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DROIT ADMINISTRATIF

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ABSTRACT:

Administrative law is concerned with how the executive branch's administrative agencies make decisions in areas including foreign trade, manufacturing, the environment, taxation, broadcasting, immigration, and transportation. The 20th century saw significant growth in administrative law as governments all over the world established more institutions to control social, economic, and political interactions. Countries with a civil law system frequently have specialist administrative tribunals that examine these judgments. In the past fifty years, many nations with a civil law tradition have allowed the rules imposed by supranational legal orders, in which judicial principles play a significant role, to have an impact on administrative law. This has resulted in changes to some traditional concepts of the administrative law model, such as what happened with public procurements or judicial control of administrative activity, and it has also led to the development of a supranational or international. The principle of droit administratif is a fundamental concept in French administrative law that governs the relationship between the government and its citizens. This principle emphasizes the importance of protecting individual rights and interests from abuses of power by government authorities. A study on the principle of droit administratif explores the historical development of this concept and its application in contemporary administrative law. The study examines the various legal frameworks and institutions that have been established to ensure the protection of individual rights, such as administrative courts and the Conseil d'Etat. The study also analyzes the different approaches to implementing the principle of droit administratif in practice, such as the use of administrative discretion and the delegation of powers to administrative agencies. Furthermore, the study examines the challenges and limitations that arise in applying this principle, especially in cases involving national security or emergency measures

KEY WORDS: Administratif, Supranational legal orders.

INTRODUCTION:

Administrative law is a significant field of law because it addresses how statutory bodies are implemented in society. It is what one would expect as a byproduct of careful governance. The framework of administrative law is developing to reflect the shifting responsibilities of the government and the context in which it is applied. In the 18th century, Droit Administratif, the French name for administrative law, gained popularity. Administrative law differs from other areas of law in that it offers a more in-depth explanation of the law that is more relevant to everyday life than the latter does.

Among the subjects governed by administrative law are the application of existing laws, the operations of government agencies, and the administrative activities of government. Because French administrative law is broader in scope than any other country, it is applied differently than in any other country. As the source of the development of administrative law in a number of countries around the world, administrative law deserves attention.

In France, there is a parallel system of administrative courts called the Droit Administratif. This approach aims to reduce the burden of administrative litigation on civil courts while establishing separate criteria for administrative matters. Administrative dispute resolution in India is a highly controversial topic among judges. There are parallel courts in India that act as tribunals for a variety of matters, including trade disputes, tax matters, railway claims, debt recovery claims and military disputes, next to the administrative courts.

DROITIC ADMINISTRATIC:

As a part of public law often mentioned in many sources, the Administrative Law establishes the obligations of public administrative agencies that contribute to regulating administrative relations between the State and citizens. The agency structured according to the rules provided by the administrative court is associated with the name of Napoleon Bonaparte. The atmosphere surrounding the French Revolution of 1789 was largely associated with chaos between the traditionalist Bonapartists and the reformist parliaments. While the first view favors the supremacy of the executive power, the second view privileges the jurisdiction of ordinary courts. The two bodies that succeeded each other in the pre- and post-revolutionary period in France were later recognized as the King's Council and the State Council, respectively.

The King's Council was a product of pre-revolutionary France. This organization acts as an advisor on legal and administrative matters to the king. In addition to executive functions, the King's Council also performed judicial activities, especially resolving disputes between domestic nobles. In the 16th century, the judiciary was gradually overshadowed by the growing power of the executive in the form of the King's Council. The autonomy of the King's Council disadvantages the regular courts. Such excessive power discrimination in the hands of the executive was limited as the atmosphere changed gradually between before and after the revolution of 1789. The appointment of members is carried out by decree issued by the executive body and requires the consent of the council of ministers. Therefore, the judiciary until then had not been able to access its freedom and authority on its own. The jurisdiction of the Council of State was determined to be definitive in all administrative matters by the Arrets Blanco, the executive act of 1873. It was decided that if a conflict arose between the ordinary courts and the administration, then the problem will be resolved. is resolved by the Disputes Tribunal, chaired by the Ministry of Justice and composed of an equal number of judges from both courts. The development of the State Council was based on its own doctrines with the function of regulating the excessive administrative load on citizens.

RULES OF DROIT ADMINISTRSTIF:

Droit Administratif is a representation of judge-made rules decided in a court of law and not of the rules carved out from the French Parliament. The series of rules that, if compiled together, will result in the Droit Administratif are as follows:

1. Rules that deal with administrative authorities and officials associated with the same.
2. Rules that deal with public service operations to fulfil citizens' needs.
3. Rules that deal with administrative adjudication.

While the first rule applies to appointments, dismissals, compensation and obligations, the second rule **is designed** to focus on ICS the welfare of the public which **must** be handled directly **or indirectly** by public **officials** may be authorized by them and carried out under their authority.

Private agencies **may** also **be** appointed to **enforce these regulations**. The third rule **stipulates** that the highest administrative **jurisdiction** in the **country** is **the State Council**. **Violations** of any

rights or **harm caused to** citizens of the **territory will be dealt with** directly by the administrative courts.

CHARACTERISTICS OF DROIT ADMINISTRATIF:

From the above highlights about Droit Administratif, what can be inferred are some of the characteristic features that this administrative law possesses. They are listed below :

- Matters related to state and administrative disputes must be resolved by administrative courts and not by the country's regular courts.
- When resolving issues related to the above-mentioned disputes, the rules applicable to them are developed by the courts themselves.
- The body that decides on conflicts of jurisdiction between two courts, namely the administrative court and the ordinary court, is called the Conflicts Court.
- Administrative Law constitutes a guarantee for public officials against the jurisdiction of the ordinary courts.
- The development of the Council of State was not an overnight plan but the product of a long process surrounding the French Revolution. It played the role of both a consulting and an adjudicating body.

The above characteristics provide an overview of the application of Administrative Law. They separate the French administrative structure from the administrative structure of other common law countries. French administrative law covers activities that go beyond simple delegation and arbitration and have an impact on public administration. Separating the court for two types of people as stipulated in the Administrative Law will promote specificity in conducting trial proceedings. The explanation he gave was that government officials brought with them knowledge of the process of any administrative action and could therefore be tried by administrative courts.

In the case of citizens, these do not apply and are therefore subject to the ordinary courts. The French administrative system also lacks the use or principle of natural justice in areas where the Audi Alteram Partem regulation does not apply because the French system considers that the requirement of self-defense is not mandatory in the procedure judge. France has also waived state immunity in matters of tort liability, as is the case in English case law. The intervention of

administrative courts with ordinary courts is also not permitted in France. The burden of jurisprudence does not apply in the case of the French administrative system because it is based solely on law.

RULE OF LAW & DROIT ADMINISTRATIF:

Dicey's concept of the rule of law asserts the supremacy of law that no one is above the law nor can they make judgments above the established laws of the country. Administrative Law developed as a concept in contrast to Dicey's formulation. Dicey prefers to use the term plain administrator while explaining Administrative Law. The establishment of the State Council aims to limit the exercise of unlimited power by the executive branch. But by doing the same, the judiciary has failed to recognize that elected members are subject to the control of the executive.

The Council of State is only an advisory body to the ministers, who are effectively judges. No public meetings took place and the body did not have the power to make a ruling. What the agency considers is based solely on the government's perspective. This is precisely what Dicey's concept of the rule of law opposes. Considering this argument, as Dicey presents it, one cannot easily show that Dicey is wrong in his argument. The judiciary is supposed to be separate from the executive in some respects. It is true that these branches of government are independent but not independent and dependent on each other. Napoleon Bonaparte's motive for creating the judicial body was not transparent enough if it did not respect the universal concept of the rule of law.

According to Dicey, the Droit Administratif was based on two beliefs:

1. The government and its officials have special rights and privileges over any ordinary citizen of the country.
2. Therefore, there is no equality of rights for government representatives and citizens of the same country. Government officials are not subject to the jurisdiction of domestic courts.

What Dicey claims is that the essence of creating justice is lost if one rejects the rule of law. Administrative law that does not follow these rules and develops on the basis of rules laid down by itself plays an important role in suppressing the executive and therefore the administrative structure in England is much more developed than with France. Administrative law has set different regulations for different classes of people in society. Just as Dicey suggested, this social

division went against equality.

CONCLUSION:

In the current scenario, where the world is in a complex state in terms of government, a large number of changes are being made in the administrative process. For any country, the government plays an important role because it is the agency that contributes to running all types of activities in the country. Many terms related to the French administrative system appear misleading in the implementation of public administration. But the necessity of applying certain principles in public administration is proven by the existence of Administrative Law. It is for this reason that the development of Administrative Law appears interesting. The inadequacies of the system and the absence of certain elements will not be enough to hinder the concept of Administrative Law, for this alone can be the wheel to carry out public administration.

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