

## FUNDAMENTAL PRINCIPLES GOVERNING PUBLIC SERVICES

Gholamreza Joodakihejad  
Department of law, Islamic Azad University, Arak, Iran

**ABSTRACT:** Public services are those services which are essential for meeting public goodwill under the government supervision without taking any private rights into account. The concept of public services was initially proposed at nineteenth century in the French administrative law and gradually changed to one of the basics of administrative law. The concept was a theoretical and practical outcome indicating the degree of government intervention in the social relations of the community and resulted in a division and/or confrontation between the minority government (gendarme, regulator, and guardian) and welfare government (servant government). Based on the public services theory, the administrative law as the governing law on the public services finds its unity from the concept of public services. Some principles such as principle of equality, principle of adaptation, principle of consistency, principle of neutrality, and principle of free public services are governed on the public services and should be adhered and considered in providing such services.

**KEYWORDS:** Public Services; Public Affairs; Public Interests; Public Needs.

### INTRODUCTION

Due to its importance in the social life, the public services follow some significant principles which are known as the obvious administrative laws. Regarding the public services status and its aims for direct and immediate meeting of fundamental social life needs and preserving the public interests, the services should observe some insuring principles as Louis Roland, the French juristic, believes. The best practices in providing such services follow specific conditions as: (a) equal and neutral positions of its providers (b) alignment with time and location changes, (c) continuous activities for providing public services, (d) free access to such services, and (e) priority of public interests compared to the private interests.

#### *1.1. Principle of equality in access to public services*

The public services are provided for the general population of the society, so the equality principle based on social justice rules that all members of society equally benefit from the advantages and benefits of public service without any restriction by political, ideological, racial, or ethnic criteria. The government cannot discriminate among the people due to these excuses, deprive some individuals from receiving such services or grant certain privileges to special group of people. If the society is unable to provide the public services for all of the society members, such deprivation should be the same for everyone. As the general

rule for equality of citizens with regard to the law and public capacity, the principle has too much importance; and all people (users of public services) should equally benefit from the advantages of public services because of their general responsibilities in funding such services.

#### *1.2. Principle of neutrality in providing public services*

The other aspect of equality principle is neutrality and non-discrimination in providing public services. Principle of neutrality prohibits any partiality and prejudice which may result in discrimination in offering such services to the general public. Therefore, any prejudice against political or religious beliefs is forbidden whether from the agents or the users of public services. To observe the principle of neutrality is mandatory for all government departments and providers of public services. Thus, the principle of government neutrality means that the government should not try to find some ways for imposing its specific beliefs about a worthy life and its meaning to the public. However, it doesn't mean that the employees in charge of public services should be free from any personal beliefs and values, but they should avoid discriminating people based on such beliefs.

#### *1.3. Principle of adaptability in providing public services*

The public interests are changing over time. The public services should be changed according to the community needs and also should be able to

adapt to possible public interests transformations.

### *1.3.1. Principle of adaptability concept*

The principle is based on the truth that the social life needs are ever changing and the public services as representatives of public interests should always be aligned with possible changes in the public interests. As contingencies dictate, the public services system should be ready for evolution and changing when necessary. In this way, neither the servants of public services nor the users of such services are able to rely on the status quo in relation to the acquired rights. As a consequence, the administrative bodies have to make their contingent decisions based on current requirements.

### *1.3.2. Principle of adaptability outcomes*

- Based on the principle, the government has the needed authority for changing the regulations about the public service activities (organizational rules and how they work).
- According to the contracts between the government body and the supplier of public services, the supplier should accept the unilateral power of the government body for changing the contract terms and obligations under different circumstances.
- The employees of public service provider bodies accept any changes in their rights because from the theoretical viewpoint, the reorganization or deletion of such services may result in their jobs abolition and even their firing.
- In the private inter individual relations no one can impose his/her wills to the other party, while the government body has a specific right to dictate its decisions to others according to the interest of public service.
- The government body is able to change one-sidedly the tariffs in relation to the industrial and business services and sets new charges for the other party (such as increasing water, electricity, gas, and phone fees, etc.).

### *1.4. Principle of continuity in public services*

As it was mentioned before, the public services are provided for the general public based on their daily life requirements. Therefore, the administrative organizations should provide such services continuously and without any interruption.

#### *1.4.1. Concept of continuity in public services*

Regarding the principle, the public services – whether in public sector or in private sector – should be provided continuously and without any interruption under any condition. The

principle indicates that the public services meet the primary and main requirements of the society. Given the fact, some public rights experts believe that continuity is the essence of public service.

### *1.4.2. Principle of continuity outcomes*

The principle justifies some of the regulations in relation to the administrative laws.

- The administrative system should not be stopped. In this way, the public servants are required to continue their works and avoid any activity which may result in interruption in their working condition or manner.
- The bodies responsible for providing the public services should plan their procedures, methods, and instruments in such a way that doesn't result in any pause and stoppage in the work process.
- The resignation of public servants is a function of special regulations and should be approved by an authority figure.

### *1.5. Principle of free public services*

#### *1.5.1. Free services concept*

Some of the rights experts believe that the principle of free access to the public services is one of the basic public services standards. Such services should be free and their funding should be through the tax regulations and obligations.

#### *1.5.2. Some viewpoints about the principle of free public services*

When the Constitution predicts that the public services should be free, the general or specific decisions for any fee or expenses for receiving such services will be illegal. It is obvious that the regulations can consider some exceptions in relation to free access services.

### *1.6. Principle of priority*

The principle of priority means that if there is a contradiction between the private interests and the public interests in providing the public services, priority will be assigned to the public services because such services are owned by the public and all the society should benefit from its resulted advantages. In order to safeguard the public interests against the private interests, the legislator should consider some privileges for the government because of its responsibility in organizing and providing such services. The privileges are resulted from governance activities for keeping the public interests and/or providing the public services and are known as "public rights privileges" or "privileges resulted from public power."

The concept of public services is one of the essentials of social life and in spite of its limited deployment at the previous centuries currently it has an outstanding significance due to the urban society expansion as well as economic and communicational developments. In addition to classic applications such as diplomacy, justice, security and alike, the public services include other aspects with industrial and business-based implications because of new discoveries and inventions along with changes in the social life as a whole. The theory of public services has an important role in the administrative law. The administrative activity is basically carried out for serving the public and the nature of administrative bodies depends on their responsibilities and obligations toward this objective. And even the regulations of administrative law find their meaning from the public interests. The theory of public services is considered as a key theory through which the competences and qualifications of administrative tribunals and courts are determined.

Sanjabi K. Administrative Law of Iran. 3<sup>rd</sup> Edition, Hedayat Press Organization Publication, 1955.

Tabatabaei Mo'tameni M. Administrative Law. 15<sup>th</sup> Edition, Samt Publication, Tehran, 2008.

#### REFERENCES

- Abbasi B. Administrative Law. Dadgostar Publication, Tehran, 2010.
- Abbasi B. Expositions of Comparative Administrative Law Course. MA Dissertation in Public Law Course of Studies, Islamic Azad University, Arak Branch, 1<sup>st</sup> Semester, Academic Year 2009-2010.
- Ahmadi M. Freedom of Speech in the Framework of Public Services. MA Dissertation in Public Law Course of Studies, Islamic Azad University, Central Tehran Branch, Winter Semester, 2010.
- Amir Arjmand A. Administrative Law 1 Booklet. Shahid Beheshti University, Law Faculty, 1<sup>st</sup> Semester, Academic Year 2001-2002.
- Chevallier J. Le Service Public. Paris, PUF, 2006.
- Gorji Azandariani AA. Principles of Public Law. Jangal Publication, Tehran, 2009.
- Imami M, Ostovar Sangari K. Administrative Law. 3<sup>rd</sup> Edition, Mizan Publication, Tehran, 2009.
- Khosravi H. Constitutional Law II. Payam-e Noor Publication, Tehran, 2000.
- Mehrpour H. Human Rights in International Documents and Policy of the Islamic Republic of Iran. 2<sup>nd</sup> Edition, Etelaat Publication, Tehran, 2007.
- Novin P. Comparative Administrative Law. 1<sup>st</sup> Edition, Tadriss Publication, Tehran, 2007.
- Rivero J, Waline J. Droit Administrative. Paris, Dalloz, 2004.