**Define and discuss “Administrative law” and “Rule of Law”**

1. Introduction of Administrative Law

Administrative law is part of the branch of law commonly referred to as public law, the law which regulates the relationship between the citizen and the state and which involves the exercise of state power. So, it is a part of the legal framework for public administration. Public administration is the day-to-day implementation of public policy and public programs in areas as diverse as immigration, social welfare, defence, and economic regulation—indeed in all areas of social and economic life in which public programs operate.

Administrative law is the body of law that governs the activities of administrative agencies of government. Government agency action can include rule making, adjudication, or the enforcement of a specific regulatory agenda.

Administrative law is considered a branch of public law. Administrative law deals with the decision making of such administrative units of government as tribunals, boards or commissions that are part of a national regulatory scheme in such areas as police law international trade manufacturing the environment, taxation, broadcasting immigration and transport. Administrative law expanded greatly during the twentieth century, as legislative bodies worldwide created more government agencies to regulate the social, economic and political spheres of human interaction.

2. Concept of Administrative Law:

Administrative law is a branch of public law that is concerned with the procedures, rules, and regulations of a number of governmental agencies. Administrative law specifically deals with such administrative agencies’ decision-making capabilities, as they carry out laws passed by state and federal legislatures. An example of administrative law is the regulation and operation of the Social Security Administration, and the administration of benefits to the people.

Administrative law is that body of law which applies for hearings before quasi-judicial bodies, boards, commissions or administrative tribunals supplement the rules of natural justice with their own detailed rules of procedure. Through jurisprudence, common law or case law, these principles have each been expanded and refined beyond their original simplistic design to form distinct bodies of law forming together what the legal system refers to as administrative law.

3. Definition of Administrative Law:

Administrative law deals with the legal control of government and related administrative powers. In other words, we can define administrative law as the body of rules and regulations and orders and decisions created by administrative agencies of government. Administrative law consists of complaints respecting government action that adversely affects an individual. Thus, administrative law involves determining the legality of government actions. There is a two-fold analysis: the legality of the specific law itself and the legality of particular acts purportedly authorized by the specific law. Governments cannot perform any act by itself. Governments act through government officials who must act within certain limitations. A government’s power to act comes from legislation. Thus, government officials must act within the parameters (or scope) of such legislation which give their actions lawful authority. These are lawful actions. If government officials act outside the scope of their lawful authority and individuals are affected by these acts, then the principles of administrative law provide individuals with the ability to seek judicial review of the administrative action and possible remedies for the wrongful acts. It is indeed difficult to evolve a scientific precise and satisfactory definition of administrative law. Many jurists have attempted to define it. But none of the definitions has completely demarcated the nature, scope and contents of Administrative Law. Either the definitions are too broad and include much more than what is necessary or they are too narrow and do not include all the necessary contents.

4. Nature of Administrative Law:

Administrative Law is a new branch of law that deals with the powers of the Administrative authorities, the manner in which powers are exercised and the remedies which are available to the aggrieved persons, when those powers are abused by administrative authorities.

The Administrative process has come to stay and it has to be accepted as a necessary evil in all progressive societies. Particularly in welfare state, where many schemes for the progress of the society are prepared and administered by the government. The execution and implementation of these programmes may adversely affect the rights of the citizens. The actual problem is to reconcile social welfare with rights of the individual subjects. The main object of the study of Administrative law is to unravel the way in which these Administrative authorities could be kept within their limits so that the discretionary powers may not be turned into arbitrary powers

5. Scope of Administrative Law:

Administrative Law as a law is limited to concerning powers and procedures of administrative agencies. It is limited to the powers of adjudication or rule-making power of the authorities. Thus, it is limited to:

 Establishment, organization and powers of various administrative bodies

 Delegated legislation - the Rule-making power of the authorities

 Judicial functions of administrative agencies such as tribunals

 Remedies available such as Writs, Injunction etc.

 Procedural guarantees such as the application of principles of Natural Justice

 Government liability in tort

 Public corporations

There are several branches of the science of law. The Administrative Law is a recent branch of the science of law. In the political science there are few Administrative organs. Certain functions have been allotted to these organs in the Administrative Machinery. The Administrative law deals with the structure, functions and powers of the Administrative organs. It also lays down the methods and procedures which are to be followed by them during the course of remedies which are available to the persons whose rights and other privileges are damaged by their operations. From the few lines above explaining the meaning of the Administrative law, we can notice the exact scope of this new branch of Law.

The scope of Administrative law can be narrated as under: -

- The methods and procedures of these Administrative organs are also studied by this new branch of law.

- It covers the nature of structure, powers and functions of all these administrative organs.

- It also makes available all the relevant remedies to the persons whose rights are infringed by the operations of these organs during the course of Administration.

- Why and How the Administrative Organs are to be controlled is also viewed by the Administrative law.

In this way along with the development in the Political Science and along with the idea of federal Administration, the separate branch of Administrative law has been developed. It is to be clearly noted that this branch of Law is exclusively restricted to the Administrative organs only. The delegated legislations are supposed to be the backbone of the Administrative law.

6. Sources of Administrative Law:

6.1 Constitution

The Constitution is the creator of various several administrative bodies and agencies. It gives brief details about the mechanism and the administrative powers granted to various authorities. The Constitution is the supreme law of the land. Any law or act which is inconsistent with it has no force or effect. The effect of this provision is that laws and administrative acts must comply with the Constitution. The Constitution is binding on the executive branch of government in every sphere of administration. Constitution establishes a variety of agencies and administrative structures to control the exercise of public power.

6.2 Acts and Statutes

Acts and Statutes passed by legislature are important sources of administrative law because they elaborately detail the powers, functions and modes of control of several administrative bodies.

6.3 Ordinances, Notification and Circulars

Ordinances are issued by the President (at Union / Federal level) and Governor (at State level) and are valid for a particular period of time. These ordinances give additional powers to administrators in order to meet urgent needs. Administrative directions, notifications and circulars provide additional powers by a higher authority to a lower authority. In some cases, they control the powers

6.4 Judicial decision

Judicial decisions or judge-made law have been responsible for laying down several new principles related to administrative actions. They increased the accountability of administrative actions and acted as an anchor between the notifications, circulars etc. to be linked and complied directly or indirectly with the constitutional or statutory provisions.

7. Principles of Administrative Law:

7.1 Judicial Review:

Administrative law is generic term, it encompasses all aspects of legal regulations of governmental powers, and judicial review of the administrative actions refers to the jurisdiction of the courts to ensure that governmental decision makers act within law. The exercise of legal power may often involve the exercise of discretion to choose between alternative courses of action or, indeed, whether or not to act at all. The essence of discretion is, however, that it is contained within legal limits. A power not contained within such limits would be arbitrary. The principles of judicial review serve to set legal limits to the exercise of discretionary powers. Judicial review is concerned with the legality of the decision made, not with the merits of the particular decision

7.2 Principle of legitimate expectation

It was, in fact, for the purpose of restricting the right to be heard that 'legitimate expectation' was introduced into the law. It made its first appearance in an English case where alien students of 'Scientology' were refused extension of their entry permits as an act of policy by the Home Secretary, who had announced that no discretionary benefits would be granted to this sect. They had no legitimate expectation of extension beyond the permitted time and so no right to a hearing, though revocation of their permits within that time would have been contrary to legitimate expectation. Official statements of policy may cancel legitimate expectation; just as they may create it.

7.4 Principle of good governance

Good governance is about the processes for making and implementing decisions. It’s not about making ‘correct’ decisions, but about the best possible process for making those decisions. Good governance has eight major characteristics:

- Participatory

- Consensus oriented

- Accountability

- Effective and efficient

- Equitable and inclusive

- Rule of law

- Transparent

7.5 Principle of natural justice

“Not only should justice be done, but it should be seen to be done” It is not a written law but has been developed by courts in process of their judicial decisions. It seems to be as old as the system of dispensation of justice itself. It has by now assumed the importance of being, so to say, "an essential inbuilt component" of the mechanism, through which decision making process passes, in the matters touching the rights and liberty of the people. It is no doubt, a procedural requirement but it ensures a strong safeguard against any Judicial or administrative; order or action, adversely affecting the substantive rights of the individuals 7.6 The principle of rule of law “Where laws do not rule, there is no constitution.”19 The notion of the rule of law can be traced back to at least the time of Aristotle who observed that given the choice between a king who ruled by discretion and a king who ruled by law, the later was clearly superior to the former. The essence of the rule of law is that of the sovereignty or supremacy of law over man and the government. The rule of law insists that every person- irrespective of rank and status in society- be subject to the law. Although it is always a good precept to beware of fashions in legal thinking, there is substantial support for the view that the foundation of modern administrative law is the rule of law.

8. Objectives of Administrative Law:

Over the past decade it appears that administrative law, which is the body of law governing the activities of administrative agencies of government, has been minimized, allowing a number of governmental agencies to run ineffectually. Ultimately this has resulted in numerous economic and environmental calamities within the United States, i.e.; British Petroleum, Enron, Wall Street, and the auto industry. The majority of governmental agencies within the United States are underneath the executive branch, with few being a part of the judicial and legislative branches.

Following are the objectives of administrative law:

- Control of government powers:

- Remedy to aggrieved person:

- Equal status of state and public:

- Effective use of government power:

- Public utility:

- Determination of government and public disputes:

- Determination of social problems:

- Performance of administration - improvement:

- Maintenance of Rule of law:

9. Conclusion:

Administrative law is the law governing the Executive, to regulate its functioning and protect the common citizenry from any abuse of power exercised by the Executive or any of its instrumentalities. It is a new branch of law which has evolved with time and shall cont evolve as per the changing needs of the society. The aim of administrative law is not to take away the discretionary powers of the Executive but to bring them in consonance **with the ‘Rule of law’.**

**Rule of law**

**Rule of law**, the mechanism, process, institution, practice, or [norm](https://www.britannica.com/dictionary/norm) that supports the equality of all citizens before the [law](https://www.britannica.com/topic/law), secures a nonarbitrary form of [government](https://www.britannica.com/topic/government), and more generally prevents the arbitrary use of power. Arbitrariness is typical of various forms of despotism, [absolutism](https://www.britannica.com/topic/absolutism-political-system), [authoritarianism](https://www.britannica.com/topic/authoritarianism), and [totalitarianism](https://www.britannica.com/topic/totalitarianism). Despotic governments include even highly institutionalized forms of rule in which the entity at the apex of the power structure (such as a [king](https://www.britannica.com/topic/king-monarch), a [junta](https://www.britannica.com/topic/junta), or a party committee) is capable of acting without the constraint of law when it wishes to do so.

Ideas about the rule of law have been central to political and legal thought since at least the 4th century BCE, when [Aristotle](https://www.britannica.com/biography/Aristotle) distinguished “the rule of law” from “that of any individual.” In the 18th century the French political philosopher [Montesquieu](https://www.britannica.com/biography/Montesquieu) elaborated a doctrine of the rule of law that contrasted the [legitimate](https://www.merriam-webster.com/dictionary/legitimate) authority of [monarchs](https://www.britannica.com/topic/monarchy) with the [caprice](https://www.merriam-webster.com/dictionary/caprice) of [despots](https://www.merriam-webster.com/dictionary/despots). It has since profoundly influenced Western [liberal](https://www.britannica.com/topic/liberalism) thought.

In general, the rule of law implies that the creation of laws, their enforcement, and the relationships among legal rules are themselves legally regulated, so that no one—including the most highly placed official—is above the law. The legal constraint on rulers means that the government is subject to existing laws as much as its citizens are. Thus, a closely related notion is the idea of equality before the law, which holds that no “legal” person shall enjoy privileges that are not extended to all and that no person shall be [immune](https://www.britannica.com/dictionary/immune) from legal sanctions. In addition, the application and adjudication of legal rules by various governing officials are to be impartial and consistent across equivalent cases, made blindly without taking into consideration the class, status, or relative power among disputants. In order for those ideas to have any real purchase, moreover, there should be in place some legal apparatus for compelling officials to submit to the law.

Not only does the rule of law entail such basic requirements about how the law should be enacted in society, it also implies certain qualities about the characteristics and content of the laws themselves. In particular, laws should be open and clear, general in form, universal in application, and knowable to all. Moreover, legal requirements must be such that people are able to be guided by them; they must not place undue [cognitive](https://www.merriam-webster.com/dictionary/cognitive) or behavioral demands on people to follow. Thus, the law should be relatively stable and [comprise](https://www.merriam-webster.com/dictionary/comprise) determinate requirements that people can consult before acting, and legal obligations should not be retroactively established. Furthermore, the law should remain internally consistent and, failing that, should provide for legal ways to resolve contradictions that can be expected to arise.

Despite those basic features, however, there has never been a generally accepted or even systematic formulation of the rule of law (but not for lack of attempts by jurists and political philosophers). The idea that the law should contribute to [beneficial](https://www.merriam-webster.com/dictionary/beneficial) ways of channeling and constraining the exercise of public power can be interpreted in different ways; such differences are especially apparent over time and across different polities.

## Institutions and legal culture

For such reasons, the rule of law is best seen not as a blueprint for institutional design but as a value, or cluster of values, that might inform such a design and that can therefore be pursued in a variety of ways. Nonetheless, several rather simple and generalizable institutional insights follow from the idea that those who judge the legality of exercises of power should not be the same as those who exercise it. For instance, a typical rule-of-law state will institutionalize some means of shielding legal officials from interference, political or otherwise, that threatens their independence. Accordingly, the institutional separation of the [judiciary](https://www.britannica.com/topic/judiciary) from other branches of government is commonly thought to be an important feature of rule-of-law states. Other measures to ensure fair access to legal institutions may also be important for rule-of-law [regimes](https://www.britannica.com/dictionary/regimes). In addition, a binding written [constitution](https://www.britannica.com/topic/constitution-politics-and-law) is widely believed to aid the rule of law and has been adopted by most states of the world.

While certain institutional traditions and conventions, as well as written laws, may be important to ensure that judicial decisions are grounded within plausible interpretations of existing laws, no single institutional character of a state should be seen as necessary or sufficient to the rule-of-law ideal. The rule of law is tied neither to any one national experience nor to any set of institutions in particular, although it may be better served in certain countries and by some institutions. Moreover, the institutional arrangements that ensure the rule of law in one polity might not be easily duplicated in or transplanted to another. Different polities embody their own judgments about how to [implement](https://www.merriam-webster.com/dictionary/implement) specific rule-of-law ideals given their particular legal and cultural traditions, which naturally influence the character of their institutions. Nonetheless, the initial sociological condition for the rule of law is shared across cultures: for the rule of law to be more than an empty principle, most people in a society, including those whose profession it is to administer the law, must believe that no individual or group should be above the law.

# Challenges to the rule of law

Anyone who holds that what matters most in politics is having the right people in power and not how power should be [constrained](https://www.britannica.com/dictionary/constrained) will be unconvinced of the value of the rule of [law](https://www.britannica.com/topic/law). Neither will anyone who believes that institutions of public power are merely instruments of the ruling class that need to be dismantled rather than merely constrained. For the majority of modern [democratic](https://www.britannica.com/topic/democracy) societies, however, the rule of law’s requirement that both rulers and the ruled be accountable to the law is of unquestionable value. To be sure, in the modern world, it is the liberal tradition that values the rule of law most highly. Liberals who are concerned with ways of protecting (and realizing) liberty in some form and averting threats to it view the rule of law as an overarching source of security. Nonetheless, there is substantial disagreement even among liberals over what exactly counts as a faithful application of the term and, even when that is pinned down, how it is to be accomplished.

In itself, the notion of the rule of law is not a faithful description of any state of affairs but a complex ideal that is even more complex to realize. Thus, there is reason to be skeptical about whether societies necessarily benefit from all that might be [invoked](https://www.merriam-webster.com/dictionary/invoked) under the term. The independence of the [judiciary](https://www.britannica.com/topic/judiciary), for instance, is clearly a problem if the independence is misused to foster the sectoral privileges of judicial personnel or to allow unchallenged interpretations of the law. Heavy emphasis on the formal aspects of the rule of law—for example, on procedural justice—may distract from the content and consequences of those laws. Critics of a strictly formal [conception](https://www.merriam-webster.com/dictionary/conception) of the rule of law argue that too much attention to legal process generates significant vices of its own in the form of exaggerated legalism and neglect of the political or real-world dimensions of legal conflicts. Excessive veneration of the law and legal procedures may be too costly if it [inhibits](https://www.merriam-webster.com/dictionary/inhibits) independent social [assessments](https://www.merriam-webster.com/dictionary/assessments) of the merits of a given policy proposal or if the official [mandate](https://www.merriam-webster.com/dictionary/mandate) of “blindness” gives legitimacy to actions performed “according to the law” even when most people would oppose such acts. Some writers have charged, moreover, that the increasing domain of judges and lawyers—indeed, their encroachment into areas previously left to politicians and the electorate—entails the loss of much that is politically and democratically valuable.

In short, too much emphasis on procedures for preventing arbitrariness can lead to subverting the doing of [justice](https://www.merriam-webster.com/dictionary/justice) according to what might otherwise find support in the rule of law, and the legal strictures then become themselves a form of arbitrariness that is no more [legitimate](https://www.merriam-webster.com/dictionary/legitimate). On the other hand, those who defend the negative value of the rule of law object to more [substantive](https://www.merriam-webster.com/dictionary/substantive) understandings of the ideal on the grounds that morally ambitious [aspirations](https://www.merriam-webster.com/dictionary/aspirations) about the rule of law threaten to purge the concept of its specificity and usefulness. They argue that to open the concept to a whole host of extralegal considerations about substantive justice and wider societal goals is to [conflate](https://www.merriam-webster.com/dictionary/conflate) ideas about “the rule of law” with notions about “the rule of good law,” such that any distinction between the two is reduced to nothing. As a consequence, no discussion of the rule of law can be complete without some philosophical reflection on law, including on its purpose and meaning.