

**POST GRADUATE DEPARTMENT OF LABOUR LAW AND
ADMINISTRATIVE LAW**

THIRD SEMESTER-OPTIONAL-IV

SUBJECT: ADMINISTRATIVE PROCESS AND LIABILITY

Objectives of the course

The administrative explosion of the 19th century in the common law world brought in new norms of relationship between the state and its citizens. In due course, the continental strategies of control over administration had their influence. Along with this the civil service and administrative agencies gained more and more importance when the state launched welfare programmes and became the guardian of the rights of individuals. The standards of administrative behaviour are moulded and supported through constitutional values in the lands of constitutional sovereignty. Necessarily, a student of law relating to administration should get a deep knowledge of the operation and changing phenomena of these standards from a comparative angle. This is so especially in the wake of technological revolution and its aftermath on the administration.

Judicial decisions in the common law world have formulated several duties and liabilities on the administrative hierarchy towards the citizens. Is the state in exercise of sovereign functions liable to compensate the affected persons? To what extent is the state in exercise of sovereign functions immune from liability? The state enters into contracts in more ways than one. Should there be standards of conduct laid down on the state when it does so? How can accountability be determined in all these areas? Open government is one of the significant attributes of good government in democracy. In what way these norms can be meticulously followed by the state in meting out administrative justice. There are problems a country like India does confront in her march towards good governance. The syllabus prepared with the above mentioned objective comprises of following 5 units to be spread over a semester.

Syllabus

1. Administrative Process

Nature and meaning – Development of Administrative Law with reference to French System and Common Law System - Changing dimensions of rule of law – Separation of powers – From rigidity to flexibility –Latimer House Principles – Judicial Functions of Administration - Delegated legislation Problems, process and control – Administrative discretion.

2. Liability of state

Tortious liability – Sovereign immunity – Commercial and non –commercial function – Contractual liability – Personal accountability and compensatory jurisprudence vis – a – vis right to life.

3. Privilege against disclosure

Concept of Privilege against disclosure- Right to information – Official secrecy – Executive privilege – Security of state and control on information – Judicial review.

4. Promissory estoppel

Promissory estoppel concept- Legitimate expectation- Constitutional dimensions of promissory estoppels

5. Ombudsman

The concept – Evolving Indian models – Lokpal and Lokayukta institutions – Commission of inquiry – Vigilance Commission – Inquiries by legislative Committees – Judicial inquiries- Comparative prospective- Scandinavian, UK& USA.

PRESCRIBED BOOKS AND JOURNALS:

Peter H. Schuck, Foundation of Administrative Law (1994),
Oxford, New York, Friedman, The State and the Rule of Law in a Mixed Economy,
Neville L. Brown and J.F. Garner, French Administrative Law
H.W.R. Wade, Administrative Law, Schwartz & Wade Legal
Judicial Review of Administrative Action (1955), D.D. Basu,
Comparative Administrative Law, (1998),
J.J.R. Upadhyay Administrative Law, (1998).
Neville L. Brown and J. F. Garner - French Administrative Law (1973), Chs. 5 & 6
Dicey - Law of the Constitution, Chs. 4, 12 & 13 Appendices I & II
Schwartz & Wade - Legal Control of Government, Chs. 5, 6 & 7
Davis - Discretionary Justice
I.P.Massey, Administrative Law
C.K.Takwani, Lectures on Administrative Law
S.P.Sathe, Administrative Law
Jain & Jain - Principles of Administrative Law (1993) Ch: 1, 2, 3 and 9.
De Smith - Judicial review of Administrative Action Ch 2
Donald C.Rowal-The Ombudsman (1966)
Indian Law Institute - Government Regulation of Private Enterprises, Chs. 1, 2 & 8
Jennings - The Law and the Constitution, Chs. 1, 2, 6 and Appendices I & II.
Markose A.T. - Judicial control of Administrative action in India - chapter on Historical
Introduction.
M.P. Jain, Cases and Materials on Administrative Law (1996), Vol.I, Wadha, Nagpur.
Donald C. Rowat - The Ombudsman
Schwartz - Introduction to American Administrative Law - Ch 9 & 10
Davis - Administrative Law - Cases - Texts Problems, Chs 17, 25 & 26
Department of Law - Special Number of Cochin University Law Review on Social Action
a) Litigation (1984), pp. 433-446, 493-502, 516-522 & 439 & 546
Anderson & Moore - Establishing Ombudsman offices : Recent Experience in the United
States.
Brown and Garner - French Administrative Law (1973), Ch. 8
Subhash Chandra Gupta - Ombudsmen (1995)
Jain & Jain, Principles of Administrative Law (1986), Tripathi
De Smith, Judicial Review of Administrative Action (1995).
B.Schwartz, An Introduction to American Administrative Law.
