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Bias in Administrative Decision-Making: Legal Safeguards and Remedies

SHRUTHIKA S.¹

ABSTRACT

*Administrative decision-making plays a crucial role in governance, impacting the rights, liberties, and entitlements of individuals. However, when decisions are influenced by bias—whether actual, apparent, or institutional—the very foundation of administrative fairness and legality is undermined. Bias in administrative actions may arise from personal interests, preconceived notions, prejudicial attitudes, or improper influence, leading to violations of natural justice, particularly the principle of *nemo judex in causa sua* (no one should be a judge in their own cause). Recognizing the far-reaching implications of biased decisions, legal systems across jurisdictions, including India, have established safeguards to ensure impartiality and transparency.*

*This paper examines the concept of bias in administrative law, categorizing it into personal bias, pecuniary bias, subject-matter bias, and policy bias. It discusses the legal standards developed through landmark judicial decisions, such as *A.K. Kraipak v. Union of India* and *Maneka Gandhi v. Union of India*, which have expanded the scope of procedural fairness and emphasized the necessity of an unbiased decision-maker. The study further analyses statutory provisions, such as the Administrative Tribunals Act, 1985, and evolving administrative practices aimed at mitigating bias.*

In addition to safeguards, the paper explores the remedies available to affected individuals, including judicial review through writ petitions under Articles 32 and 226 of the Constitution of India, declaratory relief, injunctions, and damages. It critically assesses the effectiveness of these remedies, addressing challenges such as the burden of proof, judicial restraint, and administrative efficiency.

Ultimately, the paper argues for a more robust institutional framework to preempt bias and enhance accountability. Recommendations include enhanced training for decision-makers, greater transparency measures, and the codification of ethical standards. By strengthening legal safeguards and remedies, administrative decision-making can better fulfill its mandate of fairness, legality, and public trust.

Keywords: *bias, administrative law, natural justice, judicial review.*

¹ Author is an Assistant Professor in India.

I. INTRODUCTION

In a democratic polity governed by the rule of law, administrative authorities play a crucial role in regulating rights, delivering services, and enforcing legal mandates. Their decisions often impact fundamental aspects of citizens' lives, from licensing and employment to environmental clearances and social welfare entitlements. Given this expansive authority, impartiality is a cardinal requirement in administrative decision-making. Bias, whether actual or perceived, erodes public trust in governance and compromises the principle of fairness that lies at the heart of administrative law². According to the classical doctrine of natural justice, "nemo iudex in causa sua" - no person shall be a judge in their own cause embodies the duty of authorities to act without bias³. Indian jurisprudence, through landmark cases like *A.K. Kraipak v. Union of India*⁴ and *Maneka Gandhi v. Union of India*⁵, has consistently reiterated that administrative actions must not only be free from actual bias but must also appear to be free from any reasonable suspicion of partiality. Yet, instances of administrative bias persist, often under the influence of personal interest, political pressures, or systemic flaws, highlighting the urgent need for robust safeguards.

The complexity of administrative functions in the contemporary era marked by privatization, regulatory capitalism, and digital governance has further complicated the problem of bias. Today, administrative decisions are not only made by traditional government officials but also by independent regulatory bodies, public-private partnerships, and even algorithmic systems powered by artificial intelligence⁶. Each of these models carries unique risks of bias: regulators may succumb to "regulatory capture" by vested interests; quasi-judicial bodies may suffer from structural bias due to lack of independence; algorithms may reproduce social biases embedded in training data⁷. Legal safeguards such as judicial review, disclosure norms, and separation of adjudicatory and investigative functions attempt to address these concerns, but their efficacy is often undermined by procedural loopholes and limited access to remedies⁸. Thus, in order to preserve the legitimacy of administrative actions, there is a pressing need to not only strengthen existing legal safeguards but also innovate new frameworks that account for the evolving nature

² Wade, H.W.R., and Forsyth, C.F., *Administrative Law*, 11th edn., Oxford University Press, New Delhi, 2014, p. 410.

³ De Smith, S.A., Woolf, H., and Jowell, J., *Judicial Review of Administrative Action*, 5th edn., Sweet & Maxwell, London, 1995, p. 243.

⁴ *A.K. Kraipak v. Union of India*, AIR 1970 SC 150.

⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

⁶ Baldwin, R., Cave, M., and Lodge, M., *Understanding Regulation: Theory, Strategy, and Practice*, 2nd edn., Oxford University Press, Oxford, 2012, pp. 124-128.

⁷ Eubanks, Virginia, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, St. Martin's Press, New York, 2018, p. 45

⁸ Cane, Peter, *Administrative Law*, 5th edn., Oxford University Press, Oxford, 2011, pp. 230-234.

of governance. This article examines the contours of bias in administrative decision-making, explores existing legal standards and remedies, and suggests reforms to ensure a more transparent, accountable, and just administrative system.

II. UNDERSTANDING BIAS IN ADMINISTRATIVE LAW

Bias in administrative decision-making represents a critical deviation from the principles of fairness and neutrality that underlie administrative law. Bias, whether real or perceived, leads to a miscarriage of justice and invalidates the legitimacy of administrative processes. The fundamental notion that justice must not only be done but must manifestly and undoubtedly be seen to be done stems from the famous observations in *R v. Sussex Justices, ex parte McCarthy*⁹. Even in administrative functions, where flexibility and policy considerations are given prominence, fairness demands that authorities act impartially, especially when individual rights are affected.

There are several forms of bias that can impact administrative actions. Actual bias occurs when a decision-maker has a vested personal interest in the outcome. Apparent bias is present when a reasonable observer, fully informed of all facts, would suspect a possibility of bias. Presumed bias exists in situations where the connection between the authority and the subject matter is so direct that impartiality cannot be expected¹⁰. Scholars like Peter Cane argue that the distinction between actual and apparent bias is crucial because the latter focuses on public perception rather than proof of prejudice¹¹. The Indian judiciary has adopted a broad view, especially in cases like *Mineral Development Ltd. v. State of Bihar*¹², where it was held that a minimal pecuniary interest would be enough to disqualify a person from decision-making.

The sources of bias are equally diverse. Personal bias often arises out of relationships like kinship, friendship, or hostility. Pecuniary bias stems from any financial stake, direct or indirect, that may sway the decision. Subject matter bias occurs when authorities display strong preconceived notions about a matter before them¹³. In India, policy bias and institutional bias have become more prominent in the regulatory sector, where administrative bodies often simultaneously act as rule-makers, enforcers, and adjudicators, raising serious concerns about neutrality. For instance, the competition and telecommunications regulators frequently face

⁹ *R v. Sussex Justices, ex parte McCarthy*, [1924] 1 KB 256.

¹⁰ De Smith, S.A., Woolf, H., and Jowell, J., *Judicial Review of Administrative Action*, 5th edn., Sweet & Maxwell, London, 1995, p. 261.

¹¹ Cane, Peter, *Administrative Law*, 5th edn., Oxford University Press, Oxford, 2011, p. 136.

¹² *Mineral Development Ltd. v. State of Bihar*, AIR 1960 SC 468.

¹³ Wade, H.W.R., and Forsyth, C.F., *Administrative Law*, 11th edn., Oxford University Press, New Delhi, 2014, pp. 413-416.

accusations of institutional bias, as highlighted by several critiques of the functioning of the Competition Commission of India¹⁴.

Safeguarding administrative decisions against bias requires a strong framework of principles. Natural justice, particularly the rule against bias (*nemo judex in causa sua*), functions as the first line of defence. In *Dimes v. Grand Junction Canal company*¹⁵, the English courts famously invalidated a decision merely because the judge held shares in the canal company. In India, statutory frameworks and judicial review serve as effective correctives. Courts have increasingly emphasized that even the likelihood of bias is sufficient to vitiate administrative action, ensuring that both the fact and appearance of impartiality are preserved¹⁶.

III. LEGAL STANDARDS AND TESTS FOR BIAS

In administrative law, the need for impartiality is so fundamental that even a mere likelihood or apprehension of bias can render a decision invalid. Courts have evolved specific legal standards and tests to determine the presence of bias in administrative decision-making. These standards focus not only on actual misconduct but also on ensuring public confidence in the fairness of administrative processes.

The basic legal standard applied to determine bias is the doctrine of natural justice, particularly the maxim *nemo judex in causa sua* — no one should be a judge in their own cause¹⁷. This principle is interpreted to mean that any administrative authority must not have a personal interest in the outcome of its decision-making process. Traditionally, the "real likelihood of bias" test was employed, focusing on whether there was a genuine possibility that bias influenced the decision¹⁸. However, with evolving jurisprudence, courts have moved towards the "reasonable apprehension of bias" test, where the concern is whether a reasonable person, fully informed of the facts, would apprehend bias in the situation¹⁹.

In India, the Supreme Court has played a critical role in developing these standards. In *Manak Lal v. Dr. Prem Chand Singhvi*²⁰, the Court held that the test is not whether there was actual bias, but whether circumstances exist that give rise to a reasonable apprehension of bias. Similarly, in *State of Punjab v. V.K. Khanna*²¹, it was emphasized that administrative authorities must maintain not only actual impartiality but also the appearance of impartiality to preserve

¹⁴ Bhatia, Gautam, "Institutional Bias and Regulatory Bodies in India", (2017) 3 NUJS L Rev 65.

¹⁵ *Dimes v. Grand Junction Canal (Proprietors)*, (1852) 3 HLC 759; 10 ER 301.

¹⁶ Sathe, S.P., *Administrative Law*, 7th edn., LexisNexis, New Delhi, 2004, p. 202.

¹⁷ Supra note 2

¹⁸ Supra note 12

¹⁹ Supra note 10

²⁰ *Manak Lal v. Dr. Prem Chand Singhvi*, AIR 1957 SC 425.

²¹ *State of Punjab v. V.K. Khanna*, (2001) 2 SCC 330.

public trust.

The courts have further categorized bias into pecuniary bias, personal bias, and official bias for applying these standards. Pecuniary bias, where the decision-maker has a financial interest, is treated with zero tolerance. Even a minimal financial interest is sufficient to vitiate a decision without any further proof of actual bias, as reaffirmed in the English case *Dimes v. Grand Junction Canal*²². Personal bias arises when there are personal relationships positive or negative that may influence the decision²³. Official bias refers to administrative or policy predispositions that might impact fairness, often seen in regulatory or licensing contexts²⁴.

Another important development is the recognition of institutional bias. The case of *Shrilekha Vidyarthi v. State of U.P.*²⁵, highlighted that arbitrary state action without rational basis may amount to a form of institutionalized bias violating Article 14 of the Constitution. In recent times, courts have also expressed concern over biases embedded in automated or algorithm-driven decision-making systems, necessitating the reinterpretation of fairness standards²⁶.

Thus, legal tests for bias are rooted in preserving both the integrity and credibility of administrative actions. The focus remains on public perception, reasonable standards of suspicion, and a strong adherence to principles of natural justice. These evolving standards ensure that administrative authorities exercise their vast powers fairly, transparently, and without any undue influence.

IV. SAFEGUARDS AGAINST BIAS

Judicial review serves as a fundamental safeguard against bias in administrative decision-making. It provides a mechanism through which courts can assess whether administrative authorities have complied with the principles of natural justice, including the prohibition of bias. While administrative decisions are generally subject to judicial deference, courts have established that when bias is present or reasonably apprehended, the decision can be set aside²⁷. The doctrine of judicial review has been developed through a combination of statutory provisions and judicial interpretations, ensuring accountability and transparency in administrative processes²⁸.

²² Supra note 14

²³ Supra note 15

²⁴ M.P. Jain, *Principles of Administrative Law*, Vol. 1, 7th edn., LexisNexis, Gurgaon, 2017, p. 387.

²⁵ *Shrilekha Vidyarthi v. State of U.P.*, AIR 1991 SC 537.

²⁶ Citron, Danielle Keats, "Technological Due Process", (2008) 85 Washington University Law Review 1249.

²⁷ Forsyth, Christopher, "The Metaphysics of Nullity: Invalidity, Conceptual Reasoning and the Rule of Law", in *Judicial Review*, Vol. 17, 2012, p. 242.

²⁸ Craig, Paul, *Administrative Law*, 9th edn., Sweet & Maxwell, London, 2019, p. 587.

In India, Article 226 of the Constitution empowers High Courts to issue writs for the enforcement of fundamental rights and for any other purpose²⁹. One of the key grounds for issuing a writ is the violation of natural justice, including bias in administrative proceedings. In *Union of India v. S.K. Kapoor*³⁰, the Supreme Court highlighted the importance of judicial intervention in ensuring that administrative decisions do not suffer from the vice of bias. The Court stated that an order affected by bias could be quashed through a writ of certiorari, emphasizing that such decisions could not stand when they were tainted with partiality.

The scope of judicial review in bias cases is extensive. Courts examine not only the actual bias but also apparent bias, which focuses on whether a reasonable observer might perceive bias in the decision-making process. The famous case of *R v. Sussex Justices, ex parte McCarthy*³¹ has set the foundation for the “reasonable apprehension of bias” test, which continues to guide judicial review in administrative law. The Court of Appeal in that case ruled that the appearance of bias, even in the absence of actual bias, is sufficient to vitiate the decision. This principle was adopted by Indian courts in cases such as *V.K. Khanna v. Union of India*³², where the judiciary emphasized the need for public confidence in administrative decisions, including the expectation of impartiality from decision-makers.

Judicial review in the context of bias also involves remedies. The most common remedy for bias in administrative decision-making is the quashing of the decision itself. Courts can issue a writ of certiorari, which removes the offending decision from the record³³. This remedy reflects the recognition that biased decisions undermine the rule of law and fairness. Additionally, when the bias affects a procedural aspect, the court may order a remand for a fresh hearing with a new and impartial decision-maker³⁴.

Beyond the quashing of decisions, declarations and injunctions may also be issued as remedies in certain cases. A court can issue a declaration that an administrative decision is invalid due to bias, even if the decision has already been implemented³⁵. An injunction might be granted to prevent further biased actions from taking place or to compel the authority to act in accordance with the law³⁶. In rare cases, compensatory remedies may be provided if a party can demonstrate

²⁹ Jain, M.P., *Indian Constitutional Law*, 8th edn., LexisNexis, Gurgaon, 2018, p. 1460.

³⁰ *Union of India v. S.K. Kapoor*, (2011) 4 SCC 589.

³¹ *R v. Sussex Justices, ex parte McCarthy*, [1924] 1 KB 256.

³² *V.K. Khanna v. Union of India*, (2001) 2 SCC 330.

³³ Thakker, C.K., *Administrative Law*, 2nd edn., Eastern Book Company, Lucknow, 2005, p. 311.

³⁴ Pandey, J.N., *Constitutional Law of India*, 57th edn., Central Law Agency, Allahabad, 2020, p. 600.

³⁵ Banerjee, A., *Writ Remedies: A Critical Study*, 1st edn., Eastern Law House, Kolkata, 2009, p. 124.

³⁶ Sathe, S.P., *Judicial Activism in India: Transgressing Borders and Enforcing Limits*, 2nd edn., Oxford University Press, New Delhi, 2003, p. 89.

that they suffered harm as a result of biased decision-making³⁷.

In addition to judicial remedies, statutory remedies often exist. For example, many administrative bodies have internal review mechanisms or appeal procedures that allow for bias to be addressed before judicial review is sought. These processes can sometimes provide a quicker resolution and prevent the need for formal litigation³⁸. However, courts remain the final arbiter when bias claims are raised, ensuring that administrative authorities adhere to the principles of justice and fairness.

V. COMPARATIVE PERSPECTIVES ON BIAS: INDIA AND OTHER JURISDICTIONS

Understanding how different jurisdictions address bias in administrative decision-making reveals both commonalities and divergences shaped by constitutional frameworks and judicial traditions. While India, the United Kingdom, the United States, and Australia share a commitment to fairness, the interpretation and application of bias rules show interesting variations.

In India, the judiciary has consistently expanded the scope of the rule against bias, incorporating both common law principles and constitutional mandates. Bias is treated as a violation of Articles 14 and 21 of the Constitution, ensuring equality before the law and procedural fairness³⁹. In *Ridge v. Baldwin*⁴⁰, although an English case, Indian courts found strong persuasive value, adopting the notion that administrative authorities must adhere to the principles of natural justice, including impartiality. Indian jurisprudence, notably after *A.K. Kraipak v. Union of India*⁴¹, effectively collapsed the distinction between administrative and quasi-judicial functions, requiring fairness across all administrative acts.

In the United Kingdom, the modern test for bias is rooted in the "fair-minded and informed observer" standard, as clarified in *Porter v. Magill*⁴². Here, the House of Lords held that the question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. UK courts have shifted from the earlier "real likelihood" test to a perception-based test, focusing more on maintaining public confidence in the administration of justice rather than requiring proof of actual prejudice. This move aligns closely with the emphasis Indian courts place on the appearance of fairness.

³⁷ Cane, Peter, *Administrative Tribunals and Adjudication*, Oxford University Press, Oxford, 2009, p. 210.

³⁸ Sharma, B.K., *Introduction to the Constitution of India*, 7th edn., PHI Learning Pvt Ltd, New Delhi, 2015, p. 367.

³⁹ Seervai, H.M., *Constitutional Law of India*, 4th edn., Universal Law Publishing Co., New Delhi, 2015, p. 492.

⁴⁰ *Ridge v. Baldwin*, [1964] AC 40 (HL).

⁴¹ *Supra note 3*

⁴² *Porter v. Magill*, [2002] 2 AC 357

The United States takes a somewhat different approach. While American administrative law, under the Administrative Procedure Act, 1946, emphasizes fairness, the focus is more on actual bias and conflicts of interest rather than merely perceived bias⁴³. In *Withrow v. Larkin*⁴⁴, the U.S. Supreme Court held that combining investigative and adjudicative functions in a single agency does not necessarily constitute a violation of due process unless actual bias can be demonstrated. The American approach is more deferential to administrative agencies, showing a strong preference for efficient governance unless there is clear evidence of prejudice.

In Australia, the High Court has adopted a "reasonable apprehension of bias" test, similar to the UK. In *Ebner v. Official Trustee in Bankruptcy*⁴⁵, the Court explained that bias occurs if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the matter. Australian law, like Indian law, emphasizes the importance of perceptions to maintain public confidence in administrative and judicial processes⁴⁶.

Thus, a comparative analysis shows that while India, the UK, and Australia stress the need to avoid even the appearance of bias, the U.S. model is somewhat stricter in requiring proof of actual bias. Nevertheless, all systems recognize that impartiality is a cornerstone of administrative fairness, albeit through slightly different legal standards and procedural frameworks. These insights highlight how bias, though universal in concern, is handled with jurisdiction-specific nuances.

VI. CONTEMPORARY CHALLENGES

Despite the evolution of legal doctrines surrounding bias, contemporary administrative law faces new and complex challenges. With the expansion of the regulatory state, privatization of public functions, and the rise of automated decision-making, traditional tests for bias are increasingly being strained. These developments necessitate a rethinking of how bias is conceptualized and addressed in modern administrative frameworks.

One major challenge is institutional bias in regulatory bodies. As administrative agencies combine investigative, prosecutorial, and adjudicatory functions, concerns over impartiality naturally arise. In India, for example, bodies like the Competition Commission and SEBI perform multiple roles, blurring the lines between policy-making and adjudication⁴⁷. This

⁴³ Administrative Procedure Act, 5 U.S.C. § 551 et seq. (1946).

⁴⁴ *Withrow v. Larkin*, 421 U.S. 35 (1975).

⁴⁵ *Ebner v. Official Trustee in Bankruptcy*, (2000) 205 CLR 337.

⁴⁶ Groves, Matthew, *Modern Administrative Law in Australia: Concepts and Context*, Cambridge University Press, Cambridge, 2014, p. 143.

⁴⁷ Arvind, P. and Stirton, L., "The Administrative State in India: Regulatory and Accountability Challenges," 58 *Indian Journal of Public Administration* 1, 2012, p. 22.

overlap creates an environment where even the appearance of neutrality can be questioned, undermining public trust in administrative decisions.

Another significant challenge is the rise of algorithmic bias in administrative decision-making. Governments increasingly deploy algorithms to automate tasks such as licensing, welfare distribution, and immigration control⁴⁸. However, these systems can inadvertently embed biases present in their training data or programming. The opacity of algorithmic processes — often referred to as the "black box" problem — makes it difficult to detect, prove, or rectify bias through traditional judicial review mechanisms⁴⁹. Scholars have argued that principles of natural justice must evolve to incorporate demands for algorithmic transparency and accountability.

The privatization of public functions further complicates bias analysis. As private entities take over traditionally governmental roles — such as education management, public transport, or prison administration — questions arise about how the rule against bias applies to private actors performing public duties⁵⁰. Courts have struggled to consistently apply standards of fairness to such hybrid arrangements, raising concerns about accountability gaps.

Moreover, political interference in administrative bodies remains a persistent issue. Appointments of regulatory officials often attract allegations of favoritism, leading to perceptions of bias even before any decisions are made⁵¹. Recent controversies surrounding appointments to tribunals and commissions in India have highlighted how politicization can compromise the perceived independence of administrative authorities.

Addressing these contemporary challenges requires a dynamic understanding of bias, one that adapts beyond classical models focused purely on personal or pecuniary interest. Future reforms may include enhancing procedural safeguards, mandating transparency in algorithmic decision-making, and applying natural justice norms more rigorously to private actors performing public functions.

VII. CONCLUSION AND WAY FORWARD

Bias in administrative decision-making continues to pose a significant threat to the principles

⁴⁸ Coglianese, Cary and Lehr, David, "Regulating by Robot: Administrative Decision-Making in the Machine-Learning Era," 105 *Georgetown Law Journal* 1147, 2017, p. 1153.

⁴⁹ Kroll, Joshua A. et al., "Accountable Algorithms," 165 *University of Pennsylvania Law Review* 633, 2017, p. 640.

⁵⁰ Freedland, M. and Prassl, J., *Privatizing Public Functions: Administrative Law and Accountability*, Oxford University Press, Oxford, 2015, p. 78.

⁵¹ Sathe, S.P., *Judicial Activism in India: Transgressing Borders and Enforcing Limits*, Oxford University Press, New Delhi, 2002, p. 93.

of fairness, transparency, and accountability. Despite the development of robust legal standards and judicial interventions, the evolving nature of governance — especially with the rise of technology, privatization, and expansive regulatory frameworks — presents new dimensions of bias that traditional legal doctrines struggle to fully address. Ensuring public confidence in administrative processes demands not only adherence to the classical rules against bias but also a proactive engagement with emerging challenges.

The Indian judiciary has been commendable in expanding the doctrine of natural justice to encompass both actual and perceived bias. However, courts must remain vigilant to address subtler forms of bias, particularly in automated and hybrid administrative systems. Judicial sensitivity towards institutional and structural biases must also increase, recognizing that impartiality is not merely a personal attribute but is influenced by systemic factors.

Going forward, several measures are imperative. First, administrative bodies must institutionalize transparency, including clear protocols for decision-making and conflict-of-interest disclosures. Second, algorithmic governance must be accompanied by principles of explainability, auditability, and human oversight to minimize hidden biases. Third, legislative reforms are needed to bring private actors performing public functions squarely under the ambit of constitutional obligations, ensuring they are held to the same standards of fairness and impartiality.

Training programs aimed at sensitizing administrative officials about unconscious bias and the evolving contours of natural justice can further enhance decision-making quality. Moreover, judicial doctrines should be progressively interpreted to meet the needs of a rapidly changing administrative environment. By embracing both doctrinal rigor and innovative thinking, the law can continue to safeguard administrative justice against the enduring and emerging threats posed by bias.
