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The political and Administrative Justice in Civil Society

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Abstract:

The study of the cultural and identity status of societies affected by various phenomena and variables, including educational, cultural and artistic systems, is one of the fundamental special works in the field of political sociology. By studying and researching cultural and identity changes in societies, the researcher is aware of the reasons, contexts, effects and consequences of this. The present study investigates the effects and consequences of language hegemony on the culture and identity of language learners in the Iranian Language Center between 2005 and 2017. Accordingly, this research is classified as a descriptive research based on the result and purpose of applied research, and in terms of method, and in terms of data collection in the field of survey research. According to the sample size, 277 questionnaires were prepared and provided to students of the Iranian Language Center to collect information. Based on the analysis of the collected data, the Iranian society can be called a marginal society in which English is still recognized as a foreign language and not a second language. The two mechanisms of knowledge and educational skills, and in particular the centrality of the English language and culture, are very prominent and effective among learners and even English teachers. It is in such circumstances that it is possible to form and expand the hegemony of the English language in Iranian society as a result of the current trend of the development of this language, which has been associated with a kind of dependence of our educational system on the central communities; And acknowledged in the absence of any linguistic sensitivity or realistic and logical language planning.

Keywords: Administrative justice, Hearing, Impartiality, Proportionality, Public interest

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Introduction

Justice is an all-encompassing and at the same time controversial category, and usually in understanding its concept, intuitionism has prevailed over realism. The assumption of this research is a political (practical) concept of justice - and not a metaphysical or ontological concept whose goal is a true understanding of justice - which is considered as the basis of declaration and the product of political agreement among citizens as free and equal people. Philosophy, as a search for the truth about independent metaphysics and moral order, cannot provide a common and practical basis for the political concept of justice in a democratic society. (Rawls, 1985, p. 223) And basically, the concept of administrative justice seems to be unattainable in this way. And it cannot be a metaphysical concept, rather it is an objective function derived from practical politics and intuition-based ideas, which is objectified in various existing paths and in the administrative structure of a country to establish coordination between political-administrative institutions and citizens. But this agreement is found in social attitude and public policy when it preserves people's property and belongings in a just democratic system. Therefore, the discovery of the concept of administrative justice requires the study of the actions and reactions of a nation towards similar phenomena in different historical periods, which expresses their sense and intuition towards that phenomenon. Therefore, in order to understand the concept of administrative justice, it is necessary to extract the intuitions and common feelings of the nation and their perception of the public good from different eras, so that a suitable and appropriate administrative structure can be designed based on that. First, the concept of administrative justice in the social context- understood political and then developed its principles in the legal system. The question of this article is about determining the concept of administrative justice in the procedure of the Court of Administrative Justice. Therefore, it is tried to discover the principles derived from the concept of administrative justice by examining the decisions and procedures of the Administrative Court of Justice and categorize them into formal and substantive classes. The result of this is understanding the roots of these principles and their more appropriate application in procedures and administrative proceedings. Therefore, after studying the concept of administrative justice and its role in creating the structure of the administrative system in the first part, in the second part, its application is studied in two dimensions, form and substance, in the form of the principle of impartiality and the principle of proportionality in administrative decisions and the procedure of administration. Finally, the result of the article is here.

Theoretical-analytical framework of administrative justice

Administrative justice is the idea of a general representation of a fair admin-

istrative structure in a legal system that provides the necessary platforms for the implementation of legal principles. The concept of administrative justice in any society is primarily an intuition-based concept, which, in combination with other concepts, determines an objective concept and is a prelude to structuring. The reproduction of the concept of administrative justice requires study in philosophical thoughts. Thus, a part of its approach can be obtained in philosophical thoughts. In determining the concept of administrative justice, one should start from the principle of conceptual unity and reach conceptual plurality. This means that every multiplicity must have a sign of unity and then return from multiplicity to unity. In determining the concept of administrative justice, we will move from conceptual unity to plurality. If this is the case, the multiple concepts of administrative justice create a structure in which each concept has an initial symmetry and gradually moves away from symmetry and tends to asymmetry.

Considering the above, in determining the concept of administrative justice in the legal system, we must first acknowledge the conceptual plurality of administrative justice. Then, by consensus on a specific concept, let's turn it into the dominant and agreed opinion of the majority. In general, in producing the concept of administrative justice, we should have a comprehensive agreement on the following two issues:

1- Agreement on the concept of administrative justice to achieve a fair administrative structure.

2- Agreement on a fair decision-making system in administrative law.(Baseri &Vizhe, 2021, p. 38).

In a democratic society, citizens discuss the principles of administrative justice in order to reach an agreement. Therefore, the foundations of administrative justice in such societies are based on contracts. Agreement on the principles of administrative justice leads to structuring in the administrative system. In fact, the administrative legal system is the product of an initial agreement on the principles of administrative justice, but this consensus has conditions that if the interests of different groups are not guaranteed, any agreement will be unstable and shaky. The second issue, which is of fundamental importance in the functional foundations of administrative justice, is the agreement on the decision-making system in the form of administrative justice.

Agreement on the concept of administrative justice to structure the administrative system

In the path of a comprehensive agreement on the principles of administrative justice, which lay the foundations of the administrative structure, values should not be discussed first. Because the promotion of any particular value or style of life over other styles or values blocks the path of comprehensive agreement. Due to the fact that the concept of administra-

tive justice is a political concept and not a metaphysical one, therefore, it is assumed to be prior to values, and in order to achieve the principles and foundations of administrative justice, values should not be relied upon. In other words, from the point of view of content, administrative justice is first and foremost empty and is only a vessel, so that it paves the way for dialogue between representatives of different spectrums. The agreement of the citizens in any pluralistic society in the following three cases can lead to the production of the concept of administrative justice, on the basis of which the structure of the administrative system is formed:

1- Intuition and common sense of administrative justice; So that the basic freedoms of citizens are guaranteed in social and political actions. This common sense or intuition is usually objectified in law-oriented societies in expressions such as everyone's equality before the law and the right to enjoy public facilities equally.

2- A comprehensive understanding of expediency and public good; General agreement on the concept of public good is another component of the concept of administrative justice, which requires the consensus of the majority of citizens. It seems that in consensus on the common good, one should avoid the supremacy of one value over other values in a pluralistic society. In agreeing on the common good, resorting to values should be avoided even if possible. Although after the production of administrative justice, a deeper value may be produced that is agreed upon by all, but this value cannot precede the concept of administrative justice, but is the product of a comprehensive agreement on the public good.

3- The possibility of active participation of citizens in public administration; Citizens' participation actively complements their agreement on a common understanding of the common good or a common sense of administrative justice. In fact, the difference between this case and the previous two cases is that the agreement on the common good or the emergence of a common sense is an inter-subjective and inter-generational relationship that leads to the convergence of different feelings and thoughts about the said phenomenon. However, the possibility of active participation of citizens in the public administration makes it possible to objectify the above agreements. (Baseri, 2018, pp. 288-289).

But after the subjective stage that was described in the above section, the discovery of the concept of administrative justice requires the stage of adapting the mind to the object or the objective stage, which is realized by studying different historical periods. (Baseri, 2018, pp. 286-287) In fact, the reaction of a nation towards similar phenomena in different periods of history expresses their sense and intuition towards that phenomenon, and in order to understand the concept of administrative justice, it is necessary to understand the common intuitions and feelings of the nation and their perception of the public good from different

periods. extracted so that the appropriate administrative structure can be designed based on that. Usually, these common perceptions are raised as public demands at different historical times and are reflected in the constitution in a revolutionary or reformist movement. For example, we refer to the study of the formation of the structure of administrative courts in the history of Iran. The spirit of despotism as a general demand in Iran's constitutional revolution is raised as a common sense around seeking justice or promoting the public good. During the siege of the scholars in Abd al-Azeem, their fourth request from the Shah was "the foundation of justice houses in all parts of Iran". (Kasravi, 2013, p. 134) It is clear that the purpose of establishing the justice house was not only the establishment of public justice that only resolves people's disputes with each other; The public demand for the establishment of a justice house was also aimed at handling people's claims against government agents, because due to the social structure and context of that day, people's claims were settled with each other before tribe chief, and it seems that a large part of The demand for a justice house was caused by the oppression of government officials and the people's common sense of justice was presented in the form of a request to establish a court that would be able to handle the grievances of government officials against the people. And it is manifested by the dismissal of Alaa al-Dawlah from Tehran and the order to establish the Justice House by the Shah. However, the lack of structuring according to the intuitive concept of administrative justice does not lead to the formation of an administrative court, and these demands continue until they find legal objectivity in the law of the State Council of Iran in 1339. But the law of the State Council, which was passed to deal with complaints about the decisions of public authorities and also their approval letters, never comes to the fore. Fortunately, with the victory of the Islamic Revolution, this concept of administrative justice was reflected in the principle of 173 constitutional law and in 1981 with the establishment of the Court of Administrative Justice, it was realized objectively and externally.

Decision-making system based on the principles of administrative justice

In addition to the administrative structure derived from the concept of administrative justice, the administrative decision-making mechanism is also contractual and consensual. As the agent and enforcer of the laws approved by the parliament, the administration is forced to interpret the laws and take decisions that, due to the appointment of executive and public officials, seem to contradict the principles of democracy and contractual administrative justice. In order to resolve this discrepancy, the compatibility of administrative decision-making with the principles of administrative justice requires the attitude of a contract-based relationship between the administration and citizens, which requires the active

participation of stakeholders in administrative decision-making. This attitude changes the long-term relationship of the administration with the citizens and adjusts it, and also leads to the replacement of the decision-making system of the beneficiaries and citizens. Increasing delegated powers to administrative authorities can only be justified by maintaining human self-discipline through mechanisms that increase citizens' participation in decision-making. Therefore, public participation and the decision of the majority, which are among the principles of democracy, by entering the field of administrative law, in addition to preserving the self-discipline of the citizens, will also lead to a better efficiency of the administration. Therefore, citizens have the right to participate in the administrative decision-making process that is related to their rights and freedoms through the following:

1- Citizens participate democratically in administrative regulations; Or

2- The administration should clearly explain the basis and reasons for its decisions to them.

In this way, public participation is applied in making administrative decisions. What is also discussed in democracy is understanding and the understanding of the basis of decision-making and its elements is universal decision-making and majority rule. Deliberative democracy is compatible with both representative democracy and direct democracy. Jürgen Habermas uses a liberal framework for the theory of conceptual democracy, which is associated with the rule of law and constitutionalism as key concepts, unlike John Rawls, who considers constitutionalism and law to be based on collective reason. He puts forward the theory of conceptual democracy where political participation is not limited to political elites and both the public and private spheres act as part of the political process. (Bantas, 2010, p. 3) From Habermas' point of view, the basis of democratic democracy is based on the idea of "self-organization of free society and equality of citizens" that the coordination of collective affairs is done through common wisdom. (Cohen, 1999, p. 385).

Legal principles derived from the concept of administrative justice

The concept of justice in political philosophy is necessary to justify the fair distribution of facilities and resources as well as the application of positive discrimination for the benefit of the society as a whole. It is also necessary for the distribution of the substantive rule, and therefore we require a transition from the formal (procedural) concept of justice. The substantive rule of administrative justice is derived from the comprehensive agreement that oversees the cooperative decision-making system based on the contract. In other words, the substantive rule of administrative justice is the extension and development of “Hobbes' social contract theory” in the realm of administrative law. The formal (procedural)

rule of administrative justice is aimed at the fair structure of the administrative system. Therefore, it acts impartially towards the rights and needs, and in the form of the administrative structure, its concept is legally determined. Therefore, it is container oriented and supervises the mechanism of fair distribution through administrative institutions. The principles of administrative justice in common law systems are rooted in the concept of natural justice and are defined in the "Rule against Bias[1] " and the "right to a fair hearing"[2]. The rule of non-partisanship means that the parties to the dispute should be dealt with in accordance with fair principles based on neutrality and equally and fairly. Here, the meaning of fairness is that the parties to the dispute or the administrative stakeholders have an equal opportunity to participate in the decision-making process. without discrimination. The right to a fair trial in the natural justice system indicates that no one should be condemned without having a reasonable opportunity to defend himself and present his reasons and documents. (Zubair and Khattak, 2014, pp. 69-70).

Considering the above contents, two principles can be deduced from the concept of administrative justice. The first principle that originates from the agreement on the concept of administrative justice in the formation of the administrative structure is the formal (procedural) rule of administrative justice that appears in customary systems in the form of fundamental rights. A fair administrative structure implies impartiality in the distribution of facilities and conflict of rights, and it is manifested in the principle of impartiality. The second principle from the substantive aspect of administrative justice to facilitate fair distribution appears in rights-based systems based on the principle of proportionality as a substantive tool of administrative justice in resolving conflicts and conflicts.

Impartiality (reflection of the procedural concept of administrative justice)

Neutrality is a reflection of the tradition of liberal governments that do not seek to impose their ideas on the public good of citizens and instead provide them with the possibility of choosing diverse styles. This neutrality is used in two specific areas: First, the existence of secular state that respect all religious beliefs. These governments do not accept unreasonable restrictions on the expression of religious beliefs. The second area is related to political ideas. Clearly, public officials cannot employ those who are aligned with their own interests or based on their political views; Nor can they use public financial resources to support their parties or advance party goals. (Bell & Boyron, 1998, p. 170).

Impartiality is a natural requirement of administrative justice. In other words, partiality is the opposite of justice and negation of equality. In Leviathan, Hobbes considers the lack of im-

1. Nemo judex causa sua
2. Audi alterma partem

partial judgment to be the main reason for the transition from the state of nature to civil society. Therefore, in his opinion, where there is no government, justice has no meaning. (Hobbes, 2011, p. 160) Because he considers the government to be the same as impartial judgment and ties the concept of justice to impartiality. In fact, the impartiality of the judge is the fundamental element of society and its distinctive chapter with the natural state, which is the war of all against all. In the theory of separation of powers, neutrality and independence of powers are emphasized as the cornerstone of justice in all political, social, cultural, and other spheres. As Article 57 of the Constitution of the Islamic Republic of Iran also mentions, "... the mentioned forces are independent of each other". From the mentioned principle, it can be deduced that just as the judiciary must be independent and impartial in the realization of judicial justice, the independence and impartiality of the executive branch is also in favor of administrative justice, and without it, administrative justice lacks meaning and function. be Therefore, it seems that the basis of neutrality is the principle of separation of powers in systems based on the constitution, which guarantees their neutrality by maintaining the independence of powers.

Observance of impartiality in the exercise of executive powers shows the application of the law (as an objective criterion) and fairness (as a subjective criterion). In this way, the administrative authority should put the law and fairness as his goal in exercising his duties and especially his discretionary powers and avoid applying the law arbitrarily and also replacing his material and personal interests instead of fairness. "The prohibition of partiality refers to the following: firstly, that no one should be the judge of his own actions, and secondly, that justice should not only be applied, but it should be clearly visible without doubt. This last proposition was created in the "Aktin lJ v. McCarthy"[1] case in England. (Zubair and Khattak, 2014, p. 69).

Conceptual analysis

The point of departure of the conceptual analysis of neutrality in the philosophy of ethics and politics is where the government should include neutrality between competing values and traditions. "From the point of view of political philosophy, fair political dialogue in democracy can and should verify and start from the moral judgments of ordinary citizens and relate to the ways in which these judgments promote a common public good without favoring the special interests of individuals or groups." (Jacobs, 2014, p. 545) In fact, neutrality in a democratic context implies pluralism in the realm of political-social life and is a prelude to the fair distribution of possibilities and the basis of the theory of justice. The government should act without any particular value or prejudice in the percep-

1. Aktin LJ in R V. Sussex justice ex part McCarthy (1924)

tion of the common good. Therefore, the maximum rule of prohibition of partiality requires that the administrative decision-maker should not be an interested party in the matter. (Zubair and Khattak, 2014, p. 70).

"The right to a fair and impartial hearing of the arbitrator is considered a fundamental right that has been considered by American courts for a long time. Administrative institutions are also bound by these principles. Although there is no need for administrative decision makers to be neutral in every decision they make; But the judgment usually cannot be biased." (Jason, 2005, p. 771).

Favoritism can appear in various forms and damage the impartiality of public (administrative) authorities and authorities. Special favoritism refers to the cases where the administrative decision-making official is influenced by some personal interests or in exchange for receiving a bribe in the exercise of his powers, acts in favor of one side or makes decisions with bad faith. The second type of partiality is generally referred to as "prejudice", which is a general tendency towards one of the parties, which may be done by biasing or inciting opinions towards a specific issue and in specific ways. This type of partiality can be called "general partiality" which can include legitimate forms (such as the superiority of the originality of the text) or unacceptable forms (such as racial superiority). The main difference between general and special bias is that; Specific bias is party or case-oriented or case-oriented, while general bias is issue-oriented[1].

Independent

Discussions surrounding the rational understanding of bias sometimes focus on whether the administrative structure or their relationships are sufficiently independent of undue interference. The theory of administrative law reinforces the idea that the administrative authority has the authority to make decisions in all cases before him impartially so that disproportionate interventions are limited. In this method, independence and impartiality are separate from each other, but the concepts are related, so independence is a guarantee or a prelude to ensure impartiality[2]. But the main problem is the lack of a criterion for measuring independence, which is a similar criterion for determining a logical understanding of bias and helps logical observers to make decisions, whether there was a lack of independence that was influential in the case or not? The lack of a guiding principle to determine the main information, when it should be tested, creates this ambiguity around independence[3].

Independence and impartiality are two different concepts, and independence is the prelude to impartiality. Self-independence can be considered in two ways in the administrative justice system. In one aspect, independence is the non-observance of external factors in making decisions, which can be called functional independence. And on the other side, it is the lack of internal influ-

1. D. Vendel, Ibid, p. 772
2. Jacob, Ibid, p.575
3. Ibid, p.576

ence or command acceptance, which we interpret as organizational independence. The independence of authorities and administrative authorities is rooted in the principle of separation of powers, which is responsible for their organizational (formal) independence as well as substantive or functional independence.

Functional independence

Functional independence actually implies non-compliance and dependence of authorities and public authorities in making decisions and even implementing some laws from the government. In other words, they should not be subject to external factors and institutions in the exercise of their powers, this can be well understood from independence in the distribution of government powers in the form of decentralization systems. In this kind of authority distribution system, decision-making and implementation are both done on site. The system of technical decentralization refers to the decision-making independence of institutions from the government, even if they are dependent on the government in terms of budget and financial issues.

The first paragraph of Article 10 of the Law on Organizations and Procedures of the Administrative Court of Justice approved in 2012 considers the jurisdiction of the Court of Justice to deal with complaints and grievances and objections to the decisions and actions of the municipality as well as the actions of its officials. However, unanimous decisions 37, 38 and 39 of the General Board of the Court dated 10/7/1367 have put any handling of complaints of public law legal entities as petitioners against government institutions into a halo of ambiguity. It seems that the court's approach regarding non-governmental public institutions is against their functional independence, and administrative justice requires that such independent institutions, such as municipalities, have the possibility to file a complaint against the government in the court. Also, the court's approach regarding the Islamic Council is against the requirements of administrative justice and maintaining the functional independence of this institution. Note 2, Article 82 of the Law of Islamic Councils, approved in 1375, stipulates that people who are deprived of membership by the dispute resolution committees stipulated in Article 79 (amended 6/7/1382) can file a complaint with a competent court. With regard to paragraph 2 of Article 10 of the Law of the Court of Justice approved in 2012, the handling of objections from the final decisions of the commissions of violations and quasi-judicial authorities in general is within the jurisdiction of the Administrative Court of Justice. However, the general board of the court, in the position of issuing a unanimous decision after the disagreement between the branches, in the unanimous decision dated 5/11/1385, did not consider it within its jurisdiction to deal with the final decisions of the dispute resolution committees regarding the removal of members of the council. Although the decision of

the general board can be criticized in terms of legal grounds, and even the weak argument of the board regarding the application of the word court, which in our legal system is also applied to the Supreme Court of the country and is useful for the concept of the Supreme Court, can be examined, but more importantly, the lack of Paying attention to the functional independence of Islamic councils as institutions of administrative decentralization is in light of the principles of administrative justice.

Organizational independence

Organizational independence can be seen as the supervisor of parts of the government that, in addition to being part of the government body, also have an independent legal personality. The manifestation of these organizations can be seen in institutions with no administrative density. Where the decisions are implemented in the center and by these organizations on the spot. Lack of density can be divided into two types, technical and geographical. Institutions of technical non-concentration such as ministries, affiliated and delegated organizations and geographical non-concentration include the general offices of free zones and special economic zones that implement the decisions of the central government in different regions.

But do these institutions have a legal personality independent of the government? Article 587 of the Trade Law mentions that government and municipal institutions and organizations acquire legal personality as soon as they are created and without the need for registration. Some have considered them to have no legal personality independent of the government because government organizations do not have property independent of the government, and also do not have independence in the judicial field and do not have the right to file a lawsuit against the government. However, it should be noted that legal personality is not responsible for the existence of property, and according to Article 587 of the Commercial Law, they acquire legal personality as soon as they are created. Secondly, the organizational independence of these authorities against the government, which according to Hobbes is an artificial personality, should not be confused with independence in the judicial arena. This mistake is rooted in the lack of correct understanding of the system of non-concentration and distribution of government powers according to the concept of administrative justice. This issue can be better understood by explaining the category of supervision in the non-condensation system. Contrary to decentralization systems, where guardianship supervision is common, in non-concentration systems, hierarchical and linear supervision is customary, which requires the separation of supervisory and executive positions. "By distinguishing between the three concepts and positions of ``exercising authority" or ``execution," "supervision" and "settlement," we can approach the main and

essential meaning of supervision." (Rasekh, 2013, p. 19) The principles of administrative justice also require that the supervisor (the government) be separated from the executive (the ministry and other affiliated organizations) in the non-concentration system, and independence implies the health of supervision and prevention of corruption, and it is necessary to realize the technical non-concentration of the independence of the legal personality of the institutions. It belongs to the government, which is referred to as organizational independence. And Article 2 of the Civil Code correctly refers to the legal independence of the government institution.

Accessories of the principle of neutrality in establishing procedural rights

One of the functions of the principle of impartiality in the context of administrative justice is to guarantee the mechanism and tools that stabilize procedural rights to establish equality between different spectrums or conflicting values. Impartiality requires formal and self-evident principles of administrative justice, such as the right to hear the arguments of the parties, the equal and symmetrical benefit of all from relevant information, and finally the rule of law as a predetermined and pre-obvious tool for arbitration between different values.

The right to hearing reasons

Hearing reasons is one of the most obvious principles of natural justice. Hearing the statements and reasons of the beneficiaries by the public authorities (administrative) according to the principles of administrative justice should be done before taking administrative decisions. "During the 19th century in England, judges ruled that administrative organizations should follow the principles of natural justice when making decisions that affect a person's property rights. These principles oblige them to provide an opportunity to comment and be heard for the people who are affected by the decision, even if the relevant laws do not explicitly oblige them to do so". (Hadavand, 2011, p. 336) the right to a hearing has an ancient origin in the common good and is at the center of the idea of the rule of law. Until the First World War, the courts applied an expanded concept of this principle, which can be traced back to the 17th century and is usually called "natural justice", that is, everyone whose rights are affected by a decision. The government has the right to a fair hearing (opportunity to defend) in the presence of an impartial judge. (Hadavand, 2011, p. 574).

Disclosure

In order to prevent economic and informational rents, as well as to establish distributive justice and achieve a competitive and anti-monopoly economy, transparent access to information in the society is symmetrically necessary. In 1387(2008), the Law on Publication and Free Access to Information was ap-

proved by the Islamic Council, which, after objections from the Guardian Council, was referred to the Expediency Council and on 5/31/1388, with the addition of a note under Article 10, it was found to be in accordance with the expediency of the system. became. This law mentions the freedom of information and the right of every Iranian person to access public information, as well as the duty of public institutions to publish and publicly announce information that implies rights and duties for the people. Article 7 of this law mentions: "The public institution cannot demand any reason or justification from the applicant for access to the information" and this issue indicates the generality of the disclosure of the relevant information.

There are also limitations in the access to information that the said law has specified in three main categories. First, there are classified government secrets that are forbidden to publish. Of course, in Article 11 of the law, the legislator does not consider the approval and decision that creates public rights and obligations to be classified as state secrets, and their publication is mandatory. This issue is an important establishment in order to promote administrative justice. Second; The protection of privacy has been the focus of the legislator, which is the basis of separating the public sphere from the private sphere and respecting the private territory of individuals and preserving the personal information and secrets of citizens. But the third exception is access to information, health protection and commercial information, which is dealt with in Article 16 of the aforementioned law. However, the law is silent on the justification and documentation of the institutions' reasons for refraining from disclosing the legislator's information. Therefore, it seems that in case of refusal of public institutions in accordance with Article 10 of the Law of the Court, the obligation to disclose information by said public institutions in the first paragraph of Article 10 of the Court of Administrative Justice can be demanded, and the competent court to deal with the reasons for disapproval of public institutions from Refusal to release information is according to Article 16 of the Law on Release and Access to Information.

Principle of proportionality (reflection of the substantive concept of administrative justice)

The principle of proportionality ensures that the inflation of one right or benefit does not cause excessive restriction of another right or the loss of benefit and that there is always a balance between rights and benefits. On the other hand, perhaps the introduction of the principle of proportionality into administrative justice is the result of the expansion and development of criminal justice in all social realms. One of the areas very similar to administrative justice to criminal justice is the system of administrative violations, where the principle of proportionality can be observed more colorfully than other areas of administrative law.

But in public law, "the doctrine of proportionality is based on the fundamental distinction between the domain of fundamental rights and their protection." In this context, we face two stages; The first step is to control the relevant laws in order to measure that they have not violated the rights protected by the constitution or harmed them. However, the second stage refers to the compliance of the laws with the four sub-factors of the proportionality principle, which are: (1) The laws are enacted with a reasonable purpose. (2) The measures taken to affect such a restriction have a reasonable relationship with the realization of that goal. (3) The actions to be taken are necessary in the sense that there is no alternative action that can accomplish and complete such a goal with a lesser degree of limitation. (4) There should be a proper relationship (proportion in the narrow sense or balance) between the importance of achieving the desired goal and the social importance of preventing the restriction of fundamental rights. This means that fundamental rights are not absolute, but the fact that a fundamental right exists to serve a specific function. But this does not mean that an action is allowed and instead the restriction of the right to apply it is appropriate to the conditions. (Bender, 2015, p. 531).

Also, the principle of proportionality has other functions in administrative law that arbitrate between conflicting values and rights using appropriate tools. In common legal systems, the principle of proportionality is often called the "principle of reasonableness". However, in written legal systems, this principle is not only used in matters of fundamental rights, but also extends to administrative, criminal and civil laws. The mentioned principle requires that all relevant laws that affect human rights be reasonable and appropriate to human conditions. Analyzing this principle, we need to study the three components of sufficiency, appropriateness and proportionality in the narrow concept (balance between benefits and harms). In this way, the methods and tools to reach the goal should not be used irrationally in a two-way relationship. (Bantas, 2010, p. 4).

On the other hand, the principle of proportionality can be seen as a window towards judicial supervision of discretionary administrative powers. "The principle of proportionality provides the possibility for judges to check the existence of a logical connection and a reasonable balance between the decision taken by the authorities and the goals that were the basis of that decision, and to supervise the exercise of discretionary powers". (Zarei & Moradi, 2013, p. 147).

Conclusion

In the end, I should mention that the concept of administrative justice in every legal system is reflected in the constitution and more generally in the field of constitutional rights. Administrative justice is made by political affairs and is paid through legal institutions. The logi-

cal requirement of this claim is two things: First, the constitution gives this concept a legal form and designs the structure of administrative law based on it. Second, just as the constitution is formed on the basis of social contract, the administrative justice system and administrative law also have a contract-based basis. Therefore, the extension of the principle of representation to the field of administrative law and the contract-oriented relationship between the administration and the citizens is one of the requirements of administrative justice. Although administrative laws and regulations do not receive their validity from administrative justice, even if the administrative structure is formed based on the concept of administrative justice, the necessity of survival and loyalty to the principles of administrative justice requires that administrative laws and regulations have at least a fair content. have, and this is the basis for administrative judges to refer to the principles of administrative justice in revoking administrative approvals. The Court of Administrative Justice, based on the content of administrative justice in administrative regulations, based on the principles of impartiality in the form of the right to hearing, organizational and functional independence, and the principle of proportionality, has annulled government approvals. Also, by studying the opinions of the general board of the court and branches, one can understand the concept of administrative justice in the form of the above principles. But the development and consolidation of these legal principles requires the understanding of judges from administrative justice and the application of most of its surrounding norms. Although the legislator - in the general and special sense - has enacted laws for different situations, but every text has a flexible margin that the administrative judge can use to interpret the legal texts in the context of administrative justice and in this way, extract the public interest so that the human dignity and political equality of the citizens are preserved.

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