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A Critical Evaluation of Doctrine of Proportionality in Administrative Law

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ABSTRACT

The paper talks about administrative law which is a heuristic discipline that promotes anti-authoritarianism and aims to create a society governed by the rule of law. It focuses on the legal aspects of administration and the principles underpinning administrative systems. The field of study expanded rapidly in the 20th century, particularly in India. It encompasses the functions and powers of administrative authorities, civil service, public departments, and quasi-judicial entities.

It also emphasis on the changes and evolution of the two main doctrines of administrative law that id doctrine of proportionality and due process of law. The doctrine of proportionality is a principle used in statutory interpretation to ensure fairness and justice. It requires actions taken by the administration or legislative bodies to be less severe to achieve desired results, maintaining a balance between administration's goals and public interest, while minimizing individual rights impact.

Therefore, it can be seen that Wednesbury's unreasonableness is being replaced by proportionality, a stricter approach to decision-making. This doctrine, delegated to Indian courts, aims to restrain administrative bodies from exceeding reasonability and arbitrariness. The Court's responsibility is to uphold the body's position, but the doctrine's purpose is to govern actions within existing legal principles, protecting citizens' rights and advancing the legal system. Adopting proportionality is crucial to prevent unnecessary reliance on steam hammers.

Keywords: *Heuristic Principle, Administrative Law, Law of Proportionality, Arbitrariness*

I. INTRODUCTION

Administrative law might be characterized as a heuristic discipline. This field of study pertains to a subdivision of public law that fundamentally espouses principles of anti-authoritarianism. The primary objective is to cultivate a society governed by the rule of law, characterized by principles of fairness, reasonableness, and justice. Administrative law primarily concerns the legal aspects of administration and the underlying principles that underlie administrative systems.

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The fast expansion of administrative law throughout the twentieth century is the most important and remarkable change of the century. Although administrative law existed in some form prior to the 20th century, it was not until this century that there was a significant shift in thinking about the proper role and function of the State. It wasn't until the middle of the twentieth century that administrative law was acknowledged as its own distinct field of study, particularly in India.

Administrative law encompasses not only the functions and powers of administrative authorities but also the civil service, public departments, public corporations, local governments, and other statutory entities with quasi-judicial authority. Ivor Jennings accurately asserts that public administration constitutes the subject matter of administrative law. Administrative law establishes and regulates the structure, operations, jurisdiction, and responsibilities of administrative authorities.

II. BASIC UNDERSTANDING OF ADMINISTRATIVE LAW

Many several jurists have attempted to define administrative law, none have fully defined its nature, scope, and content. Either the definitions are overly wide and contain unnecessary substances or too narrow and exclude vital ingredients. For some, it's government power control law.

Administrative law employs the term "administration" in its most comprehensive sense, encompassing everything that falls within its purview.

1. Every executive action, policy, and program
2. Every administrative component of the judiciary and parliament
3. All actions of the state resembling those of actors (state agency and instrumentality)
4. Every action taken by private entities (non-state actors) in the performance of public duties.

According to **Sir Ivor Jennings**, administrative law can be defined as the legal framework governing the field of administration. The document establishes the framework for the structure, authority, and responsibilities of administrative bodies. This approach fails to distinguish between the fields of Administrative and Constitutional law. The primary focus is placed on the structure, authority, and responsibilities of the organization, while neglecting to address the specific methods by which these responsibilities are carried out. As an illustration, administrative law does not focus on the process of appointing a minister, but rather on the manner in which a minister carries out their duties in respect to an individual or a collective entity. The process of appointment for the minister of housing and rehabilitation falls outside the purview of administrative law. However, when such minister grants approval for a new

township scheme that entails the acquisition of residences and properties belonging to individuals residing in that locality, matters pertaining to administrative law become relevant.

III. DOCTRINE OF PROPORTIONALITY

The development of the Doctrine of Proportionality in Europe during the nineteenth century is credited with bringing it into the public eye, however its beginnings can be traced back to Prussia. What this indicates is that the response to an individual's conduct shouldn't be out of all proportion to it, but rather should be reasonable given the circumstances.

The principle of proportionality posits that a public authority must ensure a rational correlation between the objective and specific goals it aims to accomplish, as well as the methods employed by its personnel to attain those goals. This is done in order to minimize the infringement upon individual rights to the greatest extent possible. Therefore, it can be argued that any administrative action that exhibits arbitrary discrimination or employs disproportionate measures to achieve its intended objectives might be invalidated by the courts based on the premise that it violates the Doctrine of Proportionality.

When administrative action violates people's rights, the idea of proportionality can be used to explain why. In this situation, the courts closely look at how the government is acting and ask questions about whether the decisions made by the authority were correct. So, the courts would look at both the harm to the right and the goal that was meant to be achieved. When it comes to the amount of punishment given by the regulatory body, the courts would not have to be closely examined. Courts follow the idea that it is important to avoid arbitrariness, even if the regulatory body can't control the amount of punishment.

Applicability of proportionality in the field of administrative law in 2 situations:

1. When an administrative action infringes upon basic rights, the courts apply a high standard of scrutiny to the administrative action in question and investigate whether or not the decisions taken by the authority in question were appropriate. The unfavorable impact on the rights and goals that were being pursued would also be taken into consideration by the court.
2. When the administrative authority imposes a punishment and the question of the quantum of punishment arises, the court will not apply a stringent scrutiny standard. Courts adhere to the idea that while the administrative authority has the power to choose the severity of punishment, it is imperative to prevent any arbitrary decision-making.

IV. INDIA'S OUTLOOK ON THE DOCTRINE OF PROPORTIONALITY

The historic ruling of *Union of India v. G. Ganayutham* where the Supreme Court considered

an Indian proportionality application. After careful consideration of English laws on unreasonableness and proportionality, the Supreme Court decided that *Wednesbury's* principles would apply in India and serve as a guiding principle, but only to the extent that they did not involve fundamental rights. If the case involves fundamental rights violations, the court will start somewhere else.

Through extensive investigation by multiple committees, it was determined that administrative actions in India that infringe upon fundamental freedoms as outlined in Article 19 and Article 21 have always been scrutinized for their adherence to the principle of proportionality, even if this was not explicitly stated or stated in the text. It is worth noting that the principle in question is complete proportionality. It is crucial to bear in mind that the Doctrine of Proportionality consistently applies to judicial review of any administrative action that violates specific provisions of the Constitution of India, including Articles 19 and 21.

In India's Supreme Court Constitution, Article 14, it says that when administrative actions are unfair, judges will use the Doctrine of Proportionality and a Primary Review. The secondary review based on all *Wednesbury* principle is used when an administrative move is seen as arbitrary. According to Article 14 of the Indian Constitution, fines under the service law are often called arbitrary. However, the Supreme Court says that this only applies to secondary review under the *Wednesbury* principle.

The Principle of Proportionality has two parts that make decisions more interesting:

1. This needs to be checked to see if different goals' parts were balanced properly or not.
2. The move in question made things harder for everyone who was affected by it or put too much pressure on them.

Taking into consideration the famous case ***Ranjit Thakur V. Union of India***² in this particular case, an Army officer simply defied the commands of his senior by not eating the food supplied to him. After a lengthy trial in Court Martial, he was found guilty and given a harsh one-year sentence, along with being discharged from military and labeled as unfit for future work. Judicial review was upheld here, albeit not in favor of the decision itself but rather in opposition to the decision-making procedure.

However, the real feature that was being questioned was whether or not the offense and the penalty for the offense to the offender must be in parity. The question that was posed for the choice or magnitude of the punishment was entirely right or correct and within the authority of

² Ranjit Thakur vs. Union of India 1987 AIR 2386

Court Martial. It is imperative that this fact be brought to your attention that they must not be vindictive or overly violent. In any event, it must not reach the point where it causes or is considered disproportionate or is considered a decision that is essential to the operation of the firm. The doctrine of proportionality is an element of the concept of judicial review. This concept will also take care of the situation in which a court has handed down a sentence that is contrary to logic, and the decision that needs to be made at that particular point in time must come from the clearance of judicial review because it has been demonstrated that all powers have their own predetermined legal limits.

When examining the state of affairs in India, it becomes apparent that notwithstanding the establishment or designation of proportionality as a substantial provision of the Constitution in early 2000, the notion has encountered limited implementation in practice. Under the guise of this doctrine, Indian courts also possess some analogous authority, albeit with a very limited or concise application. Nevertheless, it is my firm conviction that courts ought to establish and rigorously enforce the aforementioned principles to avert administrative bodies from issuing capricious decisions, especially when said decisions surpass the minimum requirements or exhibit capricious behavior. Consequently, the courts will have an obligation to evaluate the standing of executive bodies; nevertheless, they must acknowledge that the doctrine's purpose is to govern the conduct of individual administrative bodies, not the standing of any executive authority.

V. CASE DEALINGS

1. *Om Kumar v. Union of India*³

The proportionality theory was developed in *Om Kumar v. Union of India*. In this case, the disciplinary authority asked the Supreme Court to reevaluate the punishment given to four civil servants, but the court refused because the punishment was neither a legal principle nor "Shockingly Disproportionate" to the wrongdoings. The US Supreme Court clarified this legal theory in later instances.

2. *Coimbatore District Central Coop. Bank v. Employees Assn*⁴

The Supreme Court carefully addressed the doctrine and its relevance in this case. The responders were bank employees who went on an illegal union strike. The committee took a generous approach and did not remove them from employment, but their 1-4 years of cumulative increment was taken away. The matter went to labor court, which maintained the

³ *Om Kumar vs. Union of India* AIR 2000 SC 3689

⁴ *Coimbatore District Central Coop. Bank vs. Employees Assn.* (2007) 4 SCC 669

charges and refused to set aside the punishment. In an appeal to High Court single judge and division bench, the court lessens their punishment because it was disproportionate to the misconduct and charges against them and harsh. The disciplinary committee was discharged by order. Again, the High Court failed to investigate and punish respondent misbehavior. Respondent's harshness violated bank policy. Because they have a family and need these increments, the High Court reduced the punishment. The Court can review or remit punishments to tribunals under the Doctrine of Proportionality if an administrative body takes action no reasonable authority would have taken to achieve the objective or the punishment is so disproportionate that it shocks the court's conscience. The sole judge and division bench of the High Court were erroneous and the SC concluded that the HC was not justified in lessening the punishment on compassionate reasons, which is not a valid cause for proportionality. The Court added that the High Court cannot replace administrative authorities' discretionary powers under Art. 226 of the Constitution.

3. Dev Singh v. Punjab Tourism Development Corporation⁵

The SC used Doctrine of Proportionality to decrease the disciplinary committee's punishment in this case. The appellant worked for the company for 20 years without any misbehavior allegations. He faced a disciplinary inquiry for misplacing a file, which was a by-law violation. After its investigation, the committee recommended his dismissal. After the High Court rejected his appeal, he went to the Supreme Court. Apex Court upheld court conclusions. The Court dismissed the assertion that the act of misplacing a file constitutes a sufficiently grave transgression to warrant the removal of the individual from their position. The Court observed that the individual in question had been employed by the corporation for a duration of 20 years, during which no instances of misbehavior had been reported. Furthermore, it is important to emphasize that the present situation does not include an intentional act of misplacing a file, but rather a case of negligence. The act of removing him from service as a punitive measure is deemed to be disproportionate and elicits a sense of moral outrage within the court. The Supreme Court has articulated its stance on non-interference with disciplinary committee sanctions, except in cases when the punishment is deemed disproportionate to the misbehavior, as is the situation in this particular case. To mitigate the risk of legal proceedings, the court reduced the severity of the penalty.

The scenario well exemplifies the Doctrine of Proportionality. According to the idea, the means utilized to accomplish the objective should be narrowly constrained and minimally restrictive.

⁵ Dev Singh vs. Punjab Tourism Development Corporation 2003 SC 3712

The appellant was terminated by the corporation as a means of discouraging negligent conduct. The court utilized Doctrine of Proportionality and examined the quantum of punishment because the least restrictive means under bye-law were not used to punish him. The concept of the doctrine of proportionality is utilized as a test to determine fairness in the method of statutory interpretation, and it is also utilized as a logical way to assist in finding the correct proportionality between the purposes of law and the strategies adopted to achieve these goals. The principle of proportionality is intimately linked to the idea of interpreting statutes in a way that guarantees justice and fairness. It is a sort of restriction that requires the actions taken by the administration or the laws passed by legislative bodies to be less severe when they are utilized to achieve desired results. This is done to maintain a sense of proportion between the administration's goals and the preservation of the public interest, while also having a minimal effect on the rights of individuals.

VI. CONCLUSION

Based on what has been said so far, it is very clear that Wednesbury's unreasonableness is going downhill at the international level. It is quickly being replaced by the theory of proportionality, which is a much stricter way of checking to see if the person making the decision has properly balanced all the different things he needs to think about before making a choice.

In the name of this doctrine, regulated authority was delegated to the Indian Courts. Furthermore, the doctrine maintained an extremely limited perspective throughout its existence. Nonetheless, it is imperative that the doctrine be established in its proper fashion and implemented so as to restrain the actions of administrative bodies that exceed the bounds of reasonability and enter the realm of arbitrariness within the constraints of proportionality.

While it is the responsibility of the Court to uphold the administrative body's position, it is crucial to note that the doctrine's purpose is not to undermine the authority of any administrative body, but rather to govern all actions so that none of the administrative body's conduct falls outside the scope of existing legal principles. This is for the protection of the rights of the nation's citizens as well as the advancement of the nation's legal system. Thus, adopting proportionality is crucial because else steam hammers would be utilized to crack nuts even if nut crackers are sufficient.
