

Indian Administrative Law Concepts

1. Doctrine of Separation of Powers

The doctrine of separation of powers is a constitutional principle that divides governmental authority among three distinct branches: legislative, executive, and judicial. This division aims to prevent the concentration of power and provide checks and balances.

Detailed Analysis:

- **Constitutional Framework:** While not explicitly mentioned in the Indian Constitution, the separation is evident in the structural division: Articles 50-122 (Legislature), Articles 52-151 (Executive), and Articles 124-147 (Judiciary).
- **Indian Application:** India follows a "functional" rather than "rigid" separation. Unlike the US Constitution, the Indian system allows overlap in functions (e.g., the Executive participates in lawmaking through ordinance powers).
- **Basic Structure Doctrine:** In *Kesavananda Bharati v. State of Kerala* (1973), the Supreme Court held that separation of powers forms part of the "basic structure" of the Constitution that cannot be amended.
- **Parliamentary System Adaptation:** The Indian adaptation combines separation with parliamentary governance, where the executive (Council of Ministers) is drawn from and responsible to the legislature.

Landmark Case Analysis:

- **Ram Jawaya Kapur v. State of Punjab (1955):** The Supreme Court observed: "The Indian Constitution has not indeed recognized the doctrine of separation of powers in its absolute rigidity but the functions of the different parts or branches of the government have been sufficiently differentiated."
- **I.R. Coelho v. State of Tamil Nadu (2007):** The Court reinforced that separation of powers is part of the basic structure and emphasized checks and balances.

2. Doctrine of Rule of Law

Propounded by A.V. Dicey, the rule of law embodies the principle that law is supreme and all individuals, including government officials, are subject to the same laws.

Three Core Principles:

1. **Supremacy of Law:** Absence of arbitrary power; government can only punish individuals for breach of law established by ordinary legal procedures.
2. **Equality Before Law:** Every person, regardless of status, is subject to ordinary laws of the land and comes under jurisdiction of ordinary courts.
3. **Predominance of Legal Spirit:** Constitutional safeguards arise from judicial decisions determining individual rights rather than from abstract constitutional declarations.

Indian Context:

- Articles 14-18 (Right to Equality)
- Article 21 (Protection of Life and Liberty)
- Articles 32 and 226 (Remedies for enforcement of rights)

Landmark Case Analysis:

- **Indira Nehru Gandhi v. Raj Narain (1975):** Justice Mathew articulated that rule of law means "the law should operate equally on all persons under similar circumstances," emphasizing equality as the core of rule of law.
- **Union of India v. Raghubir Singh (1989):** The Court held that "the rule of law means the judge should live by the law," reinforcing judicial accountability.
- **Secretary, State of Karnataka v. Umadevi (2006):** The Court emphasized that adherence to rule of law is essential for proper administration and good governance.

3. Delegated Legislation and Classification

Delegated legislation refers to rules, regulations, orders, and by-laws made by administrative authorities under powers conferred by the legislature.

Key Components:

- **Parent Act:** The primary legislation that delegates power and provides framework
- **Delegate:** The administrative authority empowered to make subordinate rules

- **Subordinate Legislation:** The actual rules/regulations made by the delegate

Classifications of Delegated Legislation:

1. **Conditional Legislation:** Where the legislature makes the law but delegates to the executive the power to determine when and where it will come into operation.
2. **Supplementary Legislation:** Where the legislature lays down general principles and delegates power to fill in details.
3. **Exceptional Legislation:** Where power is delegated to meet emergency situations.
4. **Henry VIII Clauses:** Provisions that enable executive to amend or repeal primary legislation through delegated instruments.

Judicial Control Mechanisms:

- **Substantive Ultra Vires:** When the delegated legislation exceeds the scope of authority conferred by parent Act.
- **Procedural Ultra Vires:** When mandatory procedural requirements for making delegated legislation are not followed.
- **Sub-delegation:** Delegation by the delegate unless expressly authorized is generally impermissible.

Landmark Case Analysis:

- **Agricultural Market Committee v. Shalimar Chemical Works (1997):** The Supreme Court established a four-point test for validity of delegated legislation: (1) It should not be arbitrary, (2) It should be reasonable, (3) It should not violate any of the fundamental rights, and (4) It should conform to the parent statute.
- **Lachmi Narain v. Union of India (1976):** The Court held that "while subordinate legislation with respect to matters of detail may be left to executive officers, the legislature must declare the policy of the law."

4. Procedural and Judicial Control (Doctrine of Ultra Vires)

Ultra vires ("beyond the powers") doctrine is a fundamental principle of administrative law that an administrative authority cannot act beyond the powers granted to it by law.

Two Dimensions:

1. **Substantive Ultra Vires:** When an administrative action exceeds the substantive authority granted by law.
2. **Procedural Ultra Vires:** When an administrative body fails to follow the procedural requirements prescribed by law.

Application in Judicial Review:

- **Jurisdictional Error:** When authority acts outside its jurisdiction or fails to exercise jurisdiction when required.
- **Error of Law:** When authority misinterprets the law it is required to apply.
- **Error of Fact:** When authority bases decision on clearly incorrect factual premises.
- **Abuse of Power:** When authority exercises power for purposes other than those intended.

Landmark Case Analysis:

- **State of Punjab v. Hari Kishan (1966):** The Supreme Court held that exercise of power for collateral purposes amounts to ultra vires.
- **Shalini Soni v. Union of India (1980):** The Court emphasized that administrative authority must act within the limits of their power and cannot act arbitrarily.
- **Tata Cellular v. Union of India (1994):** The Court established the parameters of judicial review in administrative actions as: (1) Illegality, (2) Irrationality, and (3) Procedural impropriety, adopting Lord Diplock's formulation from *CCSU v. Minister for Civil Service* (1985).

5. Principles of Natural Justice

Natural justice refers to procedural fairness principles that must be observed by administrative authorities when making decisions affecting rights and interests of individuals.

Core Principles:

1. **Nemo iudex in causa sua** (No one should be a judge in their own case): This principle requires impartiality and absence of bias.
2. **Audi alteram partem** (Hear the other side): This principle requires giving fair hearing to affected persons.

Components of Fair Hearing:

- Notice of allegations or proposed actions
- Opportunity to present case and evidence
- Access to adverse material being relied upon
- Reasoned decision
- Right to representation in appropriate cases

Exceptions to Natural Justice:

- Emergency situations
- Statutory exclusion
- Impracticability
- Academic evaluations
- Policy decisions affecting larger groups

Landmark Case Analysis:

- **A.K. Kraipak v. Union of India (1969):** The Supreme Court extended principles of natural justice beyond strictly judicial functions to administrative functions, stating: "The aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice."
- **Mohinder Singh Gill v. Chief Election Commissioner (1978):** The Court held: "Natural justice is the offspring of antithesis between the absolutism of the administrative process and the cry of the citizen for fairness."
- **State Bank of Patiala v. S.K. Sharma (1996):** The Court classified violations of natural justice into: (a) where prejudice is caused and (b) where no prejudice is caused, holding that relief should be given only for the former.

6. Constitutional Objectives and Discretion

Administrative discretion refers to the freedom conferred upon administrative authorities to choose from amongst various alternatives when implementing policy objectives.

Key Elements:

- **Statutory Framework:** Discretion must be exercised within the boundaries set by statute
- **Constitutional Limitations:** Administrative discretion is subject to fundamental rights (Articles 14-19, 21)
- **Reasonableness:** Decisions must be reasonable and non-arbitrary
- **Relevant Considerations:** Only relevant factors should be taken into account

Grounds for Judicial Review of Discretion:

1. Bad faith or dishonesty
2. Improper purpose
3. Irrelevant considerations
4. Leaving out relevant considerations
5. Unreasonableness/irrationality
6. Failure to exercise discretion (abdicating or fettering discretion)

Landmark Case Analysis:

- **Ramana Dayaram Shetty v. International Airport Authority (1979):** The Supreme Court held that "discretion of the executive government should be confined to the parameters set by the Constitution, and every action must be informed by reason and guided by public interest."
- **Delhi Science Forum v. Union of India (1996):** The Court recognized that in economic policy matters, wider latitude should be given to administrative discretion, establishing the concept of variable intensity of review.
- **Reliance Energy Ltd. v. Maharashtra State Road Development Corporation (2007):** The Court emphasized that administrative discretion must conform to constitutional imperatives and should be exercised in furtherance of constitutional objectives.

7. Doctrine of Proportionality

The doctrine of proportionality requires that administrative action should be proportionate to the objective sought to be achieved. The measure adopted must not be more drastic than necessary.

Four-Pronged Test:

1. **Legitimate Aim:** The measure must pursue a legitimate aim
2. **Suitability:** The measure must be suitable to achieve that aim
3. **Necessity:** The measure must be necessary to achieve that aim (no less restrictive alternative available)
4. **Balance:** The measure must not impose excessive burden on the individual (proper balance between harm and benefit)

Evolution in Indian Jurisprudence: Initially limited to service matters and disciplinary proceedings, the principle has expanded to cover broader administrative decision-making.

Landmark Case Analysis:

- **Om Kumar v. Union of India (2001):** The Supreme Court formally recognized the doctrine, stating: "The principle of proportionality requires the Court to judge whether action taken was really needed as well as whether it was within the range of courses of action which could reasonably be followed."
- **Coimbatore District Central Cooperative Bank v. Employees Association (2007):** The Court applied the proportionality test to determine if punishment imposed in disciplinary proceedings was excessive in relation to misconduct.
- **Teri Oat Estates Pvt. Ltd. v. U.T. Chandigarh (2004):** The Court observed that "administrative action in India affecting fundamental freedoms has always been tested on the anvil of proportionality."

8. Legitimate Expectation

This doctrine protects expectations arising from express promises or consistent past practice by public authorities, even when there is no legal right in the traditional sense.

Sources of Legitimate Expectation:

1. Express promises or representations
2. Consistent past practice
3. Published policy or guidelines

Limitations:

- Cannot override clear statutory provisions

- No legitimate expectation against legislative action
- May be overridden by sufficient public interest
- Procedural rather than substantive protection in most cases

Landmark Case Analysis:

- **Food Corporation of India v. Kamdhenu Cattle Feed Industries (1993):** The Supreme Court recognized the doctrine stating: "The doctrine of legitimate expectation imposes a duty on public authority to act fairly by taking into consideration all relevant factors relating to legitimate expectation."
- **Union of India v. Hindustan Development Corporation (1993):** The Court clarified that legitimate expectation gives rise to procedural rights, not substantive rights, and can be overridden by statutory changes or public interest considerations.
- **State of Jharkhand v. Brahmputra Metallics Ltd. (2020):** The Court emphasized that decisions having impact on the right of citizens should be taken after proper deliberations and considering the legitimate expectations of the affected parties.

9. Public Interest Litigation (PIL)

PIL refers to litigation undertaken for the protection of public interest, allowing any public-spirited individual or organization to approach courts for enforcement of constitutional rights of disadvantaged groups or matters of public interest.

Key Features:

- Relaxed rules of locus standi
- Non-adversarial approach
- Active judicial role (investigative and monitoring)
- Expanded range of remedies
- Epistolary jurisdiction (courts can treat letters as petitions)

Categories of PIL:

1. Rights of disadvantaged sections
2. Environmental protection

3. Administrative corruption
4. Policy and governance issues
5. Socio-economic rights enforcement

Landmark Case Analysis:

- **S.P. Gupta v. Union of India (1981):** Justice Bhagwati laid down the foundation for PIL: "Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right... and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for an appropriate direction."
- **Bandhua Mukti Morcha v. Union of India (1984):** The Court adopted an investigative approach, appointing commissioners to verify allegations of bonded labor, establishing the proactive role of courts in PIL.
- **T.N. Godavarman Thirumulpad v. Union of India (1996):** This ongoing case (Forest Case) demonstrates the courts' monitoring role, where the Supreme Court has been supervising forest conservation measures through continuing mandamus.

10. Principle of Locus Standi

Locus standi refers to the right or capacity to bring an action or appear in a court. Traditionally, only a person whose legal right was infringed could approach the court.

Evolution in Indian Law:

- **Traditional Approach:** Only aggrieved persons with direct interest could approach courts
- **Expanded Approach in PIL:** Any public-spirited person can approach courts for enforcement of public rights
- **Representative Standing:** Organizations representing affected groups

Limitations on Expanded Locus Standi:

- Genuine interest in the matter
- Not for personal, political, or publicity purposes

- Basic facts must be verified
- Not in commercial or contractual matters

Landmark Case Analysis:

- **Janata Dal v. H.S. Chowdhary (1992):** The Supreme Court cautioned against misuse of PIL, emphasizing that courts must ensure that behind the beautiful veil of public interest, personal grudge or enmity must not be allowed to operate.
- **Ashok Kumar Pandey v. State of West Bengal (2004):** The Court warned against PIL becoming "Publicity Interest Litigation" or "Private Inquisitiveness Litigation" and laid down guidelines for entertaining PILs.
- **State of Uttaranchal v. Balwant Singh Chaufal (2010):** The Court established guidelines for PIL, including verification of credentials of the petitioner and prima facie verification of allegations.

11. Judicial Review: Scope and Extent

Judicial review is the power of courts to examine the constitutionality of legislative acts and the legality of administrative actions.

Three Dimensions:

1. **Constitutional Judicial Review:** Review of constitutionality of legislations (Articles 13, 32, 226)
2. **Administrative Judicial Review:** Review of administrative actions for legality and procedural fairness
3. **Judicial Self-Restraint:** Areas where courts exercise restraint (policy matters, technical expertise)

Grounds for Judicial Review:

- **Illegality:** Decision-maker must understand correctly and apply the law
- **Irrationality:** Decision so unreasonable that no reasonable authority could have made it
- **Procedural Impropriety:** Failure to follow procedural rules or natural justice principles
- **Proportionality:** Measure adopted must be proportionate to the objective

Landmark Case Analysis:

- **L. Chandra Kumar v. Union of India (1997):** The Supreme Court held that the power of judicial review over legislative and administrative actions is part of the basic structure of the Constitution that cannot be abrogated by any constitutional amendment.
- **Indira Nehru Gandhi v. Raj Narain (1975):** The Court struck down the 39th Amendment placing the election of Prime Minister beyond judicial scrutiny, affirming that judicial review is essential to democracy and rule of law.
- **I.R. Coelho v. State of Tamil Nadu (2007):** The Court expanded the scope of judicial review to laws placed in the Ninth Schedule, holding that they are subject to review if they violate the basic structure of the Constitution.

12. Writs

The Constitution empowers the Supreme Court (Article 32) and High Courts (Article 226) to issue writs for the enforcement of fundamental rights and other legal rights.

Types of Writs:

1. **Habeas Corpus** ("You should have the body"):
 - Purpose: Protection against illegal detention
 - Nature: Can be filed by any person, not necessarily the detainee
 - Scope: Court examines lawfulness of detention, not merits of the case
 - Notable Case: **A.D.M. Jabalpur v. Shivakant Shukla (1976)** (overruled by subsequent judgments and constitutional amendment)
2. **Mandamus** ("We command"):
 - Purpose: To compel public authorities to perform their legal duties
 - Conditions: (a) Legal duty, (b) Public nature of duty, (c) Specific duty
 - Not available against: President, Governors, discretionary functions

- Notable Case: **Comptroller and Auditor General v. K.S. Jagannathan (1986)**: Court held that mandamus can be issued to enforce public duty created by statute or Constitution

3. **Prohibition** ("To forbid"):

- Purpose: To prohibit lower courts/tribunals from exceeding jurisdiction
- Nature: Preventive remedy (before final order/decision)
- Grounds: Lack of jurisdiction, violation of natural justice
- Notable Case: **East India Commercial Co. v. Collector of Customs (1962)**: Clarified distinction between prohibition and certiorari

4. **Certiorari** ("To be informed"):

- Purpose: To quash decisions of lower courts/tribunals
- Nature: Corrective remedy (after decision is made)
- Grounds: Jurisdictional error, error of law on face of record, violation of natural justice
- Notable Case: **Hari Vishnu Kamath v. Ahmad Ishaque (1955)**: Defined "error of law apparent on face of record"

5. **Quo Warranto** ("By what authority"):

- Purpose: To challenge the validity of appointment to public office
- Conditions: (a) Public office, (b) Statutory creation, (c) Substantive appointment
- Standing: Any person can file, even without personal interest
- Notable Case: **University of Mysore v. Govinda Rao (1964)**: Established prerequisites for quo warranto

Landmark Case Analysis:

- **Keshav Singh's Case (1965)**: The Court examined the scope of judicial review over legislative privileges, establishing balance between parliamentary privilege and judicial review.
- **Syed Yakoob v. K.S. Radhakrishnan (1964)**: The Court established parameters for interference under Article 226, holding that High Courts

should not act as appellate authorities in matters of administrative discretion.

- **Hari Vishnu Kamath v. Ahmad Ishaque (1955):** The Court clarified that certiorari is available not only for jurisdictional errors but also for errors of law apparent on the face of the record.

13. CVC and Ombudsman

The Central Vigilance Commission (CVC) and Lokpal (Ombudsman) are oversight institutions created to combat corruption in public administration.

Central Vigilance Commission (CVC):

- **Establishment:** Created in 1964 on recommendation of Santhanam Committee; given statutory status by CVC Act, 2003
- **Composition:** Central Vigilance Commissioner and up to two Vigilance Commissioners
- **Functions:** Supervise vigilance administration, advise on vigilance matters, investigate offenses alleged under Prevention of Corruption Act
- **Powers:** Recommendatory in nature but have significant persuasive value
- **Independence:** Statutory body with operational autonomy but not constitutional status

Lokpal (Ombudsman):

- **Establishment:** Created by Lokpal and Lokayuktas Act, 2013 after decades of advocacy
- **Composition:** Chairperson and maximum of 8 members (50% judicial members)
- **Jurisdiction:** Prime Minister, Ministers, MPs, Groups A-D officers
- **Functions:** Receive complaints, conduct preliminary inquiry, investigate allegations of corruption
- **Powers:** Direct investigation by CBI and other agencies, recommend disciplinary proceedings, issue directions for recovery of assets

Landmark Case Analysis:

- **Vineet Narain v. Union of India (1998):** The Supreme Court issued directions for strengthening CVC and granted it statutory status, emphasizing the need for independent anti-corruption bodies.

- **Dr. Subramanian Swamy v. Dr. Manmohan Singh (2012):** The Court emphasized the need for an independent authority to grant sanction for prosecution in corruption cases.
- **Common Cause v. Union of India (2017):** The Court directed appointment of Lokpal, which had been delayed for years despite enactment of legislation.

14. State Liability

State liability refers to the responsibility of the government to compensate individuals for harm caused by actions of government officials.

Constitutional Framework:

- Article 300: The Union and States can sue and be sued like any juristic person
- Article 300A: No person shall be deprived of property save by authority of law

Evolution of State Liability:

1. **Colonial Era:** Based on sovereign immunity principle (King can do no wrong)
2. **Post-Independence:** Distinction between sovereign and non-sovereign functions
3. **Modern Approach:** Narrowing scope of sovereign immunity, especially for constitutional torts

Categories of State Functions:

- **Sovereign Functions:** Traditional state functions (defense, law-making, etc.)
- **Non-sovereign Functions:** Commercial and service activities

Landmark Case Analysis:

- **State of Rajasthan v. Vidyawati (1962):** The Supreme Court held state liable for negligence of driver of government vehicle, rejecting sovereign immunity defense.
- **Kasturi Lal v. State of U.P. (1965):** The Court upheld sovereign immunity for acts done in exercise of sovereign functions (police functions in this case).

- **N. Nagendra Rao v. State of A.P. (1994):** The Court significantly narrowed the scope of sovereign immunity, holding: "No civilized system can permit an executive to play with the people of its country and claim that it is entitled to act in any manner as it is sovereign."
- **Nilabati Behera v. State of Orissa (1993):** The Court established constitutional tort remedy for fundamental rights violations, bypassing sovereign immunity.

15. Doctrine of Laches

The doctrine of laches refers to unreasonable delay in asserting a right or claim, which prejudices the opposing party and can result in denial of relief.

Key Elements:

1. Unreasonable delay in asserting rights
2. Absence of reasonable explanation for delay
3. Change of position by other party due to delay
4. Prejudice caused by delay

Application in Administrative Law:

- Writ jurisdiction is discretionary and can be refused on grounds of delay
- No fixed time limit unlike statutory limitation periods
- Each case examined on its own facts
- Stricter application in service matters and property disputes
- More lenient approach in environmental and human rights cases

Landmark Case Analysis:

- **State of M.P. v. Bhailal Bhai (1964):** The Supreme Court established that delay can be a ground for refusing relief under Article 226, but each case must be decided on its own facts.
- **P.S. Sadasivaswamy v. State of Tamil Nadu (1974):** The Court held that "it would be unjust to deprive the respondent of the rights which have accrued to them by lapse of time" and denied relief due to laches.
- **Moon Mills Ltd. v. Industrial Court, Bombay (1967):** The Court rejected the petition on grounds of laches, stating that "acquiescence is a

relevant factor to be taken into consideration in the exercise of discretionary relief."