



# The Public Employee and His Duties Between Sharia and Man made Law Comparative Study

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## Abstract

The study aimed at identifying the concept of the public employee and his duties according to Sharia law and the legislation by the civil law, which is the subject matter of the comparative study. The study utilized the analytical descriptive approach and the comparative approach. On obtaining information, the study relied heavily on secondary resources. The most important findings of the study concluded that there are no significant differences between the concept of the public employee and his duties according to man-made law and the Sharia's. It showed that the commitment of the employee to these tasks is not confined only to the field of job. It further extends to reach his manners, behavior, in private and public life. The most important recommendations of the study were as follows: working on creating opportunities for training and qualification for the increasing of productivity and raising the proficiency level of the individual performance. It also recommended to have an effective control system in which employees take part in setting its basics and standards, which mainly aim to, on the one hand, warn the employee of his misbehavior, and guide him towards his perfection, on the other hand.

**Keywords:** Quran and guidance.

## 1. Introduction

The administrative authority carries out its functions and tasks through individuals; those individuals are the state's tool to do all the activities perfectly. Thus the achievement of its objectives depends greatly on the extent of their allegiance towards their duties, and the extent of their abilities to perform the services assigned to them. As the public job is a responsibility and trust to serve the citizen and the society, it is governed by a set of religious rules and standards. Thus the Sharia is careful to set up rules and laws that determine the ethics of the public job. The

idea of job in Islam is based on being a religious duty; it is not given for those ask for it, but rather for those who deserve it and who regard its essentials. A duty in Shar is needed to be done obligatorily. In the same time, we find that the legislations, which organize the civil service in contemporary countries, adhere to stabilize high level of professional values, through setting up rules, regulations to organize the behavior of the public employee and consolidate their adherence to these rules and laws. This aims to create trust and respect by the citizen and the receivers of the civil services, which leads to appreciation and respect for the state which motivates it to give the best possible services to the citizens and the community alike.

### **1.1. Significance of the study**

The significance of the study stems from being so important in terms of its subject matter and its nature. The public employee has been regarded as one of the most important tools of the state-in both of the old and the modern one. No state can carry out its authorities with its employees whom it rely on in giving the services it its citizens. Based on this the employee is considered the mirror of the state for the people of the country. Therefore, the study attempts to determine the concept of the public employee in the Islamic law and the laws of the civil services based on a comparative study benefiting from what was published by scholars of Sharia and stabilized by the administrative adjudication rules. The importance of the study also stems from its attempt to clarify what has been stated upon in the Islamic Sharia in terms of the public employees' duties, and what has been determined by the law maker in this respect. This, in fact, adds new dimensions in founding the Islamic law and the systematic analysis of the duties of the public employee in order to bring into focus points of sameness and differences, in this area.

### **1.2. Justification of the study**

Despite the importance of the study, the information around it scattered between the different study resources, which did not deal with it in details. It dealt with it form multi-aspects and generally. This is because it dealt with the civil service law and the studies which dealt with the public job. Further, the study of the concept of the public employee and his duties form an Islamic point of view in English is a new subject and is regarded an opportunity to show and accentuate the dogmas and principals of God's religion which are a complete code for the whole humans' relations and behaviors and treatments. Such a code is aimed at all mankind without any kind of discrimination between color and race. All the above are good reasons and justification for doing such a study.

### **1.3. Objectives of the study**

1. Demonstrating the concept of the public employee and identifying him/her in Sharia, Islamic Law, and man-made law, Earthly law.
2. Demonstrating the rules in Sharia and law which determine the duties of the public employee.

### **1.4. Methodology of the study**

The researcher utilized the following approaches in his study

1. The descriptive analytical approach; he referred to Islamic Sharia references and scientific and Jurisprudence (Feqeh) including books, studies, periodicals and scientific lectures and conferences, whether in Arabic or English, which are related to the field of the study.
2. Comparative approach: the current study is a trial to present an analytically comparative study through considering what the Muslim sharia has set in terms of rules and laws which determine the responsibilities of the public employee through comparing these laws with the Palestinian Civil Service Law No. (4) of 1998 as amended by Law No. (4) of 2005 and Egyptian Law system state employees No. (47) for the year (1978).

### **The study was divided into two parts as follows**

**First part:** It identifies the concept of the public employee in Sharia and earthly law.

**Second part:** It deals with the duties of the public employee in Sharia and man-made law.

### **2. Part one(Concept of the public employee)**

Since its establishment, the State is regarded as a social and political entity which got the satisfaction of people. It has an important role in the achievement of people's interests who are subject to its authority, and provide them with all means of security and safety, as well as giving the chance for the citizens to benefit from the services they need through the state's administrative apparatuses and its different facilities. It is impossible for the state to carry out these tasks and responsibilities without having a tool to perform work. This tool, which the state resorts to in administering and operating its facilities and providing services to its citizens, includes public employees and workers who are authorized by the state to operate the public facilities and institutions of the state, and upgrade the service given to the people at all levels. The public jobs are the state's tool through which it can give services to its citizens, and so the public employee is

the tool to achieve its goals. Islamic jurisprudence, other legislations, regulations, and adjudications in other countries always elucidate the role of the employee. Therefore the study attempts to define the concept of the public employee according to Islamic Sharia and earthly law, as well as presenting the standpoints of the jurisprudence and adjudication. As a result this subject matter will be dealt with in two requirements and they are as follows:

**First requirement :** The Definition of the public employee in the Islamic Sharia.

**Second requirement :** The Definition of the public employee in the man-made law.

### **2.1. First section (The Definition of the public employee in the Islamic Sharia)**

As it is known in the administrative jurisprudence, the idea of the public employee is generally associated with the state; the employees work to serve the country. Based on this, the concept of P.E. is, regardless of the different naming, repeated in the different legislations, systems and in the different ages, whether in the past or present. P.E. is not a recent product of this modern age. In the past, the Islamic Sharia recognized the P.E. and Job which he does and which is based on a fundamental idea because of being a social service determining powers in return a fixed pay (Al-Mawardi, 1983, p.19) . Based on this, whoever assigned to carry out part of the social services is called a public employee, which is called Laborer (Shaaban, p.15). The laborer (the public employee) is regarded the core of the administrative work in the Islamic State; he carried out the law and makes decisions and thus speaks on the behalf of the administration and does services. Such an employee is seen as the State's tool and its authentic appearance and through him people see the state (Ahmad, 1991). It is observed that the Islamic Sharia did not use the term "Public employee" to refer to the one who performer of a public job. He was called " Alamel" (Laborer) and the term Alamel includes the Caliph, governors, princes and law keepers, in addition to other names which indicate the job of the public employee in the present time(Marzouq sons, 1999).

The meaning of Laborer in lanaguge: he is the one who performs a job. We say someone does a job, so he is worker. Thus the laborer is the one who is charge of a man's affairs: his money, property and work. It was said that it encompasses the one who collects Zakat. And it is said he used the other if he asked him to do a work for him (El-Jouhary, p.1775). What was narrated in the sunnah indicates explicitly that it is meant by the worker or laborer, the public employee who works for the state . this is supported by the words ofThe messenger of Allah ( peace be upon him)

as he said: "what is about the employee? We send him and he says : this is for you and this was given to me , was he given this if he stayed in his father's house.....!(Al-Boukhary, 1998, p.1369) and it was narrated that the messenger said : "him Who works for us could have a wife , and if he has not a servant , he could have one , and if he has not a house , he could have one." (Al-Sijistani,1389AH., p.134).Based on the above, the public employee has been known by contemporary scholars in Islamic jurisprudence with several definitions including:

known as : " It is everyone working for the Muslims, everyone who undertakes Muslims on the basis of Sharia is an employee." (Al-Kettani, p.395).

It also known as: " the person who had been given an order to act in the matter of the State, for example the management or representation of the nation directly such as Khalifa as a supreme administrative authority in the executive branch as a whole in the Islamic state branching out of it all other public jobs, as Khalifa is responsible for the government's policy towards the nation." (Al-Ibrahimi, p.53).

## **2.2. Second section(The Definition of the public employee in the man-made law)**

The definition of public employee and his concept differs from one country to another, depending on the different public positions for the States and to the importance given to it . The public job in each particular state is the result of the evolution of history passed by the State affected by the range of different factors such as geographical location , economic and social levels of that country and the political system prevailing there. The evolving nature of the administrative law makes it difficult to determine the definition of public employee for a long period of time within a single country. So there is no standard definition for the public employee in the various branches of law : civil, criminal and constitutional, administrative. Law makers in the majority of countries are always reluctant to give a perfect definition for the public employee and shortens their efforts on the definition of some sects of employees when exposed to some of their organization affairs, leaving that task for the judiciary and jurisprudence (Badran, 1990 ) . However, some of the legislation in the comparative systems has tried to provide a definition of public employee. This definition determines the conditions and characteristics that must be met to be regarded as a public employee, and it was natural that these conditions and qualities vary from one legislation

to another within the same country, depending on the differing interests protected by the legislation.

As this place is not sufficient to explain the concept of public employee in all branches of legislation , the researcher will be limited in this requirement to the concept of public employee from the point of view of the functional legislator in the countries under the comparative study. In Egypt, for example , the Egyptian legislator did not put a definition for the public employee in any of the successive functional laws, but he merely enumerated groups which they apply these laws and apply their provisions (Fikri, 1987 ) . The Egyptian legislator has continued this way even under the current law No(47)for the year 1978 on the state civilian workers. The first article stated that the provisions of this act apply on the following:

1-Workers in ministries of the government and its agencies and institutions that have a budget of its own and the local government units.

2-Workers in public organizations unless provided by the regulations of their own.....and whoever is working on the application of the provisions of this law, is considered an employee, appointed in one of the functions described in the balancing of each unit " (First Article of Egyptian Law)

However, it does not mean from the foregoing that the position of the Egyptian legislator is criticized of the lack of definition of the public employee. The definition, as agreed by the administrative jurisprudence, is basically the function of jurisprudence and judiciary. Because of the evolving nature of administrative law, putting the task of defining the public employee in the hands of jurisprudence and judiciary avoids describing the definition of rigidity and allows re-considering it to include what may raise of developments.

If the Egyptian legislator avoided entering into the maze of defining the concept of a public employee, the Palestinian legislator , although it did not provide comprehensive definition and flour, but he added some other elements that help to define the public employee. It came in the first article of the Civil Service Law No. (4) of 1998, amended by Law No. (4) for the year 2005 that it is intended by public employee " a person appointed by decision of the competent authority for a job listed in the configurations of civilian positions system in the balance of a government department, whatever the nature of that job or its name" ( First Article of Palestinian Law).

It is clear from the text of the previous article that the Palestinian legislator considered public employee is a person who is appointed by the competent authority as the president or the minister or deputy minister or director of a public institution, to a range of tasks stipulated in the laws, regulations, instructions and administrative decisions of relevant and related powers and their responsibilities (Sadek, 2005).

Faced with inadequate definitions provided by the legislation , jurisprudence and the judiciary in turn tried to formulate a definition of public employee which highlights its nature and by identifying the elements and the basic conditions that must be met in a person to be considered as a public employee.

The Egyptian administrative jurisprudence tends to put a narrow definition to the public employee. Although expressions used by the commentators of the common law vary, but they are all focusing on key elements and conditions required for someone to be a public employee, and thus the definitions put by Islamic legislators varied (Shahata,1955) (Fahmi, 2000) (Raslan, 2004) (De Forges, 1986). these definitions and focused mostly on the most important elements and conditions essential to gain the status of public employee, and it imposed three basic conditions:

First, the person has to be appointed by the authority which has the legal right to appoint him. Secondly, he has to do the work permanently. Thirdly, he has to work in a facility run by the state or a man of public law.

These elements are approved and confirmed by the Egyptian administrative court where it has tackled the concept of public employee in many of its provisions. An example of that the decision of the supreme administrative court in one of its provisions that : " the fundamentals that underpin the idea of a public employee is to be appointed legally to do a permanent work in service of a facility run by the state or a man of public law."(Appeal No.(983) on19/5/1969)) .

We note finally that the development of the legislative and judicial Method has ended in adapting the state/ public employee relationship as a regulatory relationship where the employee derives his rights and duties directly from the texts of law and regulations governing public employment. In other words, the public employee facing the administration at a regulatory center subject in its organization to law provisions, and thus the legal status of the public employee is created as soon

as the decision of appointment in public job is published and according to this a set of rights and duties are determined , These duties will be the subject of study in the section below.

### **3. Part two(The duties of the public employee)**

Since the Islamic Sharia has come to organize everything in the life of the Muslim nation :faith , worship , education, ethics , legislation and laws, Sharia has drawn one way to unify Muslims' work and path in life. In this context Sharia has put an accurate balance erected of divine justice , this balance regulates everyone's duties and rights as a human being. One of the purposes of the law - as it is known - is to create a good man, and a good man is a good Muslim, and a pious Muslim follows education rules and origins of morality. As the public employee is a human being in the first place, so once he is appointed he has to keep in mind that he should do his duties in full integrity and complete honesty, because the public employee duties are imposed by Islamic Sharia which gave the commitment with them an ideological deep. In the same context, civil service legislation in contemporary states decide a range of countless duties necessitated by the nature of public office such as the duties required by the nature of the work , there are duties that are required of an employee during or because or on the occasion of carrying out his job, and there are what are required of him in his private or public life. This section deals with the duties of a public employee in the Islamic Sharia and the man-made law in the two following requirements:

**The first requirement:** The duties of the public employee in the Islamic Shria.

**The second requirement :** The duties of the public employee in the man-made law.

#### **3.1. Section one (The duties of the public employee in the Islamic Sharia)**

The Islamic law ( Sharia) is not limited in the duties on aspects that relate to the Hereafter, but came with all the human needs in his world, it is a comprehensive law. In terms of holism, Sharia has given special care to public job and public employees Because public employee is a member of the Muslim community committed to the commitment made by everyone . He works to secure the right and justice for all people, therefore, he has some duties that must be performed because he earns a salary in order to do his work. It is obligatory in Islam to obey God and do what should be done (Zoheily,1405AH., p.44). because the one who does it will be rewarded and the one who leaves it will be punished . In this section we will display the most important duties put by Sharia to be performed by the public employee:



### **3.1.1. Honesty and truthfulness in performing work**

Honesty is the mother of virtues, and the source of tranquility and it is also considering the rights of God when performing one of the ordinances and duties as well as maintaining the rights of other people. His greed should not derive him to get what he should not or deny trusts left with him and should not take the others property unjustly (Sherbasy, 1975). It is with honesty that rights are given and duties are performed. Honesty is the pillar of the nation building, hence honesty is a necessity of faith. As Allah says : "indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed , Allah is ever Hearing and Seeing." (Al-Nisah, verse 58) And it is a feature of the believer wherever and it differentiates him from the traitor and cheater. Allah says : "O you who have believed , do not betray Allah and the messenger or betray your trusts while you know the consequences ." (Al-Anfal, verse 26). It is o honesty to put the right man in the right place, it is not permissible to assign the job for a man who is not worth it, because public jobs and functions are trusts and fixed responsibilities in many ways. The messenger of Allah ( peace be upon him ) says: " if the trust is wasted then wait for the Hour , he was asked: how is it wasted ? he answered: when the job is assigned to a non qualified person , wait for the Hour." (Al-Boukhary, 1998, p.1245)The honest employee is the one who does not exploit his position to fulfill personal interests or interests of others who do not deserve it, or to take over the public money unjustly. Pursuant to the Hadith of the Prophet as he says : " He whom we used from you and we gave him a salary , then what he takes more than his right is malignant." (Al-Sijistani, 1389AH., P.196). Consequently, the public job is considered a trust in the hands of the employee, he must obey God the Almighty in it, and he must perform what was assigned to him to the fullest.

### **3.1.2. Dedication and mastery of work**

The loyalty duty is an essential feature of the Muslim employee, that is he does his work to obey Allah not to boast or show off or receive praise from others. The existence of this duty prevents the occurrence of any defect and deviation from the right path as it is a safety valve against corruption in all its forms and manifestations, the employee is not subject to any stimuli or external pressures, In contrary , he performs his duty according to the religious commitment and the performance of the professional duty and therefore his ordinary work turns out to be a worship because the good intention makes the habit a worship. And of that is the sense of self-censorship

in the employee and the source of this sense is the feeling that Allah sees all his behaviors and actions. Allah says: " Allah is watching everything ." (Al-Bayina, verse5) and also says:" And they were commanded not, but that they should worship Allah keeping religion pure for him." (Ibid, verse5)

To master the work is from being loyal to it. One of the important duties of the public employee is to master the work and to feel responsible and do the work fast and avoid committing errors as possible as he can. The prophet says : "Allah will be pleased with those who try to do their work in a perfect way"(Al-Tabarany, 1415AH., P.275) This emphasizes the mastery of work and good performance in all professional and behavioral requirements and maintain the working hours and the discipline always requires the presence of the employee at the beginning of the specified hours, and leave at the end of working hours. Allah says : "As for those who believe and do righteous deeds, certainly! We shall not suffer to be lost the reward of anyone who does his (righteous) deeds in the most perfect manner."(Al-Kahf, verse 30) .

### **3.1.3. Obedience**

All religions do not differ in the encroachment of obedience to achieve harmony in the whole universe , Islam insisted on obeying the rulers, because they are the operational tool for the Quran and Sunnah. The purpose of obedience is to achieve the people interests which can only be achieved by obeying the rulers as God says : " O you who believe! Obey Allah, and obey the messenger and those of you who are in authority."(Al-Nisah, verse59). The rulers is a generic term that includes all the officials such as the governors, ministers and public directors of all institutions in the civil service (Al-Demashqi,1997, P.345), the prophet says : " Muslim must obey God in all matters whether he loves or hates unless he was ordered of a sin , if he was ordered of a sin so he mustn't obey"(Al-Demashqi,1997, P.1363) Obedience to the rulers is not absolute but is constrained by the extent of its compliance with Islamic law ( Sharia) , not blind obedience , but to be in well-known to the extent possible, narrated from Abdullah bin Umar said : "We have been if pledged allegiance to the Messenger of Allah on obedience tells us: " As much as you can " (Al-Demashqi,1997, P.1375) and it was narrated that Abu Bakr when he took over the Caliphate said in his famous sermon " Obey me as long as I obey Allah and His Messenger , if I resisted Allah and His Messenger do not obey me " (Al-Tabari, 1407AH., P. 238) Hence, the obedience albeit constrained, the public Employee has no right to refuse the orders and instructions of his boss ,

claiming its disapproval of the Islamic law, because the evaluation of many of the orders and instructions is not understood by the public because it is the prerogative of scientists and scholars. We conclude from this, that the orders issued by the administrative authority within the framework of the presidential Islamic legislation, whether in the form of instructions or circulars, leaflets or books or journal or administrative decisions are legitimate and falls on the employee's general duty to obey them.

#### **3.1.4. Maintaining Secrets Occupation**

Conserving secrets - in general – is a human Property in social relations ; in terms of dealing with the individual and with others , and with the community in which they live. The secrets are of great importance in nations , they are one of the greatest reasons for success , and the best to obtain righteousness , hence Islam caring to maintain secrets , intended the formation of the Muslim community . The development of legislation governing the protection of relations and development is necessary for the endurance of the social life and its progress morally .If we neglect ethical and social principles , and allow for treason and divulging secrets to spread ; the meanings of humanity will disappear , such as honesty and secrets maintaining , from people's lives, and it will transform the social life to hell . The application of this is to maintain the secrets of work in Islam , as it is a great and important virtue , because of the requirements to fulfill contracts to do everything possible to maintain the factors for success in the enterprise , whether in government or private sector , and the most important fundamental is that you need to maintain and care for the preservation and maintenance information , plans and trends .

Islam came with its exquisite directions, and the greatness of ethics to grow in the Muslim spirit the importance of keeping secrets , and the seriousness of sin in the deployment, diffusion .., God - the Almighty Him - guided mankind to maintain each of the secrets and covenants and contracts to stretch bridges of trust and intimacy and cooperation, and to upright interests and ward off evil. As Allah says : " And fulfill [every] commitment. Indeed, the commitment is ever [that about which one will be] questioned." (Al-Israh, verse34) And also says : " O you who have believed, fulfill [all] contracts." (Al-Maida, verse1).

Everyone will be asked about his commitment and contracts , if he completed he will be rewarded, if not his sin is great . also keeping secrets has a great role in success of our projects and business,

that is why our prophet urged us to do our work secretly : " seek the success of your needs and works in the secrecy, because each blessed is envied." (Al-Albani, 1408AH.,P. 943).

So keeping secrets is a legitimate demand for the projects' success and meeting the needs, Before being a functional or administrative requirement or a moral value. The nature of the relationship between the employee and the state is a regulatory one Therefore, the employee is committed to policies that meet the conditions which determine the duties and work responsibilities assigned to him. And he has to take the religious and moral responsibility toward his job and tasks assigned to him. And he has , due to this trust and responsibility, to keep his job secrets because this is an evidence of his honesty ,manliness, strong personality , very good morals , and keeping trusts. True Muslims always prove their manliness and keep their promises, contracts and trusts. Allah describes them in the following ayah:" And they who are to their trusts and their promises attentive." (Al-Mouminoun, verse8) There is no doubt that revealing the secrets of work is a violation of honesty, and its serious consequences, are a sign of hypocrisy and bad morals; from here comes the prophet confirmation of honesty and fulfilling promises in all his speeches . narrated that Anas Bin Malek said: " Whenever the prophet made a speech but said: no faith for who is without honesty , and no religion for who with no promise."(Al-Moonderi, 1421AH., P. 77).

At the conclusion of this requirement and after we presented the most important duties. That the public employee must perform in Islamic law , we emphasize that duties are laws in Koran and Sunnah and the Muslim employee must not violate or neglect them. Islam , in order to be realistic, believes that the fulfillment of duties is not just a legitimate commitment but also an essential condition in terms of the group rights.

Rights and duties are always together in every social and political activity . while rights raise human freedom , duties express the greatness of God, and to the extent that spiritual elevation is the ultimate goal of human existence , it is the duty of man to serve this purpose with all his strength , ideas and resources. Because true and noble ethical behavior is one of the greatest goals of the Islamic religion and the shortest way for civilization , the Muslim should strive to commit to noble behavior and adhere to virtue and avoids vice to make himself and all the community happy.

## **3.2. Section Two**

### **3.2.1. The duties of the public employee in the Man-made Law**

The general principle in the public job is that : " public job is to those who are in charge aiming at serving citizens to fulfill service interests according to the laws and regulations because the basis of the public job is the public service, so the basis is presenting service not just practicing authority. Hence the public employee has to abide by the obligations established by the laws and regulations. But it should be mentioned that the public employee has to be committed to all his duties whether contained in the law specifically or was not mentioned in a text in the law. This implies that the duties mentioned by the legislator, usually in the public job legislations, are merely examples of general duties must be done by all public employees . As well as their commitment to any other duties required by the public job and is not contained in the law. This means that the duties of the public employee cannot be determined in advance. and that these duties are not especially for work or during work only, but can be extended beyond the scope of work, and it extends to all matters related to the dignity of the employee and his reputation in his job (Raslan, 2004).

Applying the above : Here are the most important of those duties mandated by the legislature in the civil service laws in the countries under study and comparison as follows:

#### **3.2.1.1. The performance of functional tasks in accordance with the provisions of the law:**

(Al-Assar, 2008) (Badr,2004)

public employee is Committed to perform the work in accordance with laws and regulations, he must start to lead the work assigned to him by himself, without authorizing other in that except in the cases specified in the law. Also, he has to perform his work accurately , mastery and honestly. And he has to devote the official work time to do his job tasks. And he is committed to perform any work the administration assigns it to him in the non- official working hours if the work interest requires that. Moreover, he has to treat the public appropriately on the basis of neutrality, impartiality, objectivity and justice without discrimination on the basis of sex, race, religious beliefs, or any form of discrimination, and to perform their treatments on time. as he has to maintain and respect the work schedules, and follow the procedures specified by the rules and regulations in case of delays for appointments or be absent from work.

He must also cooperate with his colleagues in the performance of duties necessary to secure the workflow and implementation of the public service. And he must not combine his job and any other job except in accordance with regulations and provisions outlined for the work may be performed in a non-official hours as not to compromise or interfere with the job and its requirements. Finally, it is the task of public employee to maintain the public money, The state's interests and assets . and not to neglect any of its rights and report any abuse of public money or the public interest and any default or negligence which may hurt them (Act 66/1/2/3/4 of Palestinian Law) ( Act 76/1/2/4/5/7) of Egyptian Law) .

**3.2.1.2. The duty of respect and obedience for presidents:** ( Act 66/5 of Palestinian law) ( Act 76/8 of Egyptian law)

The relationship between superior and subordinate should be based on mutual respect, and that the heads has the right of obedience on their subordinates and must be respected to the extent that should prevail between superior and subordinate. Because Obedience of presidents and their respect is a duty that ensures presidential power effectiveness and force. Therefore the Supreme Administrative Court in Egypt developed important principles in this regard and this principles were frequently repeated in its same provisions. And that's what was ruled in one of its provisions that:" the employee obedience to his superiors requires, in addition to the implementation of rules and orders ,respecting them as much as it prevails between superiors and subordinates (Appeal No.4026 on 13/1/2007 and Appeal No.3044 on 3/6/1990) .

So the basic principle here is that the subordinate must respect the superior on the one hand and the obligation of obedience on the other hand ( . But the question that can be raised in this regard is what are the limits of this obedience?

It is indisputable that the subordinate must abide by obeying his boss with the implementation of the legitimate instructions issued to him and it is like that if it met all the right conditions (Awad, 1983) (Salama, 1984). But the problem magnifies if these instructions were illegal as any violation of the rules and regulations applicable. If they were like this , should the employee obey his boss and work on implementing them ? or should not obey them and refrain from implementation?

These questions have preoccupied the thinking of administrative jurisprudence men in France for a long time, and in order to answer them in this regard appeared three doctrinal trends we refer

to them very briefly – where we do not have the space to detail (Duquit, 1923) (Stassinopoulos, 1954) (Plantey, 1971) (Duquit, 1927) (Weline, 1959) :

The first trend believes that the employee should not obey his boss whereas the second trend indicates that the employee is obliged to obey his boss without search in the orders legality. The third trend stood at the middle of the two former trends where it considered the legality principle on one hand and maintained the orderly functioning of public utilities on the other hand. The third trend implies that if the superior obedience is compulsory, even if illegal, is necessary to keep workflow, but the commitment to implement it is restricted to that this offensive, illegality, should not be clear or obvious and that it does not lead to serious damage to the public interest .

The Palestinian legislator and the Egyptian legislator Have been influenced - to some extent - by the third trend where they decided a general rule in this regard that " the public employee will not be relieved of the penalty on the basis of an order issued to him by his President unless he proves that the offense was pursuant to a written order issued to him by the this President despite warning him in written form that this order is an offense , in this case, the responsibility falls on this president himself only ( Act No. 74 of Palestinian Law) (Act No.78 of Egyptian Law) . However, whenever the incident was assigned to the subordinate employee stark in its violation to the rule of law, he will take the responsibility, no matter how proven that he works inspired by his superiors or according to their explicit orders (Bateekh,2006).

### **3.2.1.3. Not to exploit the job and respect for its dignity :**

The public employee as a representative of the state has a great deal of authority in order to be able to achieve the public interest. Therefore, we find civil service legislation in different countries keen to put controls and restrictions to limit the exploitation of the employee for such power or misuse to achieve a particular or personal interest, and so on the grounds that the public job is a public service and commissioning not grace, aimed at serving the citizens and developing the state, and exploiting it for private purposes inevitably leads to a breach of this principles. In this trend, legislation- referred to above- has banned, in general, "that the employee exploits his job or his authority to fulfill a personal benefit or self profit or accepts any gift, reward or bonus commission on the occasion of carrying out the duties of his job (Act 76/3 of Palestinian Law) ( Act 77/14 of Egyptian law) (Mahfouz, 1989)"

Finally, the duty not to exploit the employee's job does not stop at this point, but extends to be associated to another duty which is the responsibility of the employee to maintain the dignity of his job according to customs, and that he exhibits in his actions attitudes consistent with the respect and duty. He must not appear with an appearance that may spoil the job dignity (Act 76/6 of Palestinian Law) (Act 76/3 of Egyptian Law). Accordingly, the public employee should commit, beyond the scope of employment or in his private life, to a certain level of behavior consistent with public morality and job ethics practiced by him. That is the disciplinary responsibility of the employee is not only what happens within the framework of his job, but also extends to the general behavior outside this framework.

" the commitment of public employee in his life to exhibit an attitude consistent with the job given to him requires a harmonization between the type of job assigned to him and the obligations and public or private behaviors , because each of them affects the other

As the private life of the public employee is not a private property to him, and he has to take into consideration that his behavior outside his work should not affect his work or the look of individuals to him because he may lose the confidence of individuals in public job or those who take over the management of their affairs (Appeal No.3394 on 1/11/1992) ."

#### **3.2.1.4. Not to disclose secrets of the job**

The law indicates that the public employee should not reveal his work secrets , this obligation exists throughout the whole life of the employee's career, and even after he leaves the service. The work secrets mean : " every incident o feature which the knowledge of it is limited to a particular number of individuals, if there is an interest recognized by law to one or more persons to remain in their limited knowledge in this domain (Al-Fayoumi, 1993, P.120). "

Since the basic principle is that the obligation not to disclose secrets falls on all people, it is a fortiori to the public employee to abide to it , as he can, because of his job, know a lot of things and secrets, both those contained in official documents that are under his hands, or those that are due to what comes up to his knowledge of information .

The obligation not to disclose the secrets of job - as noted above - is the responsibility of the public employee for the whole duration of his service, and this is obvious and understandable, and remains even after the employee leaves the service of the facility, because that he left the service of facility does not mean degrading him from all the commitment , it must be respected , and



what may be given to him of advantages – such as the salary for example - and what could dictate of burdens

( Fahmi, 2000).

Confirming the above, comparative civil service legislations prohibits that the public employee reveals any of the things and secrets he knows due to the nature of his work other than the aspects permitted by the law even if leaving the service (Act 76/5 of Palestinian Law) ( Act 77/8 of Egyptian Law).

Finally, after that requirement explained the most important duties that must be adhered to by public employee , we point out that every employee deviates these duties or does anything that harms the dignity of the job is guilty of an administrative sin that requires a disciplinary interrogation. And the reference here to evaluate the incident is a right of administration with the condition that they do not abuse this right (Act No.68 of Palestinian Law) (Act No.78 of Egyptian law) .

*Finally, the researcher does not find at the end of this small effort in word only what the Messenger of Allah Mohammad ( peace be upon him) says: "who works hard and succeeds has a double reward , and if he works hard and fails has a reward " For this and that , thank God.*

#### **4. Conclusion**

The public employee's commitment to his job duties is one of the important commitments which leads the public employee to perform the tasks entrusted to him in the level and the form set by the law. After the study has identified the concept of the public employee and duties in Islamic law ( Sharia) and Man-made law, it has come out with several findings and recommendations. The researcher here displays the overall findings that the study found out and the recommendations formulated by the researcher in the light of these results:

##### **4.1. The results**

1-The study found that there are no differences in substance and content between the concept of public employee and his duties in the Islamic law ( Sharia) and the Man-made law.

2- The study highlighted that the employee's responsibility is not limited to a breach of his duties within the scope of the job only, but extends to his behavior and his actions in private and public life.

3- The study showed that the duties of the public employee do not fall under any limits, but contained in the law as examples.

#### **4.2 Recommendations:**

The recommendations of the researcher which were broadcasted in the folds of the study can be summarized as follows:

1- Recognizing the importance of the development of legal rules to determine the duties of the public employee, but the more important is the general spirit which dominates the application of these rules, so the researcher recommends the need for real and actual commitment to these prescribed legal rules away from the superficiality of things, by going deep into its existence and essence with what is consistent with the spirit of legal texts and the achievement of the objectives of those rules, according to these texts.

2-Towards the implementation of the principle of functioning of public utilities regularly and steadily to provide public service to the public in the best possible way, the researcher recommends the need for familiarity with public employee laws and regulations, instructions and tasks, plans and programs relating to the work of his administration, and this with finding training and rehabilitation opportunities to increase productivity and raise the individual and public performance efficiency.

3- The researcher recommends the need for an effective regulatory system involving staff in the development of its foundations and standards intending to alert the employee to the wrong behavior on the one hand, and direct him to what he should do on the other hand.

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