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Review on General sources of administrative law

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Abstract
What, exactly, is "law" in the burgeoning discipline of "global administrative law"? This article defends what it calls a "social fact" view of law, which places an emphasis on origins and criteria for recognition, but which goes beyond traditional Hartian positivism by also include "publicness" preconditions for legal validity. "Publicness" is intrinsic to public law in national democratic jurisprudence and is increasingly being used to public bodies in global governance rather than to identified global publics. The extent to which an organization respects legality, reason, proportionality, the rule of law, and certain human rights is crucial to the question of whether or not it should be considered public. This review follows the expanding use of publicness standards in practices of judicial-type assessment of the actions of global governing institutions, in requirements of reason-giving, and in practices transparency. The less an organization can depend on well-established sources of law and legal legitimacy, the more stringently it must adhere to norms of publicness. Only via interaction with public institutions is "private ordering" included under this idea of law. While a universal rule of recognition for GAL does not exist, the notion of law in GAL may be used effectively in many contexts.

Keywords: Publicness, Judicial-Type, Transparency, GAL

1. Introduction

Like the phrase "global administrative law," which is being used in the field's resurgence at the turn of the 21st century, this one may be overdone. 2 The expansive definition of GAL in recent works is reflective of an inductive technique that, rather than concentrating on questions of their legal foundation or taxonomic attempts to specify their specific legal aspects, begins with examination of extremely different arrangements and norms actually found in the practice of global governance. Here, we lay the groundwork for philosophical and political normative assessments of which interests are served and disserved, and what the implications have been or might be with respect to different conceptions of justi cation, as well as for positive social science assessments of the causes and consequences of global administrative law phenomena. Checking the legality of these happenings and any other information that could be relevant is essential. [1] In the current study, this same subject is tackled. With this approach, theoretical claims are re-evaluated in light of practical data, and clarifications are offered where appropriate.

The context for the argument is presented with a brief survey of current thinking in international administrative law. The realization that much of global governance (particularly global regulatory governance) may be understood as administration is propelling the growth of a new area of law: global administrative law. A complex "global administrative space" is comprised of a wide range of actors and levels, from international institutions and transnational networks to domestic administrative bodies that function within international regimes or have trans boundary regulatory effects. This space blurs the lines between private, local, national, and inter-state regulation. [2] The notion of a "global administrative space" challenges conventional wisdom about international law, according to which the international is largely intergovernmental and the boundaries between the domestic and international realms are clear cut. When put into practice, global governance leads to the dissolution of national borders as transnational networks of rule-makers, interpreters, and enforcers collaborate to establish a common set of norms. Non-state actors such as transnational private regulators, hybrid bodies such as public-private partnerships involving states or inter-state organizations, national public regulators whose actions have external effects but may not be controlled by the central executive authority, informal inter-state bodies without a treaty basis (including 'coalitions of the willing,') and formal inter-state institutions are increasingly present in the global administrative space. Many aspects of global governance administration are chaotic and unorganized. Although they may not have actively sought it or prepared for it, some companies are now responsible for worldwide regulatory oversight. It is very uncommon for national courts to be entrusted with

reviewing the decisions made by international, transnational, and particularly national authorities that are responsible for implementing an international agreement.

First - The Constitution

It is a set of rules or principles that show or define the ground on which the society in which power is exercised. Was it central or decentralized? With regard to the administrative law, there are many constitutional texts that are a source of its principles and rules as they relate to the administrative function of the state. Article 3 of the Iraqi constitution for the year 2005 referred to ((the federal system in the Republic of Iraq consists of a capital, regions, governorates, decentralized and local administrations)) and Article 4 of the Iraqi constitution for the year 2005. 122 / Second, which stipulates that "the governorates that are not affiliated with a region are granted broad administrative and financial powers to enable them to manage their affairs in accordance with the principle of administrative decentralization" in addition to other constitutional provisions such as Article 5 "Oil and gas is the property of all the Iraqi people." In all regions and governorates) and Article 6 public funds have a special sanctity, and the State and all members of the people shall maintain it and ensure its security and protection. Article 7 ((Private property) Inviolable property and not expropriation of private property except for the requirements of the public interest and in return for fair compensation...)), and Article 8 ((that citizens are equal before the law without discrimination...)) and Article 9/Secondly regulates military service by law (compulsory military service) and Article 10 The Federal Public Service Council is established to organize the affairs of the federal public service, including appointment, promotion and many other constitutional articles.

As for the French Constitution of 1958, Article 3 of the constitution granted the executive authority the power to issue regulations in all fields that are outside the jurisdiction of the legislative authority mentioned in Article 5 of it.

Article 2 of it stipulates the principles of equality and freedom of belief, Article 6 stipulates individual freedom and Article 7 refers to the state of exceptional circumstances and the powers of the Head of State towards them in issuing decrees that have the force of law in order to face the state of unusual circumstances.

Second - The Law

The legislator sets legal texts based on the constitutional rules to organize the administrative society and the requirements of the work of public utilities, such as Law of the irregular governorates in a region No. 21 of 2008 as amended, Civil Service Law No. 24 of 1960, Law of Discipline of State Employees No. 14 of 1991 and Retirement Law No. 9 of 2014 Employee Salaries Law No. 22 of 2008, University Service Law No. 23 of 2008, Nationality and Residence Law, Passports, Traffic Management Law No. 86 of 2004, Government Debt Collection Law No. 56 of 1976 and many other laws regulating administrative matters and the relationship of the individual and society with the state. The administrative authority must abide by these legal texts when it performs its administrative work.

Third - Regulations

It means that they are the general rule issued by an authority other than the legislature. As they are general, abstract rules that apply to an unspecified or certain number of individuals or groups, and a text or text that includes the right of the executive authority to lay it (regulations) in the constitution of the second year of the French Revolution in 1789, from which this right made its way to other constitutions in the countries of the world, including constitutions The Iraqi state was mentioned in Article 62/1 of the Basic Law of 1925, the first Iraqi constitution, Article 50/c of the 1968 constitution, Article 62/b of the 1970 constitution, Article 19 of the 1990 draft constitution, and Article 80/third of the new Iraqi constitution of 2005 and in force. Currently, it came under the titles of the system, regulations, instructions and decisions, such as instructions for implementing government contracts No. 1 of 2008, general conditions for contracting civil engineering works for the year 2005, instructions for employee notification No. 1 of 1960, and instructions for the discipline of students of Iraqi colleges and institutes No. 106 of 2007 and many other regulations and instructions that the administration and individuals must Complying with it and not complying with it constitutes an administrative violation that puts its owner under the legal issue.

Fourth - Custom

It means ((that it is a set of rules that arise from people's hierarchy by which they are inherited from generation to generation with a feeling of the necessity of respecting them and working with them. As for administrative custom, it is defined as a set of rules that the administration has been accustomed to following in a specific field of its activity and which it adopts for a long time without That this administrative custom entails any violation of legal texts and therefore is considered complementary to them. It requires several conditions in order for custom to be a source of administrative law, namely, that the custom be general, that it be old, that it be fixed, that it be binding, and that it does not violate public order and public morals, and what is meant by them is public order: It is a set of basic interests of the group and the foundations upon which the entity of society is based, whether these interests and foundations are political, social, economic or moral. As for public morals: it is a set of rules that people find themselves obligated to follow according to the moral law that prevails in their social relationship.

Administrative custom is defined as a set of rules that the administration used to follow with regard to a specific field of its activity, so that these rules become the written legal rules in terms of their obligation and the obligation to submit to them.

Like the custom that administrative decisions do not apply retroactively to individuals, whether they are citizens or employees.

Fifthly - Judiciary

Judicial rulings are another source of administrative law, as these rulings in the Anglo-Saxon system, except for England, take (judicial precedents) not as an official source of law, but rather as an explanatory source, meaning that the judiciary relies on previous judicial rulings simply for the use of them to identify the nature of the dispute without It is obligatory to adopt it because of the existence of a complete set of legal rules for private law, and the matter is different in administrative law, where the lack of legislative texts

prompted the administrative judge to search for solutions and derive judgments regarding the administrative disputes before him that would have legal value in the similar administrative issues of administrative disputes Therefore, the principle of judicial precedent is more clear in the administrative judiciary.

Accordingly, the administrative judge is considered the master of the situation, and his decisions and the rules he approves have binding force, and the administration and individuals must abide by them completely and completely, and in contrast, it is considered a crime.

Sixth - The general principles of law

they are unwritten rules that are stable in the mind and conscience of the group, and the judge works to reveal them, by interpreting this general collective conscience and those rules that are stable in the conscience dictated by optimal justice and do not need a law to be approved, and their violation is a legal violation that requires punishment, and these principles can be To derive from them binding legal rules that the administration must submit to, even if their sources are not found in the codified legal texts, but rather in the principles of justice and what is required by the political and social conditions of society and the conditions of its civilized development. Freedom and the principle of equality can be referred to the principle of freedom as the following principles and rules:

coercion

1. The principle of the supremacy of laws and it follows that the legislative authority has the power to restrict public freedoms through the legislation of laws.
2. The principle of the right of defense before disciplinary trials.
3. The principle of the necessity of regularity and the functioning of the public facility.

The following rules can be referred to the principle of equality:

1. The principle of equality in the use of public utilities.
2. The principle of equality in bearing public costs such as taxes and fees.
3. The principle of equality in conducting commercial and economic business and many other principles that can be deduced from the general principles of the law and are binding on the administration and the administrative judiciary.

2. Conclusion

Jurisprudence has played an important role in the maturation and development of the rules of the administrative law through the studies and research provided by jurists to explain and analyze the texts of laws and comment on the decisions issued by the administrative judiciary, especially since the State Council advisors have the credit for drafting judicial decisions that are often approved by the administrative judge when Issuing the judicial decision because they are jurists specialized in administrative activity and have the ability to judge and analyze administrative disputes.

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