A Comparative Genealogy of Public Office and Its Reflection in the Principle of Competence in Modern Public Law

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Introduction

Modern public law treats competence as a condition of valid official action. A public authority may act only within powers conferred by the legal order, and action beyond those limits may be invalid or reviewable. This proposition contains a deeper transformation in the understanding of public power. Authority is no longer attached to the officeholder's body, personal will, inherited status, or private privilege. It is assigned to a continuing legal office, and its exercise must be limited, attributable, and open to scrutiny. Competence is therefore more than a technical rule for allocating administrative tasks. It is the modern legal form of a long effort to detach public authority from its temporary holder and connect its exercise with an impersonal office, a defined purpose, and institutional responsibility.

Statement of the Problem

Much of the Persian-language literature examines competence through its classifications, relation to legality, or judicial control of discretion, leaving its historical and conceptual foundations underexplored. This article asks how ideas of public office in the Latin-canonical tradition and Islamic political-legal thought helped distinguish the person exercising power from the office in which authority is vested, and how that distinction reappears in the modern theory of competence. The inquiry does not treat medieval concepts as equivalents of modern administrative-law categories or assume that a single, linear history links them. It asks whether these distinct traditions supplied conceptual resources for understanding authority as an entrusted, bounded, and role-dependent responsibility rather than as the officeholder's personal possession.

Main Claim

The article argues that competence is the institutionalized expression of a historical movement toward depersonalizing public power. A person does not own competence; a legally qualified person occupies an office and may act within its authority. Competence therefore performs constitutive and limiting functions. It links an official act to a source and office recognized by law. It defines the scope, purpose, procedure and conditions of validity of the act.

Judicial review makes this distinction enforceable. When the decision-maker cannot be identified, delegation has no ascertainable limits, or authority serves a purpose foreign to the law, power moves back from office to person and loses its public-law character.

Methodological Approach

The study combines historical-conceptual reconstruction, functional comparison, and analytical public-law reasoning. It traces the separation of office from officeholder in medieval Latin and canonical thought through institutional continuity, differentiated jurisdictions, corporate personality, and *officium* as authority and duty. It then examines Islamic concepts including *imamate*, *wilaya*, *amana*, adjudication (*qada*), market and public-order supervision (*hisba*), appointment, and trusteeship. These concepts are read within their theological and juristic settings, without mechanical translation into the language of the modern state. The comparison is structural and does not posit a direct line of descent; it identifies how each tradition constrained the personal appropriation of authority. The final stage relates those findings to modern legality, *ultra vires* review, reasoned administration, and the consequences of acting outside conferred authority.

Organization of the Article

The argument develops in four connected movements. The first distinguishes social or political power from legal competence and explains why public office entails continuity beyond its holder, prospective responsibility, and constraints against arbitrariness. The second turns to medieval Latin-canonical law, where competing ecclesiastical, royal, urban, judicial, and corporate jurisdictions required rules of attribution and boundary. Office came to signify a durable function carrying duties as well as powers. The third examines Islamic political-legal thought. It shows how *wilaya* and *amana* framed authority as stewardship; how adjudication tied binding judgment to appointment, qualification, subject matter, and procedure; how *hisba* converted a religious-ethical duty into a bounded public function; and how the differing authority of mufti, judge, ruler, and market inspector kept distinct forms of authority from collapsing into one. The final movement explains how modern public law recasts these insights as enforceable competence, administrative accountability, and judicial review.

Conclusion

The comparison reveals a significant convergence without erasing historical differences. Both traditions treated authority as an office, duty, trust, or jurisdiction that exceeded its holder's private will. Modern public law reconstructs this inheritance through a precise and enforceable framework. An official act acquires public-law validity when attributable to a recognized office, lawful authority, an authorized procedure, and the purpose for which power was granted. Action beyond competence is therefore more than an administrative error; it fails to preserve the distinction between office and person. Modern doctrine also extends beyond the bare existence of power to misuse of authority, deviation from statutory purpose, procedural unfairness, irrationality, and failures of legal justification. Competence and judicial review are consequently interdependent elements of the rule of law.

Findings and Recommendations

The study yields three principal findings. First, competence forms part of the legal constitution of public power, rather than merely distributing tasks among agencies. Second, its capacity to restrain arbitrariness depends on tracing every public decision that affects citizens' legal position to a determinate office, legal source, scope of authority, prescribed purpose, and reviewable procedure. Third, accountability begins when authority is conferred, because an officeholder must justify a decision in legal and public terms; it does not arise only after damage or misconduct. These findings matter particularly in Iranian public law, where institutional disputes often reflect uncertain lines of authority, open-ended delegations, overlapping functions, or decisions made through diffuse committees and expert networks. The article therefore recommends identifying the competent decision-maker clearly, requiring delegations to be written and precisely bounded, attending expressly to statutory purpose, and applying judicial scrutiny to attribution, procedure, reasons, and purpose as well as the formal existence of authority. Further research should test this framework against Iranian administrative practice and the case law of the Administrative Justice Court.