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# **ADMINISTRATIVE LAW AND PROTECTION OF INDIVIDUAL RIGHTS**

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## **Introduction**

Administrative agencies play a vital role in the day-to-day operations of modern governments, from licencing to industry regulation. This efficiency is important, but it also places a great deal of power in the hands of the system. The crucial area of study that addresses the possible conflict between efficient government and the defence of individual rights is administrative law.

The paper explores the complex link that exists between administrative law and the protections that it provides for people. We will examine the key ideas that guarantee that administrative proceedings are carried out within the law, avoiding arbitrary judgements and defending fundamental rights.

Administrative law sets guidelines and practices to prevent authorities from acting arbitrarily. Individual Rights Safeguarded: People are able to contest unjust acts by these entities by using legal mechanisms such as judicial review and due process. Achieving a balance between effective management and individual rights is a never-ending task.

## **Abstract**

The intricate relationship between individual rights and administrative law, examines how various legal systems balance the imperatives of governance with the protection of civil liberties. Through a comparative analysis of different jurisdictions, including the United States, United Kingdom, and European Union, the paper explores the mechanisms, challenges, and evolving trends in reconciling administrative authority with individual freedoms.

the theoretical foundations of administrative law are principles such as the rule of law, separation

of powers, and administrative discretion. The nature of individual rights enshrined in constitutions, statutes, and international human rights instruments, highlighting their significance in constraining administrative action and ensuring accountability is extremely important for administrative law to work the correct way .

The role of administrative law is also in protecting individual rights across diverse contexts, including in protecting individual rights and environmental regulation, social welfare. Special attention can be paid to the role of judicial review in scrutinizing administrative decisions, remedying violations of rights, and shaping the development of legal doctrine.

If we analyze contemporary challenges and debates surrounding the intersection of individual rights and administrative law, such as the tension between national security imperatives and civil liberties, we can see the impact of digital technologies on privacy and data protection, and the effectiveness of administrative remedies in addressing systemic injustices.

For protection of individual rights within administrative law frameworks we can include promoting transparency and public participation in decision-making processes, strengthening institutional checks and balances, and fostering a culture of rights-conscious governance.

In conclusion, this paper advocates for a holistic approach to administrative law that integrates the safeguarding of individual rights as a core component of effective and legitimate governance in the twenty-first century. By critically evaluating existing practices and advancing innovative solutions, it seeks to contribute to ongoing scholarly discourse and policy development in this vital field.

### **What is administrative law**

Administrative law is as old as administration itself since they cannot exist separately. In India, the earliest indications of administrative law may be found in treatises that were produced under the rule of the Mauryas, Guptas, Mughals, and East India Company.

Its foundation is the idea of the rule of law, which upholds Natural Justice, or the adjudication of cases based on impartiality, unjustness, and the established rules and legal procedures rather than on arbitrary decisions and the misuse of official authority. In situations where there are no laws

in place, natural justice is essentially used. In these situations, the person must be given the chance to be heard, the judgement must take into account the specific facts and circumstances of the case, and the judgement must be free from bias. It is to prevent violation of individual rights by authority in power.

The traditional judicial system of administering justice is costly, time-consuming, and technically complex. The executive (administrative) branch of the state has the authority to bridge the gaps left by the legislative and the court. As a result, administration is now omnipresent in the lives of contemporary citizens. A study of administrative law becomes extremely important in such a setting.

The ambit of administration is wide and embraces following elements within its ambit:

- It makes policies.
- It executes, administers and adjudicates the law.
- It exercises legislative powers and issues bye- laws, rules and orders.

In the age of human rights protection, administrative law serves to guarantee that those authorities are not used in a way that violates those people's rights.

The ever-increasing administrative functions have created a vast new complex of relations between the administration and the citizen. The modern administration is present everywhere in the daily life of an individual and it has assumed a tremendous capacity to affect their rights and liberties.

### **Administrative law and Individuals**

The entire goal of giving the administration additional power is to guarantee a higher quality of life for the public; therefore, it is essential to maintain an effective and efficient system of oversight over the administration to ensure that individual rights are not violated. The struggle between individual liberty and government control has long existed; therefore, it is important to maintain ongoing watchfulness to make sure that the right balance between private interests and the government, which represents the public interest, is established. Prudence demands that when administrative organs are given significant authority, effective control mechanisms must also be established to make sure the officers are not abusing their position or using it for unauthorised purposes.

Ensuring that governmental activities are carried out in accordance with the law, legal principles, and the laws of justice and reason is the responsibility of administrative law.

Administrative law seeks to guarantee that no individual is abused by the state's administrative power and that, in the event that someone is aggrieved by an action taken by the administration, they can seek justice. Controlling the implementation of administrative power is not conflicting with an efficient government. Millions of individuals are impacted by the administrative authorities that thousands of officials wield. The interests of people must always come first when granting administrative authority; administrative efficiency cannot be the sole form of authority. If used correctly, the vast powers of the administration may lead to the welfare state; but, if abused, they may lead to administrative despotism and a totalitarian state.

The purpose of administrative law is typically to compel the rule of law to exercise discretion and prevent abuse, while maintaining the authority granted to the authorities. However, the special task of administrative law in the era of human rights protection is to ensure that these powers are not used in a way that violates the human rights of the parties involved. This can be said more subtly in this way that the relationship between the individual and the state in the area of human rights is paradigmatic of public law.

One of the important Role of administrative law is enabling citizens to have access to governmental information, it also ensures openness in the decision-making procedures. Administrative adjudication should be conducted openly. An interested party should get prior notice detailing the nature of the case, time and place of hearing. The concerned authority proposing a certain measure should disclose all relevant evidence to that party. Such adjudication procedure allows the party to prepare his defense and generally create public confidence in the fairness of the decision- making process.

Administrative laws establish the legal basis for public participation and make it a reality in practice. The principle of public participation as part of good governance gives citizens the opportunity to have their say or voice heard in public administration. In a developed administrative law system, agencies must follow minimum procedures when making legal decisions or issuing rules and procedures. The principle of natural justice, which primarily requires the protection of the individual to be heard and his impartial and fair treatment in the judicial process, encourages public participation and indirectly increases public confidence. The

public's lack of confidence in the fairness and neutrality of decision-making will result in their disinterest in participating in other public affairs.

## **Role of government agencies in protecting arbitrary exercise of power against individuals**

Protection from Arbitrary Exercise of Power: Administrative law serves as a safeguard against the arbitrary exercise of power by administrative entities. Agencies must follow legal guidelines and processes when making decisions or acting in ways that affect specific individuals. Such safeguarding is necessary to guarantee that individuals receive equitable treatment and that those in positions of power aren't infringing upon their rights.

Checks and Balances: Administrative law establishes a system of checks and balances by subjecting administrative entities to judicial inspection. Courts have the authority to review administrative acts and decisions for legality, procedural fairness, and rationality. This assessment upholds accountability, advances the rule of law, and discourages the misuse of authority.

Access to Justice: Administrative law guarantees that those harmed by administrative acts can seek remedy. It provides you with tools to quickly and efficiently resolve disputes, such as administrative tribunals and specialised courts. These redress options enable people to question decisions, discover answers, and swiftly and affordably have their complaints heard.

Protection of Individual Rights: Administrative law protects people's rights and interests when they interact with administrative agencies. It guarantees that organisations respect fundamental rights including equality, nondiscrimination, and due process, work within the bounds of their assigned power, and follow fair procedures. The remedies available under administrative law can also be used by individuals whose rights have been infringed to hold authorities responsible and demand redress.

### Judiciary: Roles, Significance, and a Fundamental Characteristic

The third branch of government is the judiciary. Its duties include resolving all disputes and applying the law to certain situations. What judges determine while rendering decisions in a variety of circumstances is the true "meaning of law." The judiciary is viewed by citizens as the

most significant branch of the government because it safeguards them against potential abuses by the legislative and executive branches. The judiciary is more respected than the other two branches because of its role as the defender and custodian of the people's fundamental rights and the constitution.

In India, there are several tiers and sorts of courts, each having distinct authorities according to the jurisdiction and tier assigned to it. According to the ranking of the courts in which they sit, they are arranged in a rigid hierarchy of importance, with the Supreme Court of India at the top, the High Courts of their individual states, district judges seated in district courts, Magistrates of Second Class, and Civil Judges (Junior Division) at the bottom. According to the Indian Constitution, the Supreme Court is the highest court of law, the ultimate court of appeals, and the highest constitutional court with the authority to conduct constitutional reviews. Comprising the Chief Justice of India and thirty other approved judges, it possesses vast authority in the form of original, appellate and advisory jurisdictions. Serving as the nation's final court of appeal, it hears appeals mostly against decisions rendered by other courts and tribunals as well as the high courts of the several Union states. It protects citizens' fundamental rights and resolves conflicts between the nation's several governments. As an advisory court, it considers cases that the Indian President may specifically refer to it in accordance with the constitution.

### **Role of courts and providing proper justice to individuals in administration / Judicial Review**

Judicial Review: The parliamentary and executive branches of government are subject to a great deal of scrutiny by India's autonomous court. The idea that subjects legislative and executive activities to judicial examination is known as judicial review. It is typically regarded as the fundamental framework of an independent court (Indira Gandhi v. Rajnarain case).

On the other hand, there are three types of judicial review: legislative action reviews, judicial decision reviews, and administrative action reviews. Thus, courts also have an obligation to safeguard the proper distribution of power, as well as to defend fundamental rights, human rights, and people' rights to life and liberty.

#### i) The judicial review of legislative acts

The ability to verify that a legislation approved by the legislature complies with the provisions of

the constitution, particularly section 3 of the document (the principle of reading down) is known as judicial review of legislative activities.

ii) Judicial review of decisions

When a statute has been challenged in a judicial review of decisions, for example, on the grounds that the legislature enacted it without the necessary jurisdiction or rights, the courts have the final say on whether the legislation was legitimated or not. Furthermore, no legislature in our nation has the authority to order governmental apparatuses to ignore or defy a court's ruling.

iii) Administrative action subject to judicial review

One way to maintain constitutional discipline over administrative agencies while they use their powers is through judicial review of administrative activity. judicial action review by the judiciary can be seen in the Golaknath case, the nationalisation of banks, the elimination of privy purses, the Minerva Mills case, etc.

The role of the judiciary and its significance

1. To provide the people with justice:

Justice for the people is the judiciary's primary duty, regardless of when they seek it out. It punishes individuals who are found guilty of breaking state laws or people's rights following a trial.

Citizens who feel wronged, injured, or pained, have the option to file a lawsuit to get compensation and remedy (rectify & correct). They may act in this way if they have experienced a loss or if they think that their rights may be violated. The severity and amount of punishment meted out to offenders are set by the judiciary. It renders decisions in every instance requiring the payment of compensation to residents.

2. Role in Law-making:

The judiciary also plays a role in law-making. The decisions given by the courts really determine the meaning, nature and scope of the laws passed by the legislature. The interpretation of laws by the judiciary amounts to law-making as it is these interpretations which really define the laws.

Moreover, 'the judgments delivered by the higher courts, which are the Courts of Records, are binding upon lower courts. The latter can decide the cases before them on the basis of

the decisions made by the higher courts. Judicial decisions constitute a source of law.

3. Equity (fairness) Legislation (law enactment):

Judges base their decisions on their sense of justice, fairness, impartiality, honesty, and wisdom in situations where a statute is silent, ambiguous, or seems to be at odds with another law of the land. Making laws is always a part of these decisions. Usually, it's referred to as equity legislation.

4. Protection of Rights:

The judiciary has the complete responsibility to safeguard the rights of the citizens. A citizen has the right to seek the protection of the judiciary in case his rights are violated or are threatened to be violated by the government or by private organizations or fellow individual. In all such cases, it becomes the responsibility of the judiciary to protect his/her rights.

5. Management of the Judicial Administration:

The judiciary is not a department of the government. It operates independently of the executive and legislative branches. It is a distinct, autonomous body with its own organisation and structure. It has the authority to determine how the state's judicial system is organised. It establishes and upholds its own rules.

These control the selection and operations of magistrates and other court employees. It establishes and upholds regulations to ensure the smooth and effective operation of the judicial system.

6. Advisory Functions:

The courts are frequently tasked with providing the rulers with advice on any legal issue. For instance, the President of India has the authority to send any question of law or fact which is of public importance.

The public views the judiciary as being very important since it serves as:

- i) The dispenser of justice.
- ii) Protector of the people's rights.
- iii) protection of the Constitution of the State.
- iv) Mediating arbitrator in center-state conflicts.

- v) Remedy against violations by the executive and legislative branches.
- vi) Protect against those in positions of authority from arbitrarily using their influence.
- vii) Defender of Justice and the Rule of Law.

The political and institutional procedures and results required to accomplish development goals are linked to good governance. The degree to which "good" governance fulfils the promise of human rights—civil, cultural, economic, political, and social rights—is the real test.

For good governance participation of Individuals and their right to express their own views via reputable local representatives or organisations is necessary, men and women, marginalised groups in society, lower social classes, minorities, etc. are included in this. Freedom of expression and association are also prerequisites for participation. Another important principle of Rule of Law, The law should be applied uniformly, with particular attention to human rights legislation. Politics without the rule of law will operate on the tenet of matsya nyaya, or the law of fish, which states that the powerful will win out over the weak.

A society that is equitable is guaranteed by sound governance hence Equality and Inclusivity are major parts of good governance Individuals have to be able to maintain or enhance their well-being. On the other hand Effectiveness and Efficiency makes sure Institutions and procedures should be able to generate outcomes that satisfy the demands of the local community.

Another principle of good governance is Transparency, Responsiveness, accountability; According to these principles, information should be accessible to the public and should be understandable and monitored. It also means free media and access of information to them. Institutions and processes should serve all stakeholders in a reasonable period of time. Accountability guarantees The improvement of people is the goal of good governance, and this is impossible to achieve without public accountability for the government. Accountability to the public and institutional stakeholders should be extended to civil society organisations, the commercial sector, and government institutions.

## **Conclusion**

The complex relationship between administrative law and its function in defending individual rights has been examined in this paper. Administrative law, as we've seen, provides a framework for accountability by guaranteeing that agencies follow established protocols and legal guidelines.

Finding a fair balance between individual rights and efficient government, however, is still a work in progress. Administrative law must change in tandem with societal demands and technological advancements. Here are some important things to remember:

To conclude, administrative law protects individual rights and facilitates effective governance, acting as a crucial barrier against arbitrary power. To maintain the long-term success of this crucial legal field, we must remain committed to constant adaptation and progress as we traverse the intricacies of the modern world.

## **Bibliography**

[https://ijclsi.in/static/media/Role of Judiciary in protecting human rights in India - Khalida Khan.95f5f4f5.pdf](https://ijclsi.in/static/media/Role_of_Judiciary_in_protecting_human_rights_in_India_-_Khalida_Khan.95f5f4f5.pdf)

<https://www.iilsindia.com/blogs/importance-of-administrative-law/#:~:text=Protection against Arbitrary Exercise of Power:&text=When agencies make decisions or,to legal restrictions and procedures.>

<https://www.drishtias.com/to-the-points/paper4/good-governance-2>

<https://blog.ipleaders.in/judicial-review-administrative-action-2/>