.

It is important to note that the current regulations governing the disciplinary procedures for teaching staff do not provide a clear timeframe for suspending a faculty member from work. This leaves the matter open-ended and subject to prolonged provisional suspension during the investigation. This loophole in the regulations and instructions could be remedied by establishing a specific time limit for the investigation. It is essential for the Disciplinary Committee to complete its procedures within this timeframe to ensure a timely resolution and avoid leaving the matter unresolved. We respectfully recommend that the relevant authorities consider implementing this change to improve the efficiency and fairness of the disciplinary process.
3.3.7 The Financial Impact

As per Article (10/c) of the Instructions for Disciplinary Procedures for Faculty Members at the Arab American University, if a faculty member is under investigation and suspended, the university president has the authority to withhold or only disburse up to half of their salary and allowances during the provisional detention period.

In accordance with the academic staff bylaw of Birzeit University (Article 37/a), the university president is authorised to withhold a faculty member's salary, either partially or completely, without specifying the exact percentage. It is worth noting that this policy only applies to the endowment of the faculty member's salary and does not extend to allowances. Conversely, Palestine Ahliya University's faculty system (Article 28/c) mandates that the university president must discontinue paying half of the salary and allowances of a faculty member who has been suspended, without discretionary power to halt the salary completely. This policy is notably more rigid than that of Birzeit University. Lastly, it is noteworthy that the faculty instructions of Al-Istiqlal University do not mention the suspension of a faculty member from work at all, which differs significantly from the policies of the previous two universities.

The article in question failed to address what would happen to the salary and allowances of a faculty member who was wrongly arrested and later proven innocent. Will they be compensated for the amount that was deducted from their pay? This is a clear flaw in the system, unlike the faculty system at Palestine Ahliya University which mandates that any deductions from a faculty member's salary without allowances be returned in the event of proven innocence.

Regarding the faculty system at Birzeit University, Article (37/b) states that any salary suspension will not be reimbursed to a faculty member even if they are proven innocent. Instead, the faculty member will only receive a letter of rehabilitation from the university president, which will be circulated to the relevant authorities. In contrast, the regulations and instructions for teaching staff at Arab American University and Palestine Ahliya University do not provide for moral compensation in cases where a faculty member is proven innocent.
4 RESULTS AND DISCUSSION

4.1 GUARANTEES FOLLOWING THE IMPOSITION OF A PENALTY

The teaching staff regulations and instructions in Palestinian universities, including those being studied, require additional guarantees following the imposition of disciplinary action against faculty members in order to ensure a fair process and prevent any deficiencies that may impact the punishment's validity. This is to avoid any potential issues that may arise prior to the imposition of the penalty (Al-Suwaidi, 2013).

It could be argued that subsequent guarantees serve to broaden the scope of disciplinary protections, given their significance. In cases where a faculty member has already utilised their initial guarantees before facing a penalty, universities offer substantial subsequent guarantees to provide the employee with multiple avenues to challenge the imposed punishment.

It is important to note that penalising a faculty member for defending themselves against accusations does not equate to submission. The faculty member has the option to challenge the disciplinary action through an appeal process, either administratively or judicially. Additionally, if the penalty is upheld, the faculty member can seek its removal in accordance with the university's regulations and instructions.

4.2 THE APPEAL AGAINST THE DISCIPLINARY PUNISHMENT

Once a faculty member receives disciplinary punishment, they have two ways to challenge it in accordance with the regulations and instructions of the teaching bodies. These two options are considered a legal guarantee after the punishment has been imposed.

4.2.1 Administrative Appeal

The administrative appeal process is a friendly way to settle any disagreements between the administration and a faculty member. This gives the administration a chance to review their decision against the recipient and correct any errors without involving the legal system. This process also ensures that there is oversight over the administration's work, which is important when disciplinary action is taken.

The regulations and instructions of the teaching staff in Palestinian universities consider it essential to protect the rights of faculty members from any harm caused by disciplinary actions. In line with the disciplinary procedures outlined at the Arab
American University, administrative appeal is mentioned in articles 5-14 as a means to address any grievances.

According to Article No. (5) of the teaching staff instructions at Arab American University, faculty members are granted the right to file an administrative appeal against any disciplinary penalties imposed on them.

1. Appeal against the warning penalty imposed by the department head before the dean of the college.
2. Appeal against the warning and penalty imposed by the dean before the university president.
3. Appeal against the penalties imposed by the university president based on the recommendation of the Primary Disciplinary Board before the Disciplinary Board of Appeal.
4. As for the penalties imposed by the university president in accordance with his original competence under Article No. (5/c), the instructions did not specify the party to which to appeal, and thus these penalties are not subject to appeal in a clear and explicit violation of the disciplinary guarantees, and accordingly, we believe that the text in the instructions must be that the faculty member has the right to challenge these penalties before the Appeal Council.

Al-Istiqlal University has provided guidelines for faculty members who receive warning penalties from the dean of their college. These guidelines allow the faculty member to appeal the penalty to the university president. In cases where the Disciplinary Council has issued penalties, appeals can be made to the Council of Deans. However, it should be noted that warning and warning penalties will remain in effect if approved by the university president.

Birzeit University has established an academic system that allows faculty members to appeal warnings and additional penalties, in accordance with Article (35). However, it is important to note that the system excludes penalties issued by the university president or special committees formed by the president. As a result, dismissal penalties cannot be appealed, which could potentially be seen as a violation of disciplinary guarantees. This raises concerns that the most serious penalties cannot be contested, while less severe penalties can.

At Palestine Ahliya University, the academic staff system has limitations on disciplinary appeals. Per Article (32), delays in promotion consideration and dismissal
from service can be appealed before the Appellate Disciplinary Board. This means that teachers who receive a caution, warning, or final warning penalty cannot appeal to any party within the university, rendering the penalty decision final and non-appealable. This is a significant breach of subsequent disciplinary safeguards.

Based on what we have seen so far, it seems that the faculty at Arab American University has effective instructions in place. These instructions ensure that faculty members are not denied their right to appeal any punishment they receive. Additionally, the instructions clearly specify the appropriate authority to which one can appeal, depending on the type and severity of the punishment.

Based on the evidence presented, it is apparent that the teaching staff at the Arab American University have demonstrated a noteworthy level of proficiency in establishing the Disciplinary Council of Appeal. The council was efficiently formed by entrusting the Council of Deans with the responsibility of its formation, in accordance with Article (7/b) of the institution's guidelines. This approach offers a more robust safeguard than relying solely on the university president to form the appeals board. Additionally, the decision made by the disciplinary board of appeal is deemed to be final, with the university president's role being limited to implementation.

In spite of the foregoing, we believe that the instructions of the teaching staff at the Arab American University have been correct regarding the procedures for forming the Disciplinary Council, as Article No. (7/b) indicated that the formation of the council takes place for a period of one year, subject to renewal, provided that this council is composed of five members of the teaching staff who hold the rank of professor, except that in cases of necessity he can be a member of the committee with the rank of associate or assistant professor, provided that the deans’ council appoints a president from among its members.

Although there may be differing opinions, we agree with the Arab American University's teaching staff that the process for establishing the Disciplinary Council is appropriate. According to Article No. (7/b), the council should consist of five professors who serve for one year, with the possibility of renewal. In exceptional circumstances, an associate or assistant professor may be included. Additionally, the council's leader must be appointed by the deans' council.

Although the practical application of these instructions involves the membership of a law academic, we must emphasize the necessity of stipulating that a faculty member
in the Faculty of Law must also be a member. This is to ensure that the matter is not permissible.

It is our understanding that the inclusion of an associate or assistant professor on a disciplinary council charged with disciplining a faculty member of higher rank may potentially be in violation of applicable laws or regulations. As such, it is advised that only an associate professor be included, if deemed necessary.

*The judicial appeal against disciplinary punishment*

The faculty member's last recourse to defend themselves against disciplinary penalties imposed by the administration is through a judicial appeal (Jadidi, 2011). Upon examining the disciplinary systems of the Palestinian universities under study, it has been observed that they do not recognise the faculty member's right to seek legal recourse to contest the disciplinary action taken against them.

The Arab American University is the first private university in Palestine, and it is one of the institutions of higher education based on the text of Paragraph (c) of Article (17) of Law No. (6) of 2018 regarding higher education, which states: The following educational institutions are classified into: “...c- Private: for-profit and non-profit and registered in accordance with the Companies Law.”

As for Law No. 41/2020 regarding Administrative Courts, it stipulated in Article (20) thereof the terms of reference of the Administrative Court: “...b- Appeals submitted by concerned parties to annul regulations, regulations, or final administrative decisions issued by persons, public law, including professional syndicates, institutions of higher education, duly registered federations, and associations, even if they are immune under the law issued pursuant thereto”.

Based on the information presented, it appears that Decree Law No. 41/2020 has resolved the issue of appealing disciplinary sanctions issued to faculty members at Arab American University and other Palestinian universities. This law now ensures that faculty members are protected from any mistreatment by the administration.

**4.2.2 Annulling the Disciplinary Punishment**

As it is widely recognised, a disciplinary penalty recorded in a faculty member's file can have detrimental effects on their academic performance within the university, as well as the overall productivity of the institution. Consequently, the disciplinary procedures at Arab American University have provisions for allowing faculty members
to seek forgiveness by expunging the penalties from their records, eradicating all evidence of the infraction, and treating it as if it never occurred in relation to future matters, subject to specific conditions outlined in the instructions.

It is apparent that the elimination of disciplinary measures can yield favourable outcomes for both the academic staff and the institution at large. This approach serves as an indication of the university's willingness to acknowledge and promote the pursuit of excellence in professional conduct, thus opening up avenues for better career prospects and a promising future. It is apparent that the elimination of disciplinary measures can yield favourable outcomes for both the academic staff and the institution at large.

To delve deeper into the topic and its related provisions, this request will cover the erasure of disciplinary punishment over time (Part One) followed by the erasure of disciplinary punishment through petition (Part Two).

4.2.3 Annulling the Disciplinary Punishment Over Time

Annulling the disciplinary penalty imposed on a faculty member can be seen as a chance for them to turn over a new leaf in their career. This is especially true for someone who has demonstrated sincere efforts to rectify their professional position within the university and avoid being labelled as a career misfit (Al-Tamawy, 2014).

Referring to the instructions for disciplinary procedures for faculty members at the Arab American University, Article (18) addresses the annulment of disciplinary punishment over time: “A- The punishment imposed on a faculty member shall be dropped in accordance with the provisions of Article (4) of the system The teaching staff in force at the university after one year from the date of imposing the warning and warning penalties B- The penalty imposed on the faculty member in accordance with the provisions of Article (4) of the teaching staff system in force at the university falls after three years from the date of imposing the final warning penalty. The provisions of paragraphs (a, b) of this article do not apply in the event that a similar or more severe penalty is issued against a faculty member during the period stipulated for the forfeiture of the penalty”.

It follows from this text that the instructions required the following conditions to be met:

1) The penalty of caution and warning shall be dropped from the record of the faculty member de jure and with the passage of time after the lapse of one year
from the date of its signature. Here, the faculty member is not required to submit a request to erase the penalty, as the passage of time is sufficient to erase it from the record.

2) The penalty of final warning shall also be dropped from the record of the faculty member according to the instructions after three years have passed since its signature, and there is no need to submit a request to delete it.

3) It is noted from the aforementioned text that until the aforementioned penalty is definitively removed, the faculty member shall not be subjected during the aforementioned time to any penalty similar or more severe to the one imposed.

Thus, if the penalty imposed on the faculty member was a penalty of final warning, and during the three years he was subjected to the penalty of caution and warning, this does not prevent his right to erase the penalty after the three years, but the faculty member is transferred to the Disciplinary Council.

4.2.4 Annulling the Disciplinary Punishment by Virtue of a Petition

Article (19) of the Instructions for Disciplinary Procedures for Faculty Members at the Arab American University states that: “A faculty member who has been subjected to warning or warning penalties has the right to submit a written request for clemency to the university president during the semester following the semester in which the penalty was imposed, to exempt him. of the punishment imposed on him, and the university president has the right to decide to exempt the faculty member from the penalty of caution or warning if he refuses to do so after seeking the opinion of the concerned dean about the behaviour of the faculty member and his commitment to the regulations and instructions of the university”.

It follows from this text that several conditions are stipulated in order for the disciplinary punishment to be annulled by virtue of petition. These conditions were as follows:

1) In order to have a penalty annulled, a formal condition requires a written plea request to be submitted directly to the university president, who is the competent authority. It cannot be submitted orally. Some may wonder if it can be sent via the university's email for job-related purposes. However, it is not permissible as the condition of writing implies the traditional method. Even though email is a means of communication, the electronic method does not replace
traditional correspondence. Additionally, the traditional method is taken more seriously and is preferred by members seeking to have their punishment erased rather than a personal review.

2) If a penalty has been approved, a petition may be presented to the university president during the academic semester that follows. However, this must be done within a specific time frame. If a petition is submitted outside of this time frame, it will be refused. It is possible for the punishment to be annulled through faculty pardon.

Based on the information provided, it appears that the submission of a petition to the university president is subject to their discretion. This decision-making process involves consultations with the dean of the requesting faculty member's department. The dean's advice is based on various factors, such as the faculty member's adherence to the university's policies and regulations, their conduct, and their commitment to the institution. Ultimately, the university president's decision is informed by these consultations and considerations.

5 CONCLUSION

Upon completion of our analysis of the study entitled "Disciplinary Safeguards for Faculty Members In Palestinian Universities: A Comparative Analytical Study Of The Arab American University", we have derived a series of conclusions and suggestions, outlined below:

In this study, we reached a set of results, including:

1- It is prohibited to impose any penalty except after an investigation.
2- The First Instance and Appeal Disciplinary Board at the Arab American University shall be formed by a decision of the Deans’ Council.
3- The system does not require the presence of a member of the Faculty of Law in the disciplinary councils.
4- If the innocence of a member referred to an investigation is proven, the president of the university has the authority to withhold or only partially withhold their salary without examining the issue further.
5- The regulations under study did not specify a period for precautionary suspension from work for investigation purposes.
6- The instructions for the disciplinary procedures at the Arab American University adopt the principle of annuling the disciplinary penalties over time or through the petition presented to the university president.

The conclusion of the study yielded a set of recommendations, which are as follows:

1- The findings of the research emphasise the significance of mandating the Primary Disciplinary Council to furnish a clear rationale for any proposals or suggestions they put forward. This measure would ensure transparency and accountability in their decision-making process and promote fairness and justice for all parties involved. The findings of the research emphasise the significance of mandating the Primary Disciplinary Council to furnish a clear rationale for any proposals or suggestions they put forward.

2- Based on the findings of the study, it is recommended that a defined timeframe be set for the temporary exclusion of employees who are undergoing investigation. This ensures that the process is fair and just for all parties involved, while also maintaining a safe and productive work environment.

3- It is important to establish the faculty member's right to appeal any punishment given by the university president based on their original qualifications. This appeal should be made to the Appeal Disciplinary Council.
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