

# The Role of the Administrative Court Of Justice in Guaranteeing the Rights of Citizens

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## **ABSTRACT:**

Citizenship rights, when considering a set of rights and duties that target citizenship in current modern society, have always been prone to violation and encroachment by governments. In Iran, for realizing and guaranteeing these rights, based on the Article 172 of the Constitution, an investigative authority called the Administrative Justice Court has been established to deal with people's complaints and grievances against the decisions of officials and illegal acts of administrative organizations. This court roots from the French Council of State. Before the Islamic Revolution, the legislator approved the establishment of the State Council in imitation of the French State Council, as well. However, due to some reasons, this Council did not succeed at that time. The review of the efficiency issued by the Administrative Court of Justice reveals that this authority has a citizen-oriented approach rather than a government-oriented one, and in this vein, it has many strengths. Though, due to the challenges and legal situations, there is still a long way to obtain the optimal achievements and goals to play this role. Hence, according to the principle of rule of law, administrative authorities are obliged to make decisions within the framework of laws and regulations. In the rules and regulations for the decision-making of the administrative authorities, there are considerations that if they are not followed, it will conclude in the violation of these decisions. In Iran's legal system, the Administrative Court of Justice is the judicial authority for supervising the observance of the aforementioned obligations by the administrative authorities, and the judicial supervision of personal administrative decisions is under the jurisdiction of the branches of the Administrative Court of Justice. This article is in pursuit of finding an answer to the question of what the branches of the administrative justice court have considered essential for administrative decision-making in order to realize and guarantee the rights of citizens. For, fulfilling the above-mentioned task, the branches of the Administrative Court of Justice, in their issued decisions, include the requirements that the administrative authority is required to observe in its decisions, including legality, equality and non-discrimination, documented and justified administrative decisions. They have paid attention and violated the administrative decisions if they are not followed because it will lead to the violation of citizen's rights.

**Keywords:** *decision-making duties, personal administrative decisions, rule of law, citizen's rights, and administrative justice court*

## **INTRODUCTION:**

### **1- Observance of property rights of individuals and the principle of subordination**

Respecting the property rights of individuals is met in the decisions of the court (opinion no 563 dated and number 470 of the General Board of the Administrative Justice Court) and its violation is restricted by the permission of the legislator and the cases specified in the law. Based on the rule of "People in control of their property", everyone has the right to seize their property in any way, unless it is proven otherwise (Mohaghegh Damad, 2015: 230) and

the legislator can determine the rules for the exercise of property rights and the limitation of these rights by enacting a law. Albeit, the principle of controlling and exercising property rights of individuals is not absolute (Omid Zanjani, 2007: 129) and the legislator can determine the rules for exercising property rights and limit these rights by enacting a law. Regarding this, articles 30 and 31 of Civil law, while recognizing the principle of domination, the possibility of prohibiting people from exercising property rights according to the law (Mohammadi Hamedani, 2007: 295), and this point should also be taken into consideration.

It is deemed that prohibiting the owner from taking possession of his property without the prescription of the legislator is against the ruling of Sharia. It is

permissible for the owners to take possession of their properties and it is against the standards of Sharia. According to the mentioned contents, in cases where the legislator has seen the seizure of people's property fit, an administration should seize people's property within the limits allowed by the legislator.

One of the branches of the court emphasized this issue: "As the plaintiff's property in the execution of the project, the acquisition has not been approved, or a part of it has been acquired in excess of the need for the implementation of the plan, the plaintiff reserves the right that due to the execution of the plan and possession of the entire property in relation to the construction, taking action for the restitution of the property or its money in excess of the plan, is considered.

It is worth mentioning that in this context, the jurisprudence of the Guardian Council does not allow the acquisition of people's lands more than necessary. The owner's consent has been found to be against Sharia standards and has been declared invalid. (Vote No. Y 9109970905200013 Department of Publication of Judicial Procedure of the country, February 2013: 40).

## **2- Observing the principle of equality of citizens and prohibiting unfair discrimination**

One of the most crucial oppositions of the old world and the modern era is the movements based on equality and negation of discrimination. In fact, this principle is one of the significant principles accentuated by prophets and various schools of thought throughout history. The Constitution of Iran emphasizes equality in rights and elimination of unfair discrimination in paragraph 9 of the third principle, the 19th and 20th principles and other principles. The issue of equality and other examples of it have been subjected to judicial control in court procedures directly and indirectly by using the terms and principles of the constitution, and the court has depicted that the principle of equality the first pillar of the Islamic social system.

Other religions and philosophical schools have not given political, social, legal and economic value to human equality to this extent, and this kind of difference comes from the difference of vision in recognizing the character and high values that Islam has for mankind (Omid Zanjani, 1997: 566).

From the Islamic perspective, all human beings of any race and with any kind of material and spiritual characteristics are created from two human beings, male and female, and the first man and woman, who are the parents of all human beings, are created from the same type and nature:

**"He is the one who created you from a single soul, and created his wife from him, and scattered many men and women from those two bodies on the earth." (Al-Nisa, 1)**

In this view, man is like a seed and a seedling, and the shapes, movements, directions and various factors are not the same. His movement is towards perfection, and this rise is rooted in his nature, and this trait is universally depicted in all human beings:

**"O man, you are toiling towards your Lord with toil and you will meet Him." (Al-Inshiqaq: 6) i.e. "O human being, with great effort, you will move towards your Lord and reach his meeting"**

Differences of views and differences of opinions have casted a distance among people, and many groups have become involved in this way, but such distances, even the border between right and wrong, have never separated people from their homogeneous human nature:

**"And there were no people but one nation, and they were divided" (Yunus/19) i.e. "And the people were nothing but one nation, then they differed."**

The secret of differences in form and appearance among humans, such as differences in sex, race, skin color, nationalities and languages, should be sought in the secrets and complexities of the system of creation, which is more than anything else, knowledge-creating and mystical:

**"And from the signs of the creation of the heavens and the earth, and the difference between your tongues and our stars, in those are for the truth-seekers" (Romans: 22) i.e. "Among the signs of his power is the creation of the heavens and the earth and the difference in your languages and colors, and these are signs for scholars."**

He also says that God has given dignity to all the children of mankind:

**"And we have mercy on the children of Adam, and we have carried them in Albar and Bahr" (Isra', 70) or even better stated, "We honored the children of Adam and give them dominance and control over land and sea"**

God has made man the bearer of trust and a great secret:

**"Indeed, we extend our trust to the heavens, the earth, and the mountains, so all of them rejected that and were scared and only man accepted to bear that toil " - (Ahzab, 72) or translated as "We offered trust to the heavens, the earth, and the mountains, all of them refused to bear it and were afraid of it, and man took the burden of it."**

All humans are equally responsible before God and have common duties towards other people and society; Because they are all God's creatures and members of society, and no difference except piety can be considered a criterion of discrimination and inequality, and inequality and distinction based on piety is also a criterion for dividing duties and a means to achieve high human goals, not a factor of discrimination against the law.

**(Hojarat, 13): "O people, we created you from male and female and divided you into clans and tribes so that you may recognize each other. The most noble of you in the sight of God is the most pious of you, and God is all-knowing and aware of you."**

This verse is addressed to the entire human society, not a specific group, and the most important principle that guarantees the order and stability of the society is stated in this verse and the criterion of the real value of human beings against fake and false values is specified. God says here, O humans, you are all created from the same male and female, and you are equal to each other in terms of creation and creation, and because your parents are the same and you have the same origin and origin, then there is no place to be proud of each other. In one of its decisions, the Administrative Court of Justice invalidates a directive from the Ministry of Higher Education, according to which the children of university faculty members have been given special privileges regarding transfer and relocation in the country's universities. A very commendable point in this judgment is the reference of the court to the equality of all people in enjoying the rights and privileges and the equality of all before the law.

Decision No. 929 of the General Board of the Administrative Court of Justice regarding the annulment of Resolution No. 262765/262765/44309 of the Council of Ministers regarding the creation of special facilities for the children of faculty members: "According to the reasoning used in Decision No. 1-16-1382 14/ The General Board of the Administrative Court of Justice, paragraph one of Resolution No. 27/12/2018-44309/262765 of the Council of Ministers regarding the implementation of the Executive Order of Circular No. 8464/V - 05/13/2018 related to the transfer of the children of university faculty members. and the institutions of higher education approved by the meetings of the 52nd and 55th meetings of the study and planning committee of the national exam are recognized as examples of illegal discrimination in paragraph 9 of the third article of the Constitution of the Islamic Republic of Iran and based on paragraph 1 of article 19 and article 42 of the Law of the Administrative Court of Justice.

Decision No. 441 of the General Board of the Court of Administrative Justice is another example of this court's support regarding equality and eliminating unfair discrimination for citizens. according to this vote; According to paragraph 9 of Article 3 of the Constitution, the government of the Islamic Republic of Iran is responsible for eliminating unfair discrimination and creating fair opportunities for everyone in all material and spiritual fields. Pursuant to Article 22 of the Constitution, the dignity, life, property, rights, housing and employment of persons from Assault is immune except in the cases prescribed by the law and the 44th principle of the constitution has recognized the economic system of the Islamic Republic on three sectors: public, cooperative and private.

Considering that paragraphs 2, 3, and 5 of the first meeting of organizing and monitoring the operation of car assistance centers and tow trucks, the subject of paragraph 4, article 3 of the traffic accident safety management and transportation regulations approved

on 5/27/2019, cause an infringement on the rights of individuals and Unlawful discrimination and restriction of the private sector in enjoying social rights is recognized as against the law and based on paragraph 1 of Article 12 and Article 88 of the Law on Organizations and Procedures of the Court of Administrative Justice approved in 2013. With consideration and consideration in the judgments of the court, we can say; Orientation in reference to the laws and arguments presented shows the clear approach of the court in prohibiting discrimination in citizens' enjoyment of citizenship rights, considering them equal in using public services and against discrimination by government bodies. (Hosseini & Ghasemi, 2021: 382)

### **3- Citizenship rights**

The word "citizen" does not have much history in the legal and political literature of Iran, in the old royal governments, the word "citizen" was used instead. And there was less talk about the rights and regulations of society." (Ismaili, 2000: 106)

In current Persian culture, "a citizen is someone who belongs to a city and country and enjoys the rights belonging to it." (Sadri Afshar, 1990: 134) "Human rights are actually the boundary between citizen and pure citizenship." (Afra & Asgari, 2013: 2) In general, "citizenship is a type of mutual social relationship and contract and a chain of mutual rights "government over people" and "people over government" as well as a common general feeling towards national and social identity in a specific range is clear". (Aamili, 2013: 4) Henceforth, "citizenship rights can be considered a part of fundamental legal rights against human rights and moral rights, which, unlike these two, have a national or regional color". (Niyazpour, 2006: 32)

Reflecting on this definition and other definitions and interpretations that jurists have of the term citizenship rights, in the citizenship system, a person has accepted rights against a series of responsibilities, and on the other hand, establishing a balance between the rights and responsibilities of citizens is one of the duties of the government. Therefore, citizenship rights are one of the human rights issues that the government is obliged to respect and protect in front of the citizens, and if it is seriously supported by the statesmen, not only will the satisfaction of the citizens raised, but it will also strengthen the government.

So, "citizenship rights are raised where human rights are located, and within a civil society under a specific government, it takes a legal and executive form and only takes shape in the relationship between the individual and the government. (Niyazpour, 2016: 28) And what separates it from other human rights is that it is territorial, but human rights are for everyone and everywhere, regardless of time, place and race characteristics. (Hamidi & Alekjabaf, 2021: 65)

### **4- The relationship between the Court of Administrative Justice and civil rights**

The Islamic Republic of Iran is a scholastic system and all its laws and regulations must be according to the standards of the Islamic school of life (Principle 4 of the Constitution). Respecting the rights of citizens in it, in addition to God's consent, brings satisfaction to citizens and strengthens the system of religious democracy. In guaranteeing the protection of human rights, God made the following promise: "We have sent our Messengers with visions, and we have sent them down together with the Kitab and Al Mizan, so that the people will be in proportion" (Hadid, verse 24).

It is the right of every citizen to create justice and to establish installments in the society. In verse 9 of Surah Al Araf, he emphasized: "We have given you control and ownership of the earth, and we have provided you with all kinds of means of life." From the point of view of Imam Ali (PBUH): the Rulers are the servants of the people (Ibn T0rab, 2006: 126).

In explaining the right of citizenship by the rulers, he said: "... the ruler cannot be righteous except with the competence and merit of the rulers, and the rulers cannot be righteous except with the perseverance and moderation of the obeyed subjects, so if the ruler fulfills the right of the rulers and the ruler fulfills the right of the subjects with merit and bring the right to be respected among them..." (Nahj Al-Balaghe, sermon 127) According to the Islamic tradition, the constitution of the Islamic Republic emphasized the protection of citizenship rights in several principles, including, in principle 46, the right to property resulting from business In principle 47, it emphasizes the right of private property, and in principles 170 and 173, it emphasizes the control of government actions in order to guarantee the rights of citizens through the Administrative Court of Justice.

In these principles, the government's requirements for the rule of law in establishing regulations and defending the rights of citizens against the government are foreseen as the basis for the supervision of the Administrative Court of Justice. (Hamidi & Alekjabaf, 2021: 70)

#### **4-1- Supervision of the Court of Administrative Justice**

"In Iranian law, the judicial supervision of brotherhood is carried out in three ways, two of which are exceptional through the judges of the courts and the country's general inspection organization, and one of which is through the court of administrative justice Accepts. (Mashhadi, 2015: 33)

Henceforth, that part of the posterior and compensatory judicial supervision that is within the scope of the duties of the Administrative Court of Justice must have logical and practical mechanisms in order to be able to approach the "rule of law" and "guarantee justice" with minimal cost. According to Article 170 of the Constitution, the judges of the courts refrain from implementing regulations that are contrary to Islamic standards or beyond the powers of the executive branch, and every citizen, even if he is

not a beneficiary, has the right to request the annulment of such regulations from the Court of Administrative Justice. According to Article 173 of the Constitution, citizens can file complaints or grievances against officials or units or government regulations in order to assert their rights or protest in line with the implementation of these principles, according to Articles 30, 54 and 55 of the current law of the Court, proceedings in It is done in the normal way and with citizens' lawsuits, and it is carefully observed in the meaning of its law that among the words of complaints, grievances and protests and decisions and actions of government units and quasi-judicial administrative authorities referred to in Article 10 of its current law, There is a kind of legal order, and proceedings in it are conducted independently, investigative, non-publicly and without the presence of the litigants.

#### **4-2- The effect of the supervision of the Court of Administrative Justice on the rights of citizens**

One of the most important issues of any society is the citizen's rights, which must be supported and guaranteed by every government in different dimensions, as required by justice, so that the amount of crimes in that society is greatly reduced, social order and security are established, and the public trust and support of the people, rise above the government, for this purpose institutions should be established to create a balance between the actions of governments and the rights of citizens by obeying the law. "One of the ways to oblige administrative bodies to apply the rule of law is for citizens to refer to

independent and neutral authorities to assert their rights in cases where administrative bodies do not fulfill their legal duties and get their rights by canceling decisions that are against the law or requiring administrative authorities to perform their legal duties, and if they have suffered a loss, demand compensation for it." (Sadr al-Hafazi, 2012: 22)

One of these independent authorities, which is foreseen in the Constitution of the Islamic Republic of Iran, is the Court of Administrative Justice, which has issued many opinions since 1360 in defense of the rights of citizens and the control of the government's actions. Its current law, in Article 11, restores the rights of individuals from various aspects. Judicial supervision has stated that in order to achieve this goal, the judge of the court examines the nature and effects of the administrative decision. Considering that the main purpose of the constitution and normal laws is to guarantee human rights, the administrative actions of the government should be in the same direction and goals, and whenever with the highest standards, including the international laws accepted by the Islamic Republic of Iran, the general principles of law, the law If the basic laws and decisions of the Council of Expediency of the System are not coordinated and consistent, it can be reviewed and annulled by the Administrative Court of Justice upon the request of any citizen. Although all the administrative actions are

specified in principles 170 and 173 of the Constitution and Articles 10, 11 and 12 of the Law of the Court, but by what criteria does the Court determine that the administrative actions complained of by the plaintiff have violated their rights? It is not mentioned in any law or regulation, but in order to determine the criteria, they must be evaluated and conformed to the certain principles of human rights. "One of these principles is the principle of equality and non-discrimination between individuals, regardless of their individual characteristics such as race, gender, religion or social class, they must be under the legal rule of a single system" (Vijeh, 2003: 217).

Therefore, "in Iranian administrative law, the 19th and 20th principles of the third principle are considered as sources of the principle of equality in domestic law, sometimes the procedure of the general board of the Administrative Court of Justice is directly or indirectly the basis for issuing annulment decisions" (Shirzad, 1393: 154) and citizens must enjoy these human and citizenship rights in all aspects of law, especially administrative law. But despite the fact that "one of the most important means of controlling the actions of administrative authorities is the principle of the rule of law, and according to that, the decisions of administrative authorities must have a basis". (Tabatabaei Motmani, 2017: 17) and according to Article 7 of the Criminal Procedure Law, in all stages of the proceedings, it is mandatory to observe the citizen's rights in the Law on Respecting Legal Freedoms and Protecting the Rights of Citizens, approved 2/15/2018, by the judicial authorities and other persons who intervene in the proceedings. However, the assessment of the number of lawsuits received by the court every year indicates that the number of plaintiffs and the number of administrative lawsuits against government agencies are increasing, which means that government agencies are far from the rule of law in guaranteeing the rights of citizens (Hamidi & Alekjabaf, 2021: 71).

### **5- The role of the Court of Administrative Justice in realizing and guaranteeing citizenship rights**

Citizenship rights, in the sense of a set of rights and duties that are directed towards citizenship in today's modern society, have always been subject to violation and encroachment by governments. In Iran, in order to realize and guarantee these rights, according to Article 172 of the Constitution, an investigative authority called the Court of Administrative Justice has been established to deal with people's complaints and grievances against the decisions of officials and illegal acts of administrative organizations. This court has its roots in the French Council of State. Before the Islamic revolution, the legislator approved the establishment of the State Council, imitating the French State Council, but due to some reasons, this council did not succeed at that time.

The review of the efficiency issued by the Administrative Court of Justice shows that this authority has a more citizen-oriented approach than the

government-oriented one, and in this regard, it has many strengths. However, due to legal and procedural challenges and opportunities, there is still a long way to reach the optimal point to play this role. Therefore, according to the principle of rule of law, administrative authorities are obliged to make decisions within the framework of laws and regulations. In the rules and regulations for the decision-making of administrative authorities, requirements are considered, which failure to comply with them will cause the violation of these decisions. In Iran's legal system, the Administrative Court of Justice is the judicial authority to supervise the compliance of the mentioned requirements by the administrative authorities, and the judicial supervision of personal administrative decisions is under the jurisdiction of the branches of the Administrative Court of Justice.

This article seeks to answer the question that the branches of the Administrative Court of Justice have deemed necessary for administrative decision-making in order to realize and guarantee the rights of citizens. In order to fulfill the aforementioned duty, the branches of the Court of Administrative Justice, in their issued decisions, take into account the requirements that the administrative authority is required to comply with in its decisions, including legality, equality and non-discrimination, documented and justified administrative decisions, placed and violated the administrative decisions if they are not followed because it will lead to the violation of citizens' rights.

Citizen rights in the society are one of the most important and basic issues raised in a society, therefore there should be institutions in every society so that they can not only guarantee but also expand the rights of citizens in the society.

Also, the requirement of justice dictates that there should be institutions in the society that are responsible for judicial supervision of the government's actions, and judicial supervision, i.e. courts, including public and administrative courts, on the legality of the actions and decisions of the government, thereby preventing the arbitrariness and abuse of officials and organizations, government activities and guaranteeing the freedom and rights of citizens. Citizenship rights are one of the important topics of any legal system. In the concept of citizen, the main element is the individual belonging to a political society and the individual has certain rights, and the citizen is defined as a group of people who accept that they have common rights, and these rights are specific to citizens and not to foreigners. Basically, in the relations between citizens and governments, differences are inevitable and the weak voice of the oppressed citizens should not be lost in the power and technocracy and left alone and helpless in front of the dominant system of the government. The requirement of justice is that there are institutions in the society responsible for judicial supervision of the government's actions in order to prevent the arbitrariness and abuse of government officials and organizations and to

guarantee the freedom and rights of citizens. Due to this reason, in the constitution, there are several principles regarding citizenship rights under the title of nation's rights, which in principle 173 of the constitution establishes the administrative court of justice in order to guarantee citizenship rights.

In the citizen-centered approach of the Administrative Court of Justice; Administrative courts and judges mostly seek to protect the rights and freedom of citizens, and its existential philosophy largely seeks to protect citizen rights. The Court of Administrative Justice has issued many judgments according to the principles of the Constitution and also in the pursuit of protecting and defending the rights of citizens, although there is the case of the Court of Traditional Works in the field of structure, competence and procedure, but the evaluation of the judgments of the Court is important from a specific aspect and to Its kind is new. But despite all these points and areas of strength, there are still inadequacies and shortcomings regarding the operation of the court.

Administrative authorities take decisions in the direction of securing interests and public order and providing services to citizens that these decisions are effective in the rights and duties of citizens. By accepting the necessity of action by administrative authorities in this field, it has been tried to monitor the application of this authority and thereby ensure the rights of citizens (Domishel, 1997: 24). One of the most important tools for controlling the exercise of administrative authorities' rights is the rule of law according to which all the decisions of the administrative authorities must have a legal basis (Tabatabai Motamani, 2001: 17).

One of the requirements of the principle of the rule of law is that citizens, in cases where they believe that the administrative authority has acted against the law or is not fulfilling its legal duties, can refer to independent and impartial authorities and obtain their rights by canceling illegal decisions or requiring administrative authorities to perform legal duties, and if they have suffered a loss, request compensation for it (Sadr Al Hafazi, 2013: 22).

With the aim of ensuring the rights of citizens in the field of administrative decisions, authorities have been considered in various legal systems to monitor the legality of the decisions of administrative authorities. In this context, it has been tried to entrust the supervision of administrative authorities to an institution independent of administrative and executive institutions, that is, the judiciary. The decisions that the administrative authorities take in the context of their duties are divided into two types: some administrative decisions are "type" and are adopted in the form of regulations, circulars and other such cases, which are handled by complaints against them according to the article 121 of the Law on Organizations and Procedures of the Court of Administrative Justice is under the jurisdiction of the General Board of the Court. Another type of administrative decisions are "personal administrative

decisions" regarding a certain person or persons. Employment orders, permits, licenses and certificates are among the decisions of the administrative person (Tabatabaei Motmani, 2010: 314).

These types of decisions create rights and obligations for people or announce a special situation to them, and they are enforceable only for subjects and persons in specific cases and cannot include general and general rulings (Emami & Astwar Sangri, 391: 28). According to Article 10 of the Law on Organizations and Rules of Procedure and the Court of Administrative Justice, supervision of personal decisions of administrative authorities is within the jurisdiction of the Court's branches. Of course, the votes of the branches of the Court of Administrative Justice do not have the same value as the unanimous votes of the general board, and their contents are reserved for the same case on which the decision was issued. But considering that administrative authorities perform many of their duties through personal administrative decisions and these decisions have a great impact on citizens' rights, examining the votes of the administrative justice court's branches can indicate the court's procedure in the field of this type of administrative decisions. The opinions of the branches of the Court of Administrative Justice in the field of administrative decisions can indicate the extent of this institution's attention to complying with the requirements of decision-making by administrative authorities. All the opinions of the branches of the Court of Administrative Justice are not available and so far only a part of them has been published. In this article, an attempt has been made with the opinions of the Court's branches (to the extent that it has been published) to extract the requirements that the Court of Administrative Justice has deemed necessary in personal administrative decisions, which compliance will ensure the observance of citizen's rights.

Most of the documents of the branches of the Court of Administrative Justice in the opinions they issued refer to the principle of the law and its functions. According to the principle of legality, administrative authorities are only allowed to act within the framework of legal competences. In the following, the components of this review principle are examined in the opinions of the Court's branches. (Yazdani & Tausli, 2017: 57)

### **5-1- Non-discrimination**

According to the principle of non-discrimination, people with similar conditions should be treated in the same way and should not be discriminated against in these cases. Of course, this does not mean the negation of any discrimination, because in some cases, discrimination takes place on a specific and justified basis. In such cases where discrimination is legal, there are legitimate reasons that cause discrimination, and the legislator himself has allowed discriminatory treatment due to the existence of the aforementioned factors (Malmiri Center, 2006,110). Article 3 of the Constitution is one of the duties of the Islamic Republic of Iran, and on this basis, the Court of

Administrative Justice has invalidated the actions of administrative authorities in cases where they have discriminated between people under equal conditions. Among these cases, it can be mentioned that administrative authorities discriminate against people who have university degrees from different universities.

The Court has considered discriminating between the degrees of different universities as illegal discrimination and against the constitution (opinion number 9109970900902307, Department of Publication of Judicial Procedure of the country, November 2012: 78) the general board of the court in the opinion number 93 dated 2/1387 22/, has stated in this context: "...determining the conditions and giving special privileges to the graduates of public universities in terms of their employment on a contractual basis and depriving the graduates of Islamic Azad University with similar conditions from the aforementioned privileges and as a result, depriving them of Their employment in the form of a contract is in the category of unfair discrimination and against the law of the legislator and paragraph 9 of the third article of the constitution of the Islamic Republic. Also, the Court of Administrative Justice, applying discrimination in the field of benefits in cases where people have similar working conditions (opinion No. 9109970901906191 dated 12/28/1391, Department of Publication of Judicial Procedure of the country, March 1391: 46; Opinion No. 9109970901905212 dated 11/14/1391, Department of Publication of Judicial Procedure of the country, Bahman 1391: 32; Vote No. 9109970902301985 dated 20/12/1391, Department of Publication of Judicial Procedure of the country, Isfad 141; Vote No. 91099709002383, Department of Publication The judicial practice of the country, Aban 1391: 53 and Mohammadi Hamdani, 2007: 324) and discrimination in the issuance of building permits for properties with similar conditions has been recognized as an example of illegal discrimination. (Mohammadi Hamdani, 2007: 324)

The Court of Administrative Justice has annulled the practice of discrimination in the field of equality between the children of university professors and others. "Revocation of the circular of the Ministry of Culture and Higher Education regarding the transfer of the children of university professors from universities accepted according to the national entrance exam to the university where they serve, because "considering the principle of entitlement of individuals to use similar and identical material and spiritual facilities in the same conditions equal and that giving any privileges to individuals, without the existence of justified reasons and desirable means of differentiation, is subject to the explicit decree of the legislator, and also with regard to paragraph 9 of Article 3 of Q. 1" The said circular is considered as "examples of unfair discrimination". (Yazdani & Tausli, 2017: 60)

## **5-2- Necessity to observe acquired rights**

The rights created by the legislator, which are also called "acquired rights" in public law, cannot be expanded or limited through other governing institutions, according to their legal origin, and only the legislator can expand, limit, or basically cancel the rights granted to him. It is important that in the form of "contradiction with acquired rights" apart from the existing legal foundations and as an independent principle, it deserves to be cited in the procedure of the Administrative Court of Justice. The subject area can be evaluated:

### **5-2-1- Prohibition of retroactive effect of regulations**

Creating security in legal relations requires that the future law cannot shake the previous legal order and deprive people of the possibility of predicting the future and planning for it. (Katouzian, 1398: 280).

In exceptional cases, the law can be retroactive to the time before its approval. Article 4 of the Civil Law has verses in this regard: "The effect of the law is relative to the future, and the law does not have effect in relation to the past, unless special provisions have been adopted regarding this matter in the law itself."

However, despite the silence of the Constitution and Article 4 of the Civil Code regarding the prohibition of retroactive administrative regulations, considering the oneness of the philosophy of prohibiting the retrogression of laws and regulations and the absence of this is important. "Citizens' legal security, the existing situation and their legally acquired rights are under attack". (Hashmi, 2004: 293)

Therefore, none of the government systems should be retroactive. This matter, which is considered as an independent principle in public law, because it often and in any case distorts the acquired rights of individuals, is noticeable in the procedure of the public board:

1. Revocation of paragraph 6 of the resolution of the Economic Council regarding the extension of the new price of vegetable oil to the date before the approval, in the sense that "the negation of the legal acquired right of the relevant factories and contrary to the unity of the criteria of Article 4 of Q. M. It is about the inadmissibility of retrospective retroactivity of laws and regulations" (Procedure No. 64 dated 2/30/2001).
2. Revocation of paragraph 1 of the instructions of Sepah Bank's organization and procedures regarding the increase of the condition regarding the receipt of facilities and its extension to the past, because "it is one of the examples of the retroactive effect of the new conditions and the negation of the acquired rights of individuals, and as a result, it is against the law". Interestingly, in this vote of the general board, there is a reference to Article 4 of the M. He has not shown and in this way he has shown his desire to apply this principle of public law independently (Procedure 172 dated 3/20/2008).



### **5-2-2- Prohibition of ignoring acquired rights due to lack of credit forecast**

Islamic Council according to the principle of 75 A.H. A. "It is obligatory to predict the validity of laws when approving them. However, after the approval of the law by the Guardian Council and its entry into force, this importance cannot be used as an excuse by the governing institutions and authorities for not fulfilling their acquired rights. In this regard, the annulment of the regulations that have distorted the enjoyment of legally acquired rights due to delay in legal implementation or lack of validity (budget) is another aspect of the general board's reference to acquired rights. In other words, the public board is not effective or has the government been obliged to provide the necessary credit in accordance with the law of the legislature?"

1. Recognizing the opinions of the first, fourth and seventh branches of the court as "Aslah al Rayin i.e. The most fitting voters" which unanimously argue: "Not having credit, cannot ruin the inalienable right of the plaintiffs of the employees of the General Department of Natural Resources of Fars province, and it does not destroy the legitimate rights of the employees" (Rai Vahdat Procedure 164 dated 12/20/1991)

2. Confirmation of the validity of the decision of the 19th branch of the Court, considering that "the lack or lack of credit and the need to save current expenses does not negate the official employee's legal right to enjoy all the related rights and benefits" (Vahdat Raviyeh 799 dated 2006/ 5/12). (Yazdani & Tavassoli, 2017: 64)

### **CONCLUSION:**

In the legal and political system of the Islamic Republic of Iran, different solutions have been adopted from the separation of powers has been used up to parliamentary supervision and judicial supervision to guarantee and protect the rights of citizens. However, what is considered as a guarantee of the main implementation of compliance and respect for citizen's pertinent rights. The opinion of the fundamental legislator of the Islamic Republic of Iran is judicial supervision.

The establishment of the Court of Justice Administration as a supreme judicial authority to deal with people's complaints about the government's performance under the supervision of the constitution reveals the degree of importance that the legislator attaches to protecting the individual rights of citizens and guaranteeing it in the country's administrative system is an important step towards reforming the administrative system.

It is considered a country. The Court of Justice cancels or cancels illegal actions and decisions regulations and directives that are against the law, as well as punishing violators and those who complain about the implementation of the law in the category of administrative proceedings plays a great role in the

promotion and expansion of citizen's rights, especially the right to petition and also had the right to have a favorable government.

In a clichéd way, it can be said: Court of Justice Administration can play a role in realizing all three basic elements of rule of law. On one hand, the court forced the government institutions to act within the framework of the pre-determined powers of the law and, on the other hand, ensures compliance with the hierarchy of laws and regulations, also through administrative proceedings to protect the privacy of the law against possible violations of the authorities, the executive takes action.

The branches of the Court of Administrative Justice in their opinions add to the conditions stipulated in the law outside the limits they know the competence of administrative authorities. The branches of the court require the existence of all the conditions considered by the legislator and the performance of duty is considered by the administrative authorities and in cases where all the legal conditions are not complete, they do not consider the administrative authorities to be obliged to perform their duties.

According to the decisions of the Administrative Court of Justice, if in the law, formalities are considered for doing something, the administrative authority should be adopted and the decision on those matters should follow the procedures stipulated in the law. According to the considered votes, the administrative authority cannot refer to the expired laws.

To make decisions or take actions and collect any money by administrative authorities without the existence of a legal license is against the law. According to the reviewed opinions, no administrative authority has the right to determine punishment in cases where the legislator has not considered punishment for something.

The Administrative Court of Justice in cases where the regulations have granted discretionary authority to the administration in a matter has rejected the claim of requiring the administration to make a specific decision on the issue.

The administrative authority is obliged not to delay in making a decision, and by emphasizing this issue, in some cases that the negligence of the administrative authority and the delay in performing the duty caused damage to the citizens, the administrative authority obliged to pay the damages. Administrative authorities are obliged to meet the conditions the same, take the same decision, and based on this, the Administrative Court of Justice will review the decision of the administrative authorities has invalidated the cases that discriminated against people in equal conditions.

According to the decisions of the court, the administrative authorities are obliged to respect the acquired rights of the citizens and respect their property rights. Based on this, in cases where the administrative authority is authorized by law to violate the acquired rights or property rights of individuals, it must compensate the damages caused to them. The branches of the Court of Administrative Justice have



considered the administrative authorities as obliged to make a reasoned and documented decision, and they have annulled the decisions of the administrative authorities in cases that were taken without reasons. According to the decisions of the court, there must be a balance between the decision made by the administrative authority and the provision of public interests, and the court in cases where the administrative decision is disproportionate and it has caused damage to citizens, The administrative authority is obliged to compensate the damage caused has known The important point was not about compliance with decision-making requirements by administrative authorities

Determining laws in the process of making administrative decisions and requirements in this field. A matter that has caused the branches of the Court of Administrative Justice by referring to generalities and general legal rules to monitor administrative decisions. This necessitates the existence of a law or laws that explain the clear and specific form of administrative decision-making ritual and it enlightens the requirements of administrative decision-making

#### **REFERENCES:**

Ameli, Hussein. (1397), Administrative court. Publication of Rushd Muallem.  
Hamidi, Ali. Alekjabaf, Hossein. (1400), Rahkarhai strengthening the supervision of the Court of Administrative Justice and the impact of the rights of Shahrivandi in the Islamic Republic of Iran.  
Emami, Muhammad. Istwar Sangri, Cyrus. (1391). Administrative rights, volume 1, published by Mizan, double cover.  
Hosseini, Mohmei. Qasimi, Dawood, (1400). Justify the inscription of the Administrative Court of Adalat with the auspices of the legal rights of the verses of the Qur'an. A publication of Quranic studies.  
Sadr al-Hafizhi, Nasrallah. (1371), an immediate study and a provisional constitution within the jurisdiction of

the Administrative Court of Justice. Publication of legal literature.

Wijeh, Mohammad Reza. Book Rudy, Ahmed. (1393), the limits of the powers of the Administrative Court of Justice in the appointment of two directors of non-state public institutions. Publication of legal aids.

Yazdani, Messenger. Tausli, Manouchehr. (2017). the role of the Administrative Court of Justice in realizing and guaranteeing the rights of citizens. Journal of private and criminal law research.

Shirzad, Omid. Mahmoudian Esfahani, Kamran. (2015). Jurisdiction of the Administrative Court of Justice in disputes arising from administrative contracts. Law thinkers' magazine.

Hashemi, Seyyed Mohammad. (1384). Human rights and fundamental freedoms, third edition. Tehran, Mizan publication.

Omid Zanjani, Abbas Ali. (1386). Supervision of government and administrative justice. Tehran University Publications.

Tabatabai Motmani, Manouchehr. (1380). Administrative law of Iran. Tehran, Samit Publications.

Mohammadi Hamdani, Asghar. (1387). Voting sample of the Court of Administrative Justice, Jangal Publications. First Edition.

Mohaghegh Damad, Mustafa. (1385). Jurisprudence rules of the civil sector. 50th edition Tehran, Humanities Publishing Center.

Sadrzadeh Afshar, Syed Mohsen. (1385); Civil and commercial procedure, 3 volumes in one volume, 9th edition, Tehran: Academic Jihad, Allameh Tabatabai branch.

Katouzian, Nasser. (1377). Validity of the adjudicated matter in civil lawsuits, Justice Publications, 5th edition, Tehran.