

## **Introduction to Administrative Law**

### **Notes**

---

Among the three branches of the government the Legislature, Executive, and Judiciary the Executive is responsible for the day-to-day administration of governance through the exercise of its powers. In modern times, the role of government has shifted from a laissez-faire approach to that of a welfare state, leading to a significant concentration of authority within the executive branch.

Today, the state is no longer merely a "police state" focused on maintaining law and order; rather, as a progressive democratic entity, it aims to promote social security and welfare for its citizens. It regulates industrial relations, controls the production, manufacture, and distribution of essential commodities, initiates enterprises, strives for equality, and ensures equal pay for equal work. Additionally, it works to improve living conditions in slums, safeguards public health and morality, provides education for children, and undertakes various initiatives for the overall well-being of society.

Furthermore, in a modern welfare state, the executive branch not only enforces laws enacted by Parliament but also exercises delegated legislative powers. It further performs judicial functions through administrative tribunals. To prevent the misuse of authority by administrative bodies, Administrative Law gained prominence in the 20th Century.

### **What is Administrative Law**

Administrative Law is a branch of public law that governs the activities of the executive branch of government. It ensures that government actions are lawful, reasonable, and fair while maintaining a balance between state power and individual rights.

Administrative Law establishes principles for rule-making, decision-making, and enforcement by public authorities. It provides remedies for individuals affected by administrative decisions and ensures accountability through mechanisms such as judicial review, tribunals, and regulatory bodies. By setting legal standards for governmental agencies, Administrative Law upholds transparency, efficiency, and justice in public administration.

### **Origin of Administrative Law**

The origin of Administrative Law can be traced to the French legal system, particularly through Droit Administratif and the Conseil d'État. Droit Administratif referred to a specialized legal framework governing administrative actions, where disputes between individuals and the state were handled by separate administrative courts rather than ordinary judicial courts. This system prioritized public interest and ensures government accountability. A key institution in this system is the Conseil d'État, established by Napoleon Bonaparte in 1799, which serves as both an advisory body to the government and the highest administrative court in France. It plays a crucial role in ensuring legal compliance by administrative authorities and protecting citizens from arbitrary government actions. While India follows the common law system, influences of Droit Administratif are evident in administrative tribunals and judicial review mechanisms that regulate executive actions, ensuring fairness and accountability in governance.

### **Important Definitions of Administrative Law :**

#### **Sir Ivory Jennings**

"Administrative Law is the law relating to the administration. It determines the organization, powers, duties and functions of administrative authorities."

#### Criticism of Jennings' definition:

- No mention of remedies available to an aggrieved person when his rights are adversely affected by the administration,
- It ignores the distinction between Constitutional Law and Administrative Law

### **H.W.R Wade**

Administrative Law is that branch of law which determines the organization, powers and duties of administrative authorities, the manner and methods of their working, the rights and liabilities of their members and the remedies available to those aggrieved by their decisions.”

### **KC Davis**

"Administrative Law is the law concerning the powers and procedures of administrative agencies, including especially the law governing judicial review of administrative action.”

### **Holland**

"Administrative Law is the law relating to the control of governmental power. It covers the legal principles governing the relationship between the government and the individual, including the powers and duties of government officials, the remedies available to individuals when their rights are violated, and the rules governing the functioning of administrative agencies.”

### **Garner**

“Administrative law may be described as those rules which are recognized by the court as law and which relate to regulate the administration of government.”

### **Prof. Upendra Bakshi**

"Administrative Law is a study of the pathology of power in a developing society.”

## **Nature of Administrative Law**

Administrative Law governs the functioning of administrative authorities, ensuring they act within legal limits while protecting individual rights. Its key characteristics include:

1. **Branch of Public Law** – Administrative Law is a subset of public law that regulates the relationship between individuals and government authorities, ensuring accountability and lawful governance.
2. **Uncodified Law** – Unlike statutory laws, Administrative Law is not compiled into a single code. It evolves through judicial decisions, constitutional provisions, and statutory regulations, making it adaptable to changing governance needs.
3. **Powers and Limitations of Administrative Authorities** – It defines the scope of powers granted to administrative bodies while imposing necessary restrictions to prevent overreach, ensuring they act within legal and constitutional boundaries.
4. **Remedies Against Abuse by Administrative Authorities** – To prevent arbitrary or unfair decisions, Administrative Law provides remedies such as judicial review, writs (like habeas corpus and mandamus), and administrative appeals.
5. **Regulation of Executive Actions** – It oversees the actions of the executive branch, ensuring transparency, fairness, and adherence to legal principles in policy-making, decision-making, and enforcement.
6. **Flexibility and Adaptability** – Administrative Law is dynamic and evolves with societal and governmental changes, allowing it to effectively address emerging administrative challenges.
7. **Protection of Individual Rights** – It safeguards citizens from misuse of power by administrative authorities, ensuring due process, fairness, and justice through legal mechanisms like tribunals and courts.

### **Reasons for growth of Administrative Law :**

The expansion of Administrative Law in India is a result of various social, economic, and political factors that have increased the role of the government in public affairs. The key reasons for its growth are :

1. Transition from laissez faire to welfare state - India transitioned from a laissez-faire governance model to a welfare state, requiring extensive government intervention in areas such as education, health, and social security. This led to a rise in administrative functions and the need for a legal framework to regulate them.
2. Increase in Delegated Legislation - With the growing responsibilities of the legislature, many law-making powers have been delegated to the executive. Administrative Law has developed to regulate and oversee this delegated legislation.
3. Expansion of Government Functions - The government now plays an active role in industrial regulation, economic planning, environmental protection, and labor welfare, necessitating administrative oversight through legal mechanisms.
4. Growth of Administrative Tribunals - To reduce the burden on traditional courts and ensure faster justice in specialized matters, tribunals were established. These quasi-judicial bodies required legal principles to govern their functioning, leading to the evolution of Administrative Law.
5. Emergency and Crisis Management - Situations like pandemics, economic crises, and national security threats have increased reliance on administrative agencies, highlighting the need for a structured legal framework.
6. Technological Advancements and Globalization - The rise of technology, digital governance, and international trade regulations have further expanded the scope of Administrative Law to address contemporary challenges.

### **Sources of Administrative Law**

1. Constitution
2. Statutory Laws
3. Delegated Legislation
4. Judicial Decisions
5. Ordinances, Notifications, and Executive Orders
6. Reports of Committees and Commissions

### **Relationship between Administrative Law and Constitutional Law**

Administrative law and constitutional law are two branches of law that are closely related and often intersect with each other. Both branches of law regulate the structure, powers, and functions of government authorities while ensuring the protection of individual rights.

In the words of Keith “it is logically impossible to distinguish administrative from constitutional law and all attempts to do so are artificial.”

Holland observes that "The constitutional law describes the various organs of government at rest, while administrative law describes them in motion.”

According to Maitland “constitutional law deals with structure and the broader rules which regulate the function of authorities while administrative law deals with the details of those functions.”

## **Differences between Administrative Law and Constitutional Law**

1. Constitutional Law has a broader scope as it deals with the legislative, executive, and judicial functions of the state, whereas Administrative Law primarily concerns executive and administrative functions.
2. The source of Constitutional Law is the Constitution itself, making it the supreme law of the land, whereas Administrative Law is derived from statutes, rules, regulations, and judicial decisions.
3. Constitutional Law is the fundamental and supreme law of the land, whereas Administrative Law is subordinate to Constitutional Law, derived from it.

## **Theories of Administrative Law**

Several theories explain the foundation and functioning of Administrative Law, highlighting the role of the state, legal principles, and administrative mechanisms.

Key theories are :

### **1. Red Light Theory**

This theory was given by Harlow and Rawlings. This theory views administrative power with suspicion and emphasizes strict judicial control to prevent abuse.

It supports the principle of rule of law, ensuring that government actions are subject to legal limits and judicial review.

### **2. Green Light Theory (Functionalist Approach)**

This theory was also given by Harlow and Rawlings. It supports a proactive role of administration for efficient governance. It favors minimal judicial interference and emphasizes self-regulation, tribunals, and internal administrative controls.



**JUDEX TUTORIALS**

An Institute for Judiciary and APO

**JUDEX TUTORIALS  
DADI JI LANE  
BORING ROAD  
PATNA  
Ph – No +91 7488587396**

### **3. Amber Light Theory (Balanced Approach)**

This theory was given by William Wade and Christopher Forsyth. It is a middle-ground approach combining elements of both Red Light and Green Light theories. It recognizes the need for effective administration while ensuring adequate legal safeguards against misuse of power.

JUDEX TUTORIALS