

## Ensuring Integrity in Alternative Dispute Resolution (ADR) within Civil and Administrative Courts

ضمان النزاهة في حل النزاعات البديلة (ADR) في المحاكم المدنية والإدارية  
Assistant Professor Sajjad Abdelhussein Dawood Al-Harba  
Al-Kunooze University College Of Law  
[Sajjad.hu@kunoozu.edu.iq](mailto:Sajjad.hu@kunoozu.edu.iq)

الأستاذ المساعد الدكتور سجاد عبد الحسين داود الحربة

كلية الحقوق بجامعة الكونوز



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**المستخلص :** إذا كان من حق الشخص اللجوء إلى القضاء وفقاً لما كفله الدستور، فإن لكل شخص بالترتيب على ذلك وبالتبعية له الحق في طلب الحماية القضائية من القاضي المختص بالنزاع المطروح أمامه سواء أكانت المنازعات مدنية إذ يطلب الفرد الحماية القضائية من القاضي المدني، أم كانت منازعات إدارية فيلجأ إلى القاضي الإداري. على الرغم من تطبيق مبدأ حق الشخص باللجوء إلى القاضي المختص في أغلب الدول بصورة عامة إلا أن القضاة هم بشر غير معصومين من الوقوع في الخطأ، فالقضاة في بادئ الأمر وأخوه بشر يتفاوت كل منهم في القدرة على حسن فهم القانون وتفسيره تبعاً للخبرة والعلم وغيرهما من الأمور التي يختلف فيها الأشخاص بعضهم عن بعض. ولهذا فقد باتت من المتعين وجود قواعد تحكم تدارك تلك الأخطاء التي يقع فيها القضاة من جراء الأحكام الصادرة عنهم بشأن المنازعات المطروحة، هذا من جانب ومن جانب آخر، فإن قواعد الإجراءات المنظمة لنظر الدعاوى أمام القضاء هي ضمانات للأفراد المتقاضين أمام هذا القضاء (القضاء أو الإداري).

لذا يُثير الحديث عن ضمانات وجود إجراءات سهلة وميسرة للتقاضي أمام القضاء الإداري، مشكلة عدم وجود قانون إجراءات مستقل لنظر الدعاوى أمام جهات القضاء الإداري وكذلك وجود بعض القيود والعوائق الإجرائية وهنا يأتي دور الطرق البديلة للتقاضي أو التي يعبر عنها بالوسائل المناسبة لفض المنازعات، بأنها تلك الآليات الودية التي يلجأ إليها الأطراف للبحث على تسوية غير قضائية، عند نشوء خلاف بينهم، للوصول إلى حل ودي بعيداً عن العداوة والضغينة. ويعد (التحكيم والوساطة والتفاوض والتوفيق والصلح) من أبرز الأنظمة البديلة للتقاضي ومن ثم، يخرج التقاضي عن إطار هذا التعريف فهو لا يعد وسيلة بديلة لحل الخلافات بل وسيلة أصلية، إذ إن الأصل في الأطراف اللجوء إلى المحاكم ومحاولة حل الخلافات القائمة فيما بينها عبر التقدم بدعوى قضائية مراعيًا في ذلك تطبيق مبدأ الاستقامة.

**الكلمات المفتاحية:** الاستقامة، الإجراءات، الدعوى المدنية، الدعوى الإدارية، التقاضي، الطرق البديلة.

**Summary :** If an individual has the right to resort to the judiciary as guaranteed by the Constitution, then, accordingly and consequently, everyone has the right to seek judicial protection from the judge in charge of their case, whether it involves civil disputes, in which

case the individual seeks protection from civil judge, or administrative disputes, in which case they turn to administrative judge. Although the principle of an individual's right to resort to a competent judge is generally applied in most countries, judges are human beings who are not infallible from making mistakes. They, first and foremost, are human beings who vary in their ability to properly understand and interpret the law, depending on factors such as experience, knowledge, and other personal differences. Therefore, it has become necessary to set rules that aim to address and correct mistakes made by judges in the rulings they issue regarding the disputes at hand. On one hand, the rules address the need; on the other, the procedural rules regulating the consideration of cases before the judiciary serve as a safeguard for individual litigants before this judiciary (the administrative judiciary). Therefore, talk of ensuring easy and convenient procedures for litigation before the administrative judiciary raises the issue of the lack of an independent procedural law to consider cases before the administrative judiciary, as well as the presence of certain procedural restrictions and obstacles. Here, alternative litigation methods, also referred to as appropriate mechanisms of resolving disputes, play a crucial role. These mechanisms help parties seek a non-judicial settlement when a dispute arises between them, with the aim of reaching an amicable solution free from hostility and grudges. Arbitration, mediation, negotiation, conciliation, and reconciliation are among the most prominent alternative systems for litigation. Therefore, litigation does not fall under this category, as it is not considered an alternative means of resolving disputes, but rather an original means. The natural course is for parties to resort to courts and try to resolve existing disputes between them by filing a lawsuit, with the application of the principle of integrity. **Keywords:** integrity, procedures, civil lawsuit, administrative lawsuit, litigation, alternative methods.

**Introduction** Integrity is a moral principle that fosters goodwill and transparency in relationships. Therefore, it cannot but help reflecting how the legislator is shaped by the noble ethical values embraced by societies. Throughout history, individuals have adhered to virtuous conduct, molded by ethical values and religious beliefs that guided their behavior, as well as the fear of divine retribution and life after death, which encouraged them to good conduct. Legislation<sup>(1)</sup> has strengthened the importance of adhering to the principle of integrity, which involves a set of duties that are more or less binding, as well as a set of rights that serve more or less as guarantees for individuals<sup>(2)</sup>.

Integrity, in its essence, is a concept that transcends legal norms, holding moral value, which is a supreme virtue that defines how people should behave in society. It stems from the deeply ingrained beliefs, traditions, and customs that are embedded in human nature. People feel a moral obligation to follow it through a moral sense that shapes their conduct and governs their social relationships. This includes principles of truthfulness, integrity, honor, and goodwill in dealing with others, as well as rules that forbid deception, fraud, and trickery, ultimately guiding individuals toward moral elevation and perfection.

Inspired by these values, the Iraqi legislator adopted these ethical principles, such as integrity, to shape the fundamental rules enshrined in the law. These rules were considered essential for the well-being and preservation of society. He required the disputing parties to observe these principles in regular litigation and, notably, in alternative dispute resolution (ADR).

Consequently, this research examines the impact of the principle of integrity on ADR, which consists of mechanisms designed to replace traditional litigation procedures to resolve legal issues more swiftly and cost-effectively. These mechanisms aim at fostering a more efficient and effective environment for dispute settlement without relying on traditional court systems. Therefore, ADR has become, nowadays, essential for addressing modern business needs, especially since traditional courts are no longer capable of facing these challenges on their own.

As trade and services continue to grow, leading to more complex transactions and a need for prompt and efficient dispute resolution provided by experts, legal mechanisms have been introduced to allow parties to settle these disputes quickly, fairly, and effectively, permitting them greater flexibility and autonomy, which are rarely found in traditional courts.

**The Importance of the Topic:** In addition to becoming prominent in legal systems around the globe due to its flexibility, speed, and confidentiality, ADR allows parties to contribute to the resolution of their disputes. As ADR has gained importance in global legal and economic thinking and significant progress has been made over the last fifty years to organize this field, it is crucial to examine how integrity can be part of these alternative approaches used to settle disputes. Delving into the application of the principle of integrity can only help promote the use of ADR in different areas such as business, real estate, and family law.

These approaches reduce the costs and duration of disputes, encourage cooperation and dialogue between the disputing parties, and provide non-court dispute resolutions that can be beneficial for everyone.

**2- Research Problem** The research problem revolves around the extent to which the principle of integrity can be applied to ADR. What is the scope and impact of the principle of integrity on ADR? What happens if this principle is not applied in ADR? Do the effects of this principle apply only to civil litigation, or does it have an effective impact on administrative litigation as well?

**3- Research Methodology** In order to answer the research hypotheses, the descriptive analysis method was applied. This method requires a precise description of the texts as they are, without adding or omitting anything, and analyzing them to derive rulings. Furthermore, to add a practical dimension to the research, a comparative analysis of the laws was adopted.

**4- Research Plan** To thoroughly address the topic and its aspects, the research has been divided as follows:

Introduction

Chapter One: The Concept of Alternative Dispute Resolution (ADR)

Section 1: Definition of Alternative Dispute Resolution (ADR)

Section 2: Types of Alternative Dispute Resolution (ADR)

Chapter Two: The Impact of the Principle of Integrity on Alternative Dispute Resolution (ADR)

Section 1: Positive impacts of Applying the Principle of Integrity to Alternative Dispute Resolution (ADR)

Section 2: Negative impacts of Applying the Principle of Integrity to Alternative Dispute Resolution (ADR)

Conclusion

## Chapter One: The Concept of Alternative Dispute Resolution (ADR)

One fundamental aspect of justice is settling disputes without delay. The sooner and more effectively the procedures are carried out, the better the chance of justice being served. Unfortunately, judicial proceedings often take too long, which can undermine justice. Delays lead to challenges such as lost evidence, fading memories, and negative psychological and social impacts on the parties involved. Moreover, delays in cases may increase the financial and administrative burdens on the parties involved, ultimately influencing access to justice in general. Rapid changes in society have prompted the search for alternatives that help in resolving disputes without resorting to court proceedings. This has led to the development of ADR approaches, such as arbitration, mediation, negotiation, conciliation, and reconciliation. These approaches are widely used to end disputes. However, their effectiveness varies from one country to another (3), depending on the nature of disputes, the legal context, and societal norms. If we start by defining ADR in the first section of this chapter, we will delve into the ADR approaches in the second section.

### Section One: Definition of Alternative Dispute Resolution (ADR)

ADR, also known today as a means for settling disputes, is a set of amicable mechanisms (4) that parties turn to in case of conflicts, in order to reach a non-judicial settlement that avoids hostility or bitterness. Arbitration, mediation, negotiation, conciliation, and reconciliation are considered the main ADR approaches. In this context, litigation falls outside this framework, as it is not an alternative but the primary mechanism of dispute resolution. Normally, the parties turn to the courts to settle their disagreements by filing a lawsuit. This process entails presenting a dispute to the judiciary, a litigation process, and complex procedures, which result in a court decision that resolves the matter. Before becoming final, the ruling undergoes ordinary and extraordinary review procedures, which can be difficult for the parties when it comes to time, money, and enforcement (5). Courts have become overwhelmed by the large volume of disputes that occur between individuals and groups, requiring faster and more efficient resolution of disputes. Therefore, ADR has become an effective mechanism to reduce the burden on courts and judicial bodies (6). The growing use of these mechanisms has, recently, led to the point where they can no longer be considered merely "alternative," as more parties turn to them. This is due to their advantages, such as faster resolution, confidentiality, lower costs, and flexibility in both procedures and rules (7). It is worth taking into consideration that ADR has become an effective approach for resolving a broad array of disputes, such as those related to internet-related issues, international trade, consumer protection, e-commerce, intellectual property in the digital age, and any other disputes. Due to their practicality, these approaches are often called "appropriate means for resolving disputes." In fact, before going to arbitration, it is often required to resort to mediation, negotiation, or conciliation (8).

ADR applies to all types of legal relationships, both contractual and non-contractual. What distinguishes ADR is its ability to prevent or settle disputes before reaching the courts, or to end disputes early. It may also resolve the dispute before a body that is not part of the state, as in the case of conciliation and mediation, whose main objective is to bring the parties together and find fair solutions.

ADR has been adopted by most legal systems worldwide. It has been known by various names, sometimes strange or unclear, making it difficult to define. Scholars have given it

different names; some call it informal justice ("JUSTICE INFORMELLE"), others refer to it as consensual justice/arbitration ("JUSTICE CONVENUÉ"), and some call it amicable justice ("JUSTICE AMIABLE"). In French, it is known as "les modes alternatifs de règlement des conflits" (MARC), known as well by "SORREL" in Canada, which is an abbreviation for "solutions de recherche en règlement des litiges". These designations all share one concept: an "ALTERNATIVE" or an option to the traditional judicial system, where the disputing parties choose amicable approaches to settle their disputes outside the courts. This means it saves time, reduces costs, preserves business and personal relationships, and settles disputes privately. From what has been considered above, we can describe ADR approaches as methods and mechanisms used to settle disputes peacefully, without resorting to traditional legal processes, such as the courts, by adopting approaches that provide solutions approved by all parties, promoting communication and mutual understanding, and reaching agreements that satisfy their interests and preserve their relationship.

### **Section 2: Types of Alternative Dispute Resolution (ADR)**

Numerous types and methods are available to settle disputes without resorting to the courts. These types and methods depend on factors such as the nature of the dispute, its location, and the disputing parties. In this section, we will focus on the most important and well-known approaches adopted in such cases, which are as follows:

#### **1- Arbitration:**

Arbitration is a special semi-judicial system with deep historical roots. It has existed since ancient times, before the judicial system itself was established. It has been used to settle disputes between individuals for centuries. No society or legal system in the ancient times was unfamiliar with arbitration. This institution has persisted even after the creation of regular courts, maintaining its position as the best mechanism for settling disputes outside the courts. Nevertheless, if arbitration was needed in the past due to the absence of the judiciary, its necessity today lies in saving time and being a more efficient alternative when compared to regular courts.

With the evolution of international trade and global investments, arbitration procedures have become increasingly similar to judicial trials as for the form. Moreover, international agreements have strengthened it, as well as its rulings, to the point that it is no longer an exaggeration to claim that arbitration has gone beyond being just an alternative means to settle civil and commercial disputes, it is now becoming—or nearly becoming—the primary mechanism for settling international trade disputes. Arbitration stands as one of the alternative approaches for settling disputes between individuals and groups. It is considered a common option used in commercial disputes and large contracts. This approach allows certain individuals or non-judicial bodies the authority to settle disputes. These individuals are called arbitrators, and the ruling they issue is binding for all disputing parties. The arbitrator's decision is then passed to the competent judge for final resolution, and decision remains open to legal appeal. In such case, the dispute is transferred to an independent and impartial entity, which examines the evidence and issues a legal decision that is binding on all parties<sup>(9)</sup>.

The recent progress in technology and information has introduced electronic arbitration, using online platforms to settle disputes through virtual arbitration sessions. Electronic arbitration helps settle disputes with greater speed, flexibility, and at a lower cost. These

alternatives for disputes settlement are sometimes more practical, faster, and cheaper than traditional court procedures. The parties should opt for an approach that is appropriate for the type, circumstances, and requirements of the dispute.

**2- Mediation** Mediation is an advanced form of negotiation, which disputing parties turn to in order to settle disputes outside the courts. It involves an impartial third party, known as the mediator, who is skilled and experienced in bridging the gap between the two sides. The mediator uses their expertise to facilitate communication and help the parties voluntarily settle their dispute. By managing the negotiation process, the mediator works to reach an agreement that satisfies both parties and brings the disputes to an end without judicial intervention. This approach helps the parties communicate more effectively and settle their disputes, either directly or through the mediator, with the outcome usually recorded in a reconciliation report. The mediator may also suggest a solution for the dispute, which the parties are completely free to accept or reject. This is something beyond the conciliator's role<sup>(10)</sup>. Mediation is a voluntary process and a specialized activity. The mediator adopts a professional approach, provides a safe setting for the disputing parties, and fosters trust in the settlement of disputes process without the need for any court to intervene.

Some have seen mediation as a form of conciliation, as confirmed by Article 1 of the Model Law on Conciliation established by the United Nations Commission on International Trade Law in 2004<sup>(11)</sup>. The law specifies that the term "conciliation means process referred to by the expression conciliation, mediation, or expression of similar import, whereby the parties request a third-party or persons (the conciliator) to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship. The conciliator does not have the authority to impose upon parties a solution to the dispute". The Arab Guiding Law for Conciliation and Mediation, drafted by the committee assigned under Resolution No. 671 by the Council of Arab Ministers of Justice during its 22nd session held in Cairo on November 29, 2006, defines also these terms in Article 3 as follows: Conciliation and mediation are legal mechanisms for the settlement of disputes, carried out by a conciliator upon the request of disputing parties in order to reach an amicable dispute settlement, either in full or in part. A conciliator is any individual or group of individuals assigned the responsibility of conciliation. Thus, the term "conciliation" as mentioned in the Model Law and the Arab Guiding Law referred to above covers all alternative approaches to dispute settlement, even if the terms differ (e.g., mediation, mini-trials). The only distinction lies in the powers granted to the conciliator, either by the parties or through legal provisions. These powers may grant the conciliator an additional role in some cases. Therefore, the conciliator does not only assist the parties in reaching a friendly settlement of the dispute but also makes non-binding recommendations<sup>(12)</sup>. While many disputes are settled through direct negotiation between the parties without requiring the presence of a mediator, some negotiations may reach a crossroads at various moments, or the intensity of the dispute may, in certain cases, prevent negotiations from occurring in the first place. In such cases, the intervention of a mediator becomes essential to help move the negotiations forward, bridge the gap between the parties, and propose alternative solutions without forcing them to adopt any of them. In mediation, the outcome is decided by the parties themselves. The role of the mediator is limited to helping them communicate and negotiate. As a result, agreements reached through mediation are more likely to be carried

out voluntarily by the parties, since they are the product of the parties' own will and not something imposed on them from outside <sup>(13)</sup>. Mediation can be contractual, which means it happens outside the courts. It is based on the parties' contractual rights and free will. It can also be judicial mediation, where courts encourage the parties to try mediation before proceeding with the case <sup>(14)</sup>.

Mediation is known for being voluntary and has several characteristics that distinguish it from other dispute settlement means. The most important of these are:

1. Easing the pressure on the courts.
2. Preserving the independence of the judiciary.
3. Flexibility and freedom.
4. Quick dispute settlement and prompt enforcement.
5. Confidentiality and privacy.
6. Preserving cordial relationships between the disputing parties.
7. Avoiding risks.
8. Low costs.

Mediation is divided into three main types, which are:

1. **Judicial Mediation:** The judges who manage civil cases, or the conciliation judges also known as mediation judges, appoint the mediator. The mediator then does their best to settle the dispute within a specific time frame set by the court. A mediation judge must be a qualified individual who has completed special training that prepares them to settle disputes amicably.

2. **Private Mediation:** The mediator in private mediation is chosen from a list of trusted and impartial professionals. This list is prepared by the Minister of Justice and the President of the Judicial Council and includes lawyers, former judges, and other specialists.

3. **Consensual Mediation:** In this mediation, the mediator is known as the "consensual mediator." The disputing parties choose a skilled and impartial mediator, who is appointed upon their request.

**3- Negotiation:** Negotiation is one of the alternative approaches to settle disputes, where the disputing parties communicate directly without needing a third party like in arbitration or mediation. Nevertheless, lawyers or agents can represent the parties, and they are authorized to make decisions on their behalf <sup>(15)</sup>.

**4- Reconciliation** It is one of the alternative mechanisms and means for settling disputes between individuals and groups. It is a contract or agreement that either settles the current dispute or prevents a potential one. Reconciliation is divided into two main categories <sup>(16)</sup>:

1. **Judicial Reconciliation:** Judicial reconciliation is when the parties settle their dispute, either voluntarily or through the intervention of a court judge, while a lawsuit is pending. The settlement is documented in an official report and filed with the court, becoming an enforceable legal document.

1. **Non-Judicial Reconciliation:** This approach to dispute settlement involves the parties reaching an agreement outside the traditional court process. Non-judicial reconciliation serves as an alternative to litigation, where parties settle their dispute through direct negotiation, without resorting to the court. It aims to ensure fairness by allowing the parties to express their needs and reach convenient solutions without going to traditional courts.

Non-judicial reconciliation is flexible, quick, and private, allowing the parties to manage the reconciliation process and look for appropriate solutions while preserving their relationship and future cooperation.

## **Chapter 2: The Impact of the Principle of Integrity on Alternative Dispute Resolution (ADR)**

Integrity plays a key role in the arbitration process. When the parties are honest and sincere in presenting their evidence, it positively impacts the reliability of the evidence and increases its acceptance by the arbitration committee <sup>(17)</sup>. Integrity helps show the arbitration committee that the evidence is serious and reliable, making it more likely to be accepted and influencing the final decision. It also has a direct impact on building trust and credibility, strengthening the parties' credibility before this same arbitration committee. When the parties are straightforward and honest it builds trust between the parties and ensures the evidence they provide, improving their chances of winning the case. Integrity plays an important role in influencing the committee's decision <sup>(18)</sup>. When the parties act with honesty and integrity, they provide accurate and complete information, helping the committee make an informed and fair decision. Integrity allows the committee to understand the facts and regulations in effect, leading to a just and unbiased decision. Integrity contributes also to honoring the arbitration committee's final decision. When the parties engage in the arbitration process with honesty and sincerity, respect for the final verdict is strengthened <sup>(19)</sup>. Consequently, this increases the probability of the decision being respected and implemented fully and without delay.

Integrity, in general, strengthens the arbitration process, helping to achieve justice and build trust in the decisions made. The parties should act with honesty and integrity when providing evidence and information to the arbitration committee.

In mediation, the principle of integrity forbids the use or disclosure of information provided by the parties or witnesses to the mediator. The mediator is prohibited from disclosing such information, as well as any records, reports, or documents provided during the mediation. Mediation is strictly confidential. The parties cannot use information as evidence in any legal or arbitration proceedings. They are not allowed to disclose settlement suggestions, opinions, or statements shared by one of the parties or the mediator during mediation. Meetings during the mediation process cannot be recorded or documented at all.

Therefore, it can be concluded that the principle of integrity, as a fundamental rule, applies to the mediation process, requiring both the parties and the mediator to comply with it. This is particularly evident in the evidence process, where the confidentiality of all mediation procedures and discussions must be respected.

In mediation, the privacy of the parties is protected, unlike in court, making the process confidential. Moreover, any discussions, suggestions, or documents shared for the purpose of mediation cannot later be diverted to serve as evidence in a court case. This means that neither the concessions made by the parties nor anything discussed during the mediation can be presented in any court or before any authority. Furthermore, neither the mediator nor the participants are allowed to provide testimony in court about what occurred during the mediation.

As mentioned above, the flexibility, ease, and adaptability of mediation distinguish it from the justice of traditional courts. This means that even if ADR provides more flexible justice,

it does not eliminate the general principle of integrity but rather applies it with even greater rigor. The procedures and discussions in mediation are also subject to the same integrity standards as in regular lawsuits. To ensure the legitimacy of the process, several guarantees are required, the most crucial being the guarantee of fairness, the confidentiality of the mediation process, and the neutrality and independence of the mediator. These guarantees are, in essence, a reinforcement of the principle of integrity in both conduct and the presentation of evidence <sup>(20)</sup>.

The role of the mediator is to encourage and promote communication between the disputing parties, while ensuring independence, neutrality, mutual respect, and good faith in dealing with disputes. The legitimacy of the mediation process relies on the guarantees it offers, particularly in how the mediator interacts with the parties. The mediator often deals with complex matters, requiring effective communication skills, professional ethics, confidentiality, privacy, as well as autonomy and impartiality <sup>(21)</sup>. Therefore, the procedures in mediation should be grounded in principles of professional integrity, mutual trust and good faith. This is crucial, as it directly influences the judicial case if the mediation fails. No party can refer to anything that happened during the mediation sessions in court, whether the case is being heard in court or through arbitration. These matters remain confidential and protected by trust. Legally and logically, it is prohibited for any party to use the mediation process to strengthen their position in front of the court or arbitrators. This is clearly stated in Article 10 of the Mediation Draft Law, which ensures full confidentiality about all suggestions and discussions held during mediation. It also prevents any party from disclosing what was discussed during mediation in court, unless both parties explicitly agree. Furthermore, this information cannot be used in any other legal case.

### **Section One: Positive Impacts of Applying the Principle of Integrity to Alternative Dispute Resolution (ADR)**

Integrity in settling disputes has a positive impact on ADR. Some of its positive impacts include:

1. **Building Trust:** Integrity helps build trust between the disputing parties. When the parties act openly and transparently, the other side can have confidence in their intentions and commitments, which encourages effective communication and collaboration throughout the ADR process.
2. **Achieving justice:** Integrity plays a vital role in achieving justice in dispute settlement. By presenting information and evidence with honesty and sincerity, the parties contribute to a fair and balanced decision-making process.
3. **Improving Process Efficiency:** Integrity contributes to improving the efficiency of the ADR process. By engaging openly and transparently, the time and effort needed to find solutions are reduced, which helps improve the efficiency and speed of the process.
4. **Fostering Acceptance of Resolution:** Integrity raises the chances of the solutions reached through ADR being accepted. When parties are honest and committed to fairness and justice, the solution is more likely to be acceptable and satisfying for everyone.
5. **Maintaining Relationships:** Integrity helps maintain the relationships between the parties. When communication is open and honest, the parties can respect each other and cooperate in reaching solutions that benefit everyone, helping avoid the deterioration of personal or professional relationships.

Integrity is, in general, vital for improving the effectiveness and success of ADR, while also fostering trust and ensuring fairness, particularly in civil courts. Yet, its effects are even greater and more effective when it comes to administrative court proceedings, due to the particularity of administrative law. A specialized judiciary that handles disputes involving the administration as one of the parties is a fundamental and essential guarantee for protecting individual rights and freedoms from administrative abuse, for the following reasons:

(a). The administrative judiciary is a key aspect of the rule of law: The administrative judiciary's role in supervising public services ensures the enforcement of legality and guarantees proper compliance with its principles. These measures help strengthen the rule of law and protect individuals' rights and freedoms from administrative abuse and injustice.

(b). Judicial creativity is a fundamental characteristic of the administrative judiciary:

This expression means that the administrative judiciary issues major rulings, often considered in jurisprudence as manifestations of creativity and judicial ingenuity. Unlike the ordinary judiciary, the administrative judiciary is recognized for its judicial creativity, as it establishes and develops judicial principles even when they are not explicitly stated in legal texts. In practice, the judiciary plays a key role in shaping administrative law, as its rulings serve as the primary source of this legal framework. In fact, judicial rulings frequently surpass, in this area of law, legislation, making the courts' decisions the primary source of law. Consequently, administrative law is considered primarily a judicial law, where the judiciary is its main source. It has a dominant role in drafting administrative law, comparable to the role of legislation in civil law.

For instance, the Egyptian Supreme Administrative Court ruled on November 1, 2008, in Appeal No. 4383 of the 53rd year, affirming: "The consistent rulings of this court have shown that, upon reviewing the provisions of the Constitution, it is clear that the constitutional legislator has defined personal freedom as a fundamental right, protected by its texts and principles. Article 41 states that 'Personal freedom is a natural right, and it is inviolable. Except in cases of being caught in flagrante delicto, no one shall be arrested, have their freedom restricted, or be prevented from moving unless an order is issued for the necessity of investigation and the preservation of public security. This order shall be issued by the competent judge or the public prosecutor, in accordance with the law.'"

(c). The administrative judiciary serves as a guide for the functioning of the administration (the executive branch). The administrative judiciary serves as a guide for the work of the executive and helps to ensure it follows the right course. Its role is not simply to cancel administrative decisions, but also to advise the administration to apply the correct and most appropriate legal approach. This is evident in the rulings and decisions of the administrative judiciary, such as the following:

The administration has the discretion to grant promotions, but this authority is not without limits. Therefore, the court is always responsible for supervising the administration to ensure that it does not misuse, abuse, or arbitrarily exercise this power. In a recent ruling, the Supreme Administrative Court introduced a new principle that states: the refusal of the Administrative Prosecution Authority to explain its decision not to appoint all candidates who passed the personal interview, without providing any specific reason for not appointing the appellant, is legally insufficient. As a result, decision No. 305 of 2014, which denied the

appellant's appointment as an assistant prosecutor, was found to lack proper legal justification and to violate the law. The court ruled to annul the decision and its consequences. However, this does not prevent the authority from taking further steps to assess the appellant's eligibility.

## **Section 2: Negative Impacts of Applying the Principle of Integrity to Alternative Dispute Resolution (ADR)**

Procedures are not limited to one legal framework or exclusive to a particular judicial body. They are vital for any court settling disputes. They provide a framework for how the disputed right is brought before the court and resolved. Its purpose is to manage the course of a legal case before the court. Therefore, these procedures are legal rules that should be implemented and respected in court, just like the substantive rules applied to the case itself.

While ADR is a valuable and efficient tool in many cases, it may have some negative impacts in both civil and administrative disputes, which should be taken into account. Some possible negative effects include:

1. Noncompliance: Parties may encounter difficulties in complying with decisions made through ADR. For non-judicial decisions, it can be difficult to achieve strong legal compliance, which could lead to delays or incomplete implementation.
2. Absence of legal guarantees: Unlike traditional court proceedings, ADR may not provide strong legal guarantees, it may also undermine confidence in the process and its outcomes among the disputing parties.
3. Inefficiency in reaching final solutions: ADR may require additional time and efforts to reach a final solution. If the parties do not reach an agreement, settling the dispute can become difficult.
4. Absence of review and appeal mechanisms: Unlike traditional courts, ADR may lack mechanisms for review or appeal. This means that if the parties are not satisfied with the final decision, they may have few options for complaint or further review.

When resorting to ADR, parties must be aware of its potential negative impacts and address them with care. Consulting a lawyer or a legal advisor can help in making the right decisions. When integrity is not used in ADR, it can lead to several negative effects, such as increased tension and intensification of the dispute. Instead of reaching a settlement, the dispute may become more complex and unfair. Besides, the lack of integrity can increase dispute costs. Instead of finding more economical or simpler solutions, the parties may have to turn to the traditional courts. They would then have to pay for lawyers and court proceedings, as well as endure the delays. The time needed to settle the dispute can also be longer, leading to more losses. The lack of integrity in resolving disputes can harm relationships between the parties. When disputes become trials and legal battles, it can negatively impact trust, cooperation, and personal and professional relationships between the parties. Besides, instead of reaching an agreement that satisfies everyone, the parties may lose control over the results. This depends on the decision of the court or arbitration body, which may not fully satisfy the disputing parties.

It is essential to take these negative effects into account and do all what we can to rely on integrity, develop alternative solutions, and reach a settlement before turning to the traditional courts.

In administrative court cases, these effects are often more noticeable, particularly because the administrative judge has a direct influence on the direction of the case. In general, there are two main approaches to managing legal cases. One of them is the accusatory system, which grants the parties more freedom to manage the case, without overthrowing the judge's role in overseeing the proceedings.

This system prevails in the management of civil cases. The other one is the investigative system, where the judge takes an active role in managing the case, knowing that this system also prevails in the management of administrative cases.

Therefore, administrative court procedures are characterized by being managed and directed by judges, who take on the responsibility of seeking the truth. They lead the process, and the parties follow their guidance and decisions from the start of the case to its conclusion.

**Conclusion** In conclusion, this study presents the key findings we reached and offers the most relevant suggestions to further support this topic.

Results:

1. The principle of integrity in civil and administrative evidence is crucial for defining the limits that apply to both the judge and the other parties.
2. The principle of integrity serves as a limitation on the discretionary power given to civil and administrative judges in evaluating and assessing evidence.
3. By adopting alternative dispute resolution (ADR), the way in which the burden of proof is managed in administrative and civil cases becomes fairer.
4. Integrity plays a key role in improving the effectiveness and success of ADR, and promoting trust and fairness in these processes, especially in civil court proceedings. However, it proves to be more effective and efficient in administrative court proceedings, due to the particularities of administrative law.

Suggestions:

1. Reviewing the regulations related to evidence to make sure they are consistent with the principle of integrity.
2. It is essential that the Iraqi legislator passes a law focused on administrative procedures, which will define and regulate the process of administrative litigation, covering everything from filing a case and presenting evidence to issuing judgments and handling appeals.
3. There is a need for legal guarantees when applying alternative methods of evidence, just as the ones applied in traditional courts. This leads to a sense of uncertainty or lack of confidence among the litigants regarding the process and its outcomes.
4. Auditing and appeal mechanisms for reviewing alternative approaches should be available, as they are in the traditional judicial system. This means that if the parties are not satisfied with the final decision, they may have few options for complaint or further review.

Endnotes:

(1) Article 5 of the Iraqi Rules of Evidence, Article 133 of the Lebanese Code of Civil Procedure.

(2) Hania Mohammad Ali Fakih, *The Principle of Integrity in Evidence* (2017), Al-Halabi Legal Publications, Beirut, 1st Edition, p. 30. (ص 30، 2017، ط1، بيروت، الحقوقية الحلبي منشورات، الإثبات في الاستقامة مبدأ، فقيه علي محمد هانية)

(3) التالى الإنترنت موقع على منشور، (بالقضاء وعلاقتها المنازعات لحل البديلة الوسائل فعالية مدى) بعنوان مقال، ناجي انور احمد (Ahmed Anwar Naji, *The Effectiveness of Alternative Dispute Resolution (ADR) and their Relationship to the Judiciary*, available on the following website: <http://droitcivil.over-blog.com/article-7211867.htm>)

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(5) Favez Al-Hajj 22 الى 14 ص 2 عدد ، لبنان العدل، مجلة في منشور (التوفيق شروط) بعنوان بحث شاهين الحاج فايز (Favez Al-Hajj Chahine, *Conditions for Conciliation*, Al-Adl Journal, Lebanon, 1997, Issue No. 2, pp. 14–22.)

(6) (Majdy Ibrahim, *Are You Skilled at Negotiation?* (2014), Mahi Publishing and Distribution Company, p. 92. ، والتوزيع للنشر ماهي شركة التفاوض؟، تجيد هل إبراهيم، مجدي

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(8) The World Trade Organization (WTO) has established a dispute resolution procedure for countries, relying on the principle of international reconciliation as the first step. It should be taken into consideration that arbitration is a last resort after failed consultations. The WTO also adopted the Article 67 of the general conditions of the International Federation of Consulting Engineers (FIDIC), which calls for mediation before resorting to arbitration.

(9) (Adouard Eid, *Encyclopedia of Trial, Evidence, and Enforcement Principles*, Vol, 10, Arbitration, 1, No. 9.) ، التحكيم العاشر الجزء والتنفيذ، والإثبات المحاكمات اصول موسوعة عيد، ادوار

(10) UNCITRAL Model Law on International Commercial Conciliation (2002)

(11) (Sami Badih Mansour, *The Lebanese Experience in Alternative Dispute Resolution Systems*, ibid., p. 4.) ، للتحكيم البديلة الانظمة مجال في اللبنانية التجربة ، منصور بديع سامي

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(13) To learn more about the different mediation methods, refer to Goldsmith (J-C.), *Les modes de règlement amiable des différends*, RDAL, 1996, p. 221. (*The Methods of Amicable Dispute Resolution* (1996), RDAL, p. 221.)

(14) <http://www.lebanon24.com/Search/details/691743>

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(15) (Mahmoud Ali Al-Rashdan, *Mediation for Dispute Resolution Between Theory and Practice*, pp. 44, 46, 58–68.) ، صفحة والتطبيق، النظرية بين النزاعات لتسوية الوساطة علي، محمود الرشدان،

(16) (Soualem Sofiane, *Alternative Means for Settling Civil Disputes in Algerian Law*, pp. 37–40.) ، صفحة الجزائري، القانون في المدنية المنازعات لحل البديلة الطرق سفيان، سولم

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(19) ، القاهرة جامعة ، دكتوراه اطروحة ، الدولية التجارة عقود منازعات لتسوية كأسلوب التحكيم اتفاق ، مخلوف صالح احمد (Ahmad Saleh Makhoulouf, *The Arbitration Agreement as a Means for Resolving Disputes in International Trade Contracts* (2000), Ph.D. Dissertation, Cairo University, pp. 18–20.) ، 2000 ، ص 18-20.

(20) (Sami Badih Mansour, *The Lebanese Experience in Alternative Dispute Resolution Systems*, ibid., p. 6.) سابق مرجع ، للتقاضي البديلة الانظمة مجال في اللبنانية التجربة ، منصور سامي

(21) (Sami Badih Mansour, *The Lebanese Experience in Alternative Dispute Resolution Systems*, ibid., p. 9.) ، للتقاضي البديلة الانظمة مجال في اللبنانية التجربة ، منصور سامي

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