 ***DOI:** https://doij.org/10.10000/IJLMH.116149*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 6

2023

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Classification of Administration Law

ACHAL DINANATH GUPTA[1]

ABSTRACT

The legislative, executive, and judicial branches make up the three parts of the government. Laws are made by the legislative, put into effect by the executive branch, and then interpreted by the judiciary. The legislature has the power to enact laws, and while doing so, the laws also grant the ability to establish new judicial and executive branches. These organizations function under the ministries that create the relevant laws. If necessary, they can create rules and regulations to carry out the laws, which gives the administrative branch the legislative, or the ability to make laws. This gives rise to confusion and an imbalance of authority between the three organs. Additionally, there may be a propensity for citizens' private rights to be compromised and infringed upon. If the public administration wing is granted full legislative and judicial authority, it could be abused by the government's administrative branch. The concept of administrative law is put forth in order to prevent power disparities and to maintain control over governmental authority.

The law that controls the authority, functions, and tasks of public authorities is known as administrative law. It gives the administrative bodies a legal foundation. It researches and regulates the laws that are created by the government. This article will teach us about this law's definitions, history, sources, and categorization.

Keywords: *Sources, classification, nature, and control of power in administrative law.*

I. INTRODUCTION

The legal framework that governs the operations of governmental entities is known as administrative law. It falls under public law. Legislators enact administrative laws, but the executive branch may amend them as needed by issuing rules and regulations. This transfer of power from the legislature to the administrative branch, or the executive, occurs indirectly. In order to carry out the same function, the administrative body may also set up judicial offices to interpret the law, given that this is an issue that may only be resolved by subject matter specialists. In this approach, authority may become concentrated in the hands of a single government agency, potentially resulting in tyranny.

There is a chance that people's rights may be infringed and the public interest will be impacted if these disparities persist, which could destabilize society. In order to prevent such issues and

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disarray, legislation governing government-managed organizations is required in order to safeguard citizens' rights and the general welfare. It is an administrative law, that law. Administrative law safeguards citizens' personal freedoms and gives public administrative entities in India a legal foundation.

II. Historical background

The emergence of magnificent empires such as the Maury ans and Guptas during the later Vedic period in India is when administrative law first emerged. These dynasties are renowned for having a centralized government structure. The administration upheld the kings' belief that justice and fairness were the most important principles. After the East Indian Company was founded, it created a number of statutes to improve both the company's and the people's functioning. Many laws, statutes, and acts were passed for the benefit of the public after the corporation was liquidated and the British monarch took direct control. Following its independence, the nation transitioned from a police state to a welfare state. The idea of the welfare state has grown in popularity since the constitution was drafted, and it was included in the document's fundamental principles of state policy. The welfare of the people had to come first as it turned into a welfare state. The government must guarantee citizens' social, political, and economic rights for there to be a welfare state. It should be treated equally and fairly regardless of gender, race, religion, caste, or creed. Everyone should have equal access to these chances. The government's organs were forced to oversee the numerous laws that had to be introduced and put into effect as a result. The court system was overflowing with cases, which caused the legal system to operate slowly. Administrative law was introduced to lessen the workload on government agencies. Tribunals are quasi-judicial bodies under the executive branch of government that perform judicial responsibilities and have judicial authority in administrative law. Company law courts, labor law tribunals, and other types of tribunals are among them.

III. Meaning administrative law[2]

The area of law known as administrative law deals with the establishment, operation, and regulation of administrative bodies. The executive arm of government controls these administrative entities, which comprise a number of departments like tax, environment, labor, and health, among others. It addresses how these agencies make decisions and carry out their legal operations. It keeps an eye on how the people and the government are getting along and

[2] CLASSIFICATION OF ADMINISTRATIVE LAW | https://legalvidhiya.com/classification-of-administrative-law

offers assistance to those whose rights and freedoms are compromised by the misuse of authority by government entities. It guarantees openness in these bodies' operations, choices, and management. Under administrative law, tribunals, boards, and commissions are all handled. Laws pertaining to police, foreign commerce, manufacturing, the environment, taxation, broadcasting, immigration, and transportation are also included in this body of legislation.

In order to implement the law, administrative and quasi-judicial organizations must adhere to organizational and authority frameworks established by administrative laws. In order to keep administrative agencies from acting as arbitrators, administrative law establishes a regulatory framework that is mainly concerned with government and administrative operations and procedures. Since it has evolved throughout time, it is not a codified statute. This prevents the government from abusing or abusing the authority granted to it.

(A) Definition of administrative law

Many academics and jurists have defined administrative law. Academics have taken different stances when it comes to administrative law. Administrative law lacks a generally agreed-upon definition, for this reason. The following lists the different interpretations of this law:

- Administrative law is the body of law that deals with the management of governmental authority, as defined by Professor H.W.R. Wade.
- Administrative law, according to Ivor Jenning, is the law pertaining to administration. It assists in determining the makeup, duties, and power of administrative authorities.
- K.C. Davis defines administrative law as the corpus of law that addresses the powers and procedures of administrative agencies, especially the laws governing the judicial review of administrative decisions.
- The Indian Law Institute defines administrative law as covering the authority of administration, its use, its limitations, its maintenance within those limitations, the processes used by administrative authorities, and the remedies available to those affected by the administration.

IV. Sources of Administrative Law

Various sources have been used to develop administrative law. A detailed list of some of this law's primary sources is provided below.

(A) Constitution[3]

The constitution, which establishes the essential legal framework for the state, is one of the most significant sources of administrative law. It designates the responsibilities, powers, constraints, and roles of the various branches of government. The Union has executive power over matters over which Parliament has legislative authority, as stated in Article 73 of the Constitution. States are granted comparable authority under Article 62. The Constitution covers the public sector, tribunals, and government accountability, all of which are fundamental components of administrative law.

(B) Judicial decisions/ precedents

Applying various case laws can also result in the creation of new legislation. This occurs when there are no laws pertaining to a particular subject matter at a given time, and laws that ought to be changed to reflect societal requirements are not in place. The court is the final arbiter in disputes that arise between the various branches of government or between the people and the government. The Indian Supreme Court, the highest court in the nation, has the final say over interpretations of the Constitution. Administrative guidelines that guide government officials' future behavior are established by the courts through their multiple rulings on the administration's use of power and the state's duty in cases of contract infringement or tortious acts.

(C) Acts/ statutes[4]

Administrative agencies are established by state and federal legislatures, who also give them powers and delineate their responsibilities through legislation. The administration's obligations were outlined in these Acts, which also placed restrictions on its authority and offered avenues for grievance resolution to those who had been wronged by officials. They are The Competition Act of 2005, The Right to Information Act, and The Company Act.

a. Ordinances, Circulars, Notices, And Administrative Direction

These are the papers that are used by different government departments when drafting national legislation. They may also be known as A.D. orders or ministerial orders. The primary goals of these texts are to lay the legal groundwork necessary for passing legislation, developing legal doctrine, and supervising the operations of local government agencies. Ordinances are issued when unanticipated events arise and the legislature is not in meeting and hence unable to enact

[3] Classification of administrative functions | https://www.coursehero.com/file/32167111/classificationof-administrative-functions/

[4] Administrative Law, C.K. Takwani,5th edition, Eastern Book Company publication

legislation. The ordinances give administrators the authority to react to these kinds of situations in a proper manner. The president of a nation promulgates the ordinances. Administrative directives, updates, and circulars are distributed by the executive in the course of fulfilling its duties assigned by various Acts.

b. International Treaties And Conventions

Under certain circumstances, administrative law may be impacted by international treaties and conventions. A country may be obliged to amend its administrative procedures and regulations upon becoming a party to a treaty in order to comply with its obligations. International agreements pertaining to human rights, the environment, and trade can all have an impact on administrative legislation in the country.

V. Classification of Administrative Law

Law is categorized to aid in organization and facilitate understanding. Administrative law is a different category of law. It is a public aspect of the law. It is possible to further categorize administrative law in order to enhance governance and promote a better comprehension of the law. A few categories under the paragraph that follows is a definition of administrative law:

1. Substantive Administrative Law:-

Refers to the section of the law that deals with the actual provisions of the law, such as the body's authority, rights, and obligations. It focuses on the legal scope and power of an administrative agency's operations, including the power to adopt policies, issue directives, and take enforcement measures. Relevant administrative law deals with the scope, legality, and legitimacy of an agency's power. A few examples of this are the Food Safety and Standards Act, the Competition Law, the Consumer Protection Act, company law, etc.

2. Procedural Administrative Law:-[5]

Is used to describe the corpus of laws that uses the substantive elements of the law—powers, authority, and functions—to address procedural aspects of the law, such as fines, penalties, and agency procedures. It provides notice to individuals, gives them the right to be heard, and allows them to appeal or request judicial review of administrative acts, all of which ensure fairness, transparency, and due process in administrative decision-making. The Administrative Procedure Act, the Income Tax Act, and the Election Laws are a few examples of this type of

[5] Megha Pandey, Harsha Tiwari, Classification of Administrative Functions as purely Legislative, Administrative and Judicial, Available at: https://www.lawordo.com/classification-of-administrative-functions-as-purely-legislative-administrative-and-judicial/

legislation.

3. Delegated Legislation :-

Delegates or transfers the power to enact laws to strengthen administrative bodies' bylaws, rules, and regulations. It is a subset of administrative law. This authority allows the agencies to close any legal gaps by amending and adding provisions to the act. This authority, subject to reasonable limitations, is given to stop abuse by the agencies of administration. Delegated legislation in India includes rules and regulations prepared by organizations such as the Central Board of Direct Taxes (CBDT) for income tax regulations, the Securities and Exchange Board of India (SEBI) for the stock market monitoring, and the Reserve Bank of India (RBI) for bank operations.

4. Internal Administrative Law :-

highlights the relationships, internal processes, and rules of administrative organizations. It manages internal governance frameworks, methods of decision-making, authority delegation, and organizational structures. Administrative agencies are guaranteed to function effectively, efficiently, and in accordance with set norms and regulations by internal administrative law. For instance, the Department of Personnel and Training (DoPT) in India creates internal administrative standards and guidelines that are utilized by government employees and ministries.

5. External Administrative Law :-

pertains to the sharing of information by governmental organizations and other outside parties, including people and organizations. It delineates the authority, conduct, and decisions that administrative agencies are afforded when corresponding with members of the public and interested stakeholders. Accountability, equity, and transparency are guaranteed in administrative procedures. India's Right to Information Act, 2005 is an example of an external administrative law that allows citizens access to data kept by public entities, including administrative agencies.

(A) Rulemaking, Enforcement & Adjudication

- Rulemaking: In India, government agencies have the authority to enact laws and rules that govern various sectors. For instance, the Reserve Bank of India (RBI) sets guidelines and policies to regulate banking operations, including standards for loans, interest rates, and capital requirements.

- Enforcement: It is the responsibility of administrative agencies to uphold the guidelines they have set up. The Central Pollution Control Board (CPCB) has responsibility for enforcing environmental laws in India, conducting inspections, and bringing legal action against people and companies that violate the law.
- Adjudication is the term for the legal process wherein a judge or arbitrator evaluates the evidence and arguments presented by each party in order to make a decision regarding the issue at hand. Within For example, disputes pertaining to pricing and licensing in the telecom industry are settled by the Telecom Regulatory Authority of India (TRAI).

VI. Classification of administrative functions: purely legislative, administrative judicial function

It is challenging to define "administrative action" precisely because it is such a broad term. These days, all the power that was previously held by three separate State organs is consolidated by the administrative process, which is a byproduct of an intensive form of government that bypasses the traditional division of powers.

The administration is where the three governmental activity categories—legislative, judicial, and administrative—converge. In general, all of the responsibilities not delegated to the legislative or judicial branches of government are handled by the executive branch. During the administrative process, all three of the traditional duties for the three governmental organs are telescoped into a single authority.

The three branches of government are the legislative, executive, and judicial. These three organs of government are essentially responsible for the operations of the legislative, executive, and judicial branches. The judicial branch defines and interprets the laws, the executive branch administers them, and the legislative branch enacts new laws. It is not implied that the executive's responsibilities are restricted to those that are administrative or executive in nature, even though the terms "the Executive" or "the administration" are used.

Today, the executive branch carries out a wide range of tasks, including investigative, prosecutorial, planning, adopting, issuing, and canceling licenses, among other administrative tasks; legislative duties include creating rules, regulations, and bylaws; judicial duties include resolving disputes and imposing fines and penalties.

It cannot be assumed that the legislature alone performs legislative functions, the executive branch performs executive functions, and the judiciary performs judicial functions, according to the Supreme Court's ruling in Jayantal Amritlal Shodhan v. F.N. Rana.

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Therefore, in general, there are three categories into which an administrative action can be divided:

1. The creation of rules or quasi-legislative action;
2. Rule-decision or quasi-judicial action; and
3. An action taken solely for administrative purposes or to apply a rule.

(A) The necessity of classification

The question of whether the executive authorities' duties are exclusively administrative, quasi-judicial, or quasi-legislative in nature emerges. Since there isn't a perfect, scientific test to differentiate these functions from one another, the answer is extremely challenging.

A further challenge occurs when different elements of the three functions may occasionally be combined into a single proceeding. The courts have not been able to establish a clear standard by which to classify such cases. However, because of the numerous implications that arise from this classification, it is necessary and inevitable. For example, if the executive authority performs judicial or quasi-judicial functions, it is subject to the writ of certiorari or prohibition and must adhere to natural justice principles; however, if it performs administrative, legislative, or quasi-legislative functions, this is not the case.

The requirements of publication, laying on the table, etc., should be followed if the executive authority's action has a legislative nature; however, in the event of a purely administrative action, compliance is not required.

Once more, delegation is allowed for administrative functions, but it is not allowed for judicial functions. It is not possible to declare a legislative act invalid due to unreasonableness, but an administrative decision may be contested on the grounds of unreasonableness. Thus, it is imperative to ascertain the nature of the function carried out by administrative authority.

VII. THE UNIQUE DUTY OF THE JUDICIAL, EXECUTIVE, AND LEGISLATIVE FUNCTIONS

(A) Legislative function:

It is referred to as an administration's rule-making action or a quasi-legislative action when any administrative body uses the legislatively granted authority to enact laws. The executive branch's legislative duties include enacting laws, rules, and by laws, among other things.

When a specific task is referred to as "legislative" or "rule making" instead of "judicial" or "adjudication," it can have a significant impact on the parties involved. A notice and hearing

are not entitled if the function is deemed to be legislative in nature unless specifically mandated by statute.

a. Legislative and Judicial function: Distinction

Justice Holmes draws attention to the distinction in Prentis v. Atlantic Coastline Co.

i. Judicial:

Judicial inquiry looks into, declares, and upholds liabilities as they stand—based on current or historical facts and in accordance with existing law. That's the goal and conclusion.

ii. Legislative:

Considers the future and modifies the current state of affairs by establishing new regulations that apply to everyone.

According to justice Holmes: main aspect is the element of time.

i) A regulation (legislative function) establishes new rights and obligations as well as future conduct guidelines.

ii) In contrast, a judicial decision establishes prior rights and obligations and evaluates how rights and obligations function based on both past and present facts.

b. Legislative and Administrative Functions: Distinction:

Differentiating between legislative and administrative functions is very difficult. In Baldev Singh v. State of HP, the incorporation of particular areas into the municipal corporation was considered an administrative action; however, in Sunderjas Bhatija v. Collector, it was considered a legislative action.

The power to create regulations with wide application is known as legislative authority, and these regulations are referred to as legislative rules. An executive power is the ability to issue an order under specific conditions. An executive action is an order.

A legislative act creates and promulgates a general code of conduct without making reference to particular conduct; an administrative act applies a general rule to a particular situation.

(B) Judicial functions:

The Pure Judicial Function presupposes an existing dispute between two or more parties and involves four requirements, according to the Committee on Ministers' Power.

- The disputing parties' presentation of their case

- If there is a disagreement about a fact, it should be settled through arrangements, evidence, etc.
- If there is a legal dispute, the parties must submit a legal argument.
- A decision that resolves a contentious legal issue by identifying the facts that are in dispute and applying the law to them. Therefore, in a pure judicial function, even though a decision might have been made by a minister, board executive authority, officer, tribunal, etc., if the aforementioned requirements are met, the decision is judicial.

(C) Administrative Functions:

Mukherjee C.J. noted in Ram Jawaya V/S State of Punjab. The meaning and implications of executive functions may be too complex to fully define.

Typically, the term "executive power" refers to the portion of government function that remains after the removal of legislative and judicial authority.

The following qualities are innate to administrative tasks:

(1) Administrative decree generally determined by expediency or government policy.

(2) There is no legal requirement to use a subjective judicial approach in administrative decisions.

(3) Not constrained by the procedural evidence rules.

(4) Can take decisions in exercise of statute powers or in the absence of statutory provisions.

(5) Administrative functions- delegated/sub-delegated.

(6) Administrative authority may consider evidence, even use discretion.

(7) Administrative authority is not always bound principle of natural justice unless statutory provision.

(8) Administrative action may be held invalid on the ground of unreasonableness.

(9) Writs of prohibitions/ certiorari are not always available against administrative actions.

a. Administrative and Quasi-Judicial Functions: Distinction

We must comprehend two expressions in order to distinguish between administrative and quasi-judicial functions.

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i) Lis: J. Das made the following observation in Province of Bombay v. Khushaldas Advani: "if a statute empowers an authority to decide dispute arising out claim by one party, which is opposed by another party."

"In cases where a lis inter partes exists, administrative authority is needed to resolve disagreements between parties and make decisions regarding the lis. In these situations, the authority will be seen as functioning in a quasi-judicial capacity.

ii) Quasi-lis: Lis is decided between itself and another party, rather than between two or more parties. (without enumerating the parts). Therefore, decisions made by authorities to fire employees, deny admission to students who refuse to use unfair tactics, or rusticate students are extrajudicial in nature.

VIII. Classification of pure administrative function

Three categories apply to purely administrative functions:

a) Prerogative administrative

b) Action by the minister

c) Instruction in administration

(A) Discretion in administration:

To use layman's terms, discretion is the ability to select, regardless of how absurd the decision may seem, from among the many options without consulting any preset standards.

According to C.J. Coke, discretion is the ability to distinguish between what is true and what is false, between what is right and wrong, and between acting out of personal desire and volition.

Administrative discretion is a complicated issue. It is true that any highly developed system of governance cannot operate without some degree of discretion being used by the officials. It is essential not only for the individualization of the administrative power but also because it is impractical for humans to establish regulations for every scenario that could arise in the intricate field of contemporary governance. However, it is also true that total discretion is a cruel boss.

(B) Ministerial action:

A ministerial function is one in which an agency performs tasks without regard to discretion or judgment because they are mandated by law. Thus, a ministerial action entails carrying out a specific duty for which there is no wish, freedom, or choice. In this case, higher authority gives orders, and lower authority executes them. One of these ministerial actions could be revenue collection.

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An administrative agency's standards are subjective and it acts on its own wishes when acting administratively; when acting ministerially, it lacks the authority to consult its own wishes.

(C) Administrative instruction:

The authority to provide instructions is known as administrative instruction, and it originates from the administration's general executive power. One of the most effective methods for bringing administrative discretion into some sort of uniformity and for manipulating in a new and dynamic area is "administrative instruction." These guidelines also provide the administration with the necessary flexibility without introducing unnecessary technicalities into the rule-making process.

The directives that are typically issued under the general administrative power rather than any specific statutory authority are regarded as directory and, as such, lack legal force and are not enforceable.

Even though administrative directives lack legal force, the government cannot deviate from its own good will without a valid reason if they are followed consistently over an extended period of time.

IX. Case Law

1. L. Chandra Kumar V/S Union Of India

In this case, L. Chandra Kumar, the petitioner contested the validity of a number of provisions in the Administrative Tribunals Act of 1985. The petitioner claimed that the Act's invasion of the judiciary's jurisdiction and the creation of administrative tribunals to decide service-related disputes were violations of the Constitution's basic framework. The disagreement concerned the authority and jurisdiction of administrative tribunals vis-à-vis regular courts. In the legal domains for which they were created, tribunals are the courts of first instance, according to a Supreme Court decision. All Tribunal decisions are subject to review by the Division Bench of the High Court, which has jurisdiction over the relevant Tribunal, through the process of an appeal.

2. Maneka Gadhi V/S Union Of India

In this case, Maneka Gadhi v/s Union of India the passport authorities have seized the petitioner's passport in this instance. The authority's decision was contested by the petitioner. It was decided that the duty to act in a judicial capacity need not be proved; rather, it can be inferred from the authority granted, the manner in which it is applied, and the impact it has on the affected person's rights. Even though Article 21 of the Indian Constitution protects the right

to personal liberty, this case also made clear how important procedural due process is in administrative processes. The Supreme Court decided that administrative authorities had to follow fair and equitable procedures when depriving people of their rights.

3. A.K. Kraipak V. Union Of India

In one instance, the impartiality of a committee member tasked with choosing candidates for a particular post was questioned because he was a candidate for the position. Even though the selection committee for government jobs must act in a judicial manner, the process of choosing candidates is administrative in nature. The court observed that the line dividing quasi-judicial power from administrative authority is becoming increasingly blurred. The foundation of administrative law, the principle of natural justice, was also established by this case. The Supreme Court further ruled that when making decisions, administrative authorities should adhere to natural justice principles like audi al teram par tem, which means "hear the other side," and Nemo judge in causa suit, which states that "no one should be a judge in their cause."

X. CONCLUSION

Law that deals with and regulates administrative agencies is known as administrative law. It belongs to the public law subset. Different academics have defined it from different angles. The term "same" lacks an agreed-upon definition. It has been drawn from a number of sources, including the Constitution, court rulings, legislative actions, treaties with other countries, and municipal regulations. Although this law has been around since the later Vedic era, British rule is largely responsible for the development of contemporary administrative law. In addition to defending individual rights and liberties, the law aids in maintaining a balance between the power and authority of the three branches of government. For a clearer framework and comprehension, this law is divided into a number of categories, including delegated legislation, substantive, procedural, external, and internal. The researcher has provided some case laws that contributed to the interpretation of the law for a better understanding of it. The public interests are safeguarded by this law, and its classification aids in a better understanding of the interactions between individuals and administrative agencies.

This article has covered the definition, history, sources, and classification of administrative law. To gain a deeper comprehension of the subject, we have also talked about a few case laws.

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