

DR. SUBHASHRAO DHAKNE LAW COLLEGE
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Class: LLB – 2nd Year Subject: Administrative Law Sem: III

Asst Prof: Jaiswal N. A.

A) Write any three questions out of five.

Q.1) Define Administrative Law. Discuss its nature, scope and growth in India.
How does it differ from Constitutional Law?

Q.2) Explain the Concept of the Rule of Law. How has the Indian Judiciary interpreted and applied this doctrine in administrative Law?

Q.3) What is delegated legislation? Discuss its necessity, advantages and safeguards.
How is it controlled in India?

Q.4) Explain the Concept of Judicial Review in administrative actions can be Judicially reviewed in India?

Q.5) Critically evaluate the liability of State in contractual and tortious matters? Discuss the importance in ensuring accountability in governance.

Seminar

B) Write and present any 1 out of 5.

- 01) Principles of Natural Justice
- 02) Administration Discretion
- 03) Doctrine of Separation of Power
- 04) Lokpal & Lokayukta.
- 05) Right to Information Act.

C) Select and rewrite the correct answer. (All multiple-choice questions are compulsory)

01) Delegated Legislation cannot be controlled by

- a) Judiciary b) Parliament c) Executive d) Press

Correct Ans: _____

02) Personal Bias means

- a) When the person sits as a judge and one of the parties is his relative.
- b) When he holds the shares in the company which is one of the parties Before him.
- c) When he wants some share in the property which is the subject matter of the dispute.
- d) When he wants to be elevated.

Correct Ans: _____ 03) Montesquieu propounded the theory of Separation of Power based on the model of

- _____
- a) United Kingdom c) United States of America

b) France d) India

Correct Ans: _____

04) A.K. Kraipak vs Union of India, is a landmark judgment in relation to

a) Bias c) Delegated legislation

b) Corporations d) Rule of law

Correct Ans: _____

05) Speaking Orders are the orders which are issued by

a) Administrative authorities b) Petitioners asking for relief c) Private trusts

d) Defendants defending their case

Correct Ans: _____

06) Under Right to Information Act: _____

a) b) c) d) Information is furnished on payment of fees as may be prescribed

Information is given free of cost

Information regarding police enquiry is given free

Information provided by authorities are given free

Correct Ans: _____

07) Which of these is not a public corporation:

a) N. G. O. for disabled persons c) Reserve Bank of India b) Oil & Natural Gas Commission

d) Damodar Valley Corporation.

Correct Ans: _____

08) Whether employees of public corporations are government servants:

a) No b) Yes c) Sometimes d) Only till his retirement.

Correct Ans: _____

09) In central services categories like sweepers, gardeners, peons, etc. are Classified as:

a) Class IV service c) Class III service

b) Class II service d) Not classified at all.

Correct Ans: _____

10) The Chairman or any member of the Public Service Commissions in India Can be

removed: _____.

a) b) Only by President Only if he is adjudged insolvent c) Only by the appointing committee

d) Only if he is guilty of misbehaviour.

Correct Ans: _____

Q.1) Define Administrative Law. Discuss its nature, scope and growth in India. How does it differ from Constitutional Law?

Meaning & Definition of Administrative Law

Administrative Law is that branch of law which governs the organization, powers, functions, and procedures of administrative authorities. It regulates the relationship between the government and the citizens and ensures that administrative actions are fair, reasonable, and within the legal framework.

Scholarly Definitions

- **Dicey:** Administrative law determines the position and liability of all state officials.
- **Jennings:** Administrative law is the law relating to administration; it determines the organization, powers and duties of administrative authorities.
- **K.C. Davis:** Administrative law is the law concerning the administration; it includes powers, organisation, procedures, and judicial review of administrative actions.

In simple terms:

Administrative Law is the law that controls the exercise of governmental power and protects citizens from arbitrary administrative actions.

Nature of Administrative Law

1. **Part of Public Law:** It deals with the functioning of public authorities rather than private disputes.
2. **Dynamic and Evolving:** It keeps changing with the growth of government functions.
3. **Remedial in Nature:** Provides remedies like judicial review, writs, and tribunals to ensure justice.
4. **Principle of Fairness:** Based on natural justice (audi alteram partem, nemo judex in causa sua).

5. **Concerned with Discretionary Powers:** Regulates how administrative discretion should be exercised.
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Scope of Administrative Law

The scope of administrative law has expanded widely due to modernization and welfare governance. It includes:

1. **Rule-making powers of administration** (delegated legislation)
 2. **Administrative adjudication** (tribunals, commissions)
 3. **Inquiry and investigation powers**
 4. **Disciplinary actions against public servants**
 5. **Public corporations and government companies**
 6. **Judicial control over administrative actions**
 7. **Liability of the State** (contractual & tortious)
 8. **Administrative discretion and its abuse**
 9. **Principles of Natural Justice**
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Growth and Development of Administrative Law in India

The growth of administrative law in India has been influenced by social-economic developments and judicial innovations.

Pre-Constitution Era

- British rule introduced administrative institutions like revenue boards and police.

- Courts followed British principles of natural justice and fairness.

Post-Constitution Era

- The Constitution of India established a welfare state requiring wider administrative powers.
- Fundamental Rights and Directive Principles (Part III & IV) shaped administrative control.

Landmark Contributions

Case	Contribution
A.K. Kraipak v. Union of India (1969)	Blended administrative & quasi-judicial functions; natural justice expanded
Maneka Gandhi v. Union of India (1978)	Due process doctrine adopted; administrative action must be just, fair & reasonable
R.D. Shetty v. International Airport Authority (1979)	Govt bodies must act fairly & non-arbitrarily under Art. 14
S.P. Sampath Kumar / L. Chandra Kumar	Strengthened tribunal system with judicial review

Recent developments

- RTI Act (2005) improves transparency
- Lokpal & Lokayuktas Act (2013)
- Digitization & E-governance for accountable administration

Difference between Administrative Law and Constitutional Law

Basis	Constitutional Law	Administrative Law
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Meaning	Supreme law of the land governing structure & functioning of the State	Law governing powers & procedures of administrative authorities
Source	Constitution of India	Acts, rules, ordinances, case law, delegated legislation
Scope	Broader – includes all organs of the State	Narrow-based – only executive/administrative organs
Rights	Provides Fundamental Rights	Provides remedies against administrative wrongs
Control Mechanism	Constitution is superior & rigid	Flexible and dynamic
Purpose	Establishes the framework of government	Ensures fair and efficient administration

Administrative law is essential in modern governance due to the growing role of the State in public welfare. It acts as a **check on arbitrary exercise of power**, promotes **fairness, transparency, and accountability**, and protects citizens' rights. While it derives support from constitutional principles, it is a distinct body of law focused specifically on administrative functioning.

Q.2) Explain the Concept of the Rule of Law. How has the Indian Judiciary interpreted and applied this doctrine in Administrative Law?

Meaning of Rule of Law

The **Rule of Law** is a fundamental principle of democratic governance which means that **law is supreme** and **no person is above the law** — whether the government or its officials. It ensures fairness, equality, and accountability in the exercise of governmental powers.

In simple words:

"Government must act according to law, not according to its whims or arbitrary power."

Origin and Concept (A.V. Dicey)

A.V. Dicey popularized the concept of Rule of Law. According to him, the doctrine rests on **three main principles**:

Dicey's Principle	Explanation
Supremacy of Law	No arbitrary authority; punishment only for breach of law
Equality before Law	Equal subjection of all persons to ordinary courts
Predominance of Legal Spirit	Constitution is the result of rights enforced by courts

However, modern governance expanded this concept to include **social justice, fairness, and due process**.

Rule of Law in the Indian Constitution

The Rule of Law is not expressly mentioned in the Constitution, but it forms a **basic feature** of the Constitution. It is reflected in:

- **Preamble** – Justice, Liberty, Equality
 - **Article 14** – Equality before law and equal protection of laws
 - **Article 21** – Due process of law (after Maneka Gandhi case)
 - **Article 32 & 226** – Judicial review and writ jurisdiction
 - **Directive Principles of State Policy** – Good governance and welfare State
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Judicial Interpretation in India

Indian judiciary has played a crucial role in strengthening the Rule of Law through landmark judgments:

Case	Judicial Contribution
A.D.M. Jabalpur v. Shivkant Shukla (1976 – Emergency case)	Initially weakened Rule of Law (rights suspended), later criticized and reversed
Maneka Gandhi v. Union of India (1978)	Expanded Article 21; due process + fairness + reasonableness
Kesavananda Bharati v. State of Kerala (1973)	Rule of Law made part of Basic Structure Doctrine ; Parliament cannot destroy it
Indira Nehru Gandhi v. Raj Narain (1975)	Govt acts are subject to Rule of Law & judicial review
A.K. Kraipak v. Union of India (1969)	Administrative actions must follow natural justice
R.D. Shetty v. International Airport Authority (1979)	Govt contracts must be fair & non-arbitrary under Article 14
Olga Tellis v. Bombay Municipal Corporation (1985)	Right to livelihood under Article 21; no arbitrary eviction
Union of India v. R. Gandhi (2010)	Independent judiciary essential to Rule of Law

Through these cases, courts ensured:

- No arbitrary state actions
- Fair procedure (natural justice)
- Equality in government functioning
- Protection of fundamental rights
- Judicial review of administrative action

Rule of Law in Administrative Law

In administrative law, Rule of Law ensures:

1. **Control of discretionary power**
2. **Prohibition of arbitrary and unfair decisions**
3. **Right to fair hearing**
4. **Availability of writs (Certiorari, Mandamus, Habeas Corpus, etc.)**
5. **Review of delegated legislation**
6. **Accountability of public officials**
7. **Protection of public interest**

Thus, Rule of Law acts as a safeguard against abuse of administrative power.

Modern Meaning of Rule of Law

Modern understanding includes:

- **Fair procedure**
 - **Due process + Natural Justice**
 - **Human rights protection**
 - **Judicial independence**
 - **Transparency & accountability**
 - **Welfare governance**
-

Conclusion

The Rule of Law is the foundation of governance in India. The judiciary has consistently protected this principle by **ensuring fairness, equality, and accountability** in administrative actions. It remains the cornerstone for **checking arbitrary power** and upholding democratic values.

Rule of Law = Power must serve the people, not rule over them.

Q.3) What is delegated legislation? Discuss its necessity, advantages and safeguards. How is it controlled in India?

Meaning of Delegated Legislation

Delegated legislation means law-making by an authority other than the legislature, but under the authority of the legislature. The legislature lays down the basic framework and delegates power to administrative bodies to make detailed rules, regulations, bye-laws, orders, notifications etc.

In simple terms:

Parliament or State Legislature passes a law and authorizes the executive/administrative body to frame detailed rules for its implementation.

Example:

- Parliament passes a law on Motor Vehicles
 - Transport Ministry makes rules regarding driving license, speed limits, safety norms
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Reasons / Necessity of Delegated Legislation

Delegated legislation has become necessary in modern administration due to:

Reason	Explanation
Technical Expertise	Modern laws require specialized knowledge (tax, health, environment, cyber laws)
Lack of time	Legislatures cannot frame every detailed rule
Flexibility	Rules can be changed quickly without full legislative process
Emergency Powers	Immediate action required in situations like epidemics, war, disaster
Detailed Nature of Laws	Laws today involve minute regulatory details
Experiments	Govt may test and modify schemes before finalizing policies

Advantages of Delegated Legislation

- 1. Saves time of legislature**
- 2. Brings technical and expert inputs**
- 3. Provides flexibility and adaptability**
- 4. Useful in emergencies**

5. Helps in speedy implementation
 6. Allows experimental and local laws
 7. Eases administrative burden
-

Dangers / Disadvantages

1. Possibility of misuse of power
2. Lack of transparency
3. Reduces parliamentary control
4. Arbitrariness and abuse
5. Complex rules confuse citizens

Hence, proper controls and safeguards are necessary.

Safeguards Against Abuse of Delegated Legislation

Type	Safeguard
Constitutional	Rule of law, Natural justice, Fundamental Rights
Judicial	Courts can strike down ultra-vires rules

Legislative **Parliamentary scrutiny, committees**

Procedural **Publication, laying procedures, consultation**

Public **RTI, media, public participation**

Control of Delegated Legislation in India

Control operates in three ways:

1. Legislative Control

- **Laying Procedure – Rules placed before Parliament for approval**
 - *Simple lay, Affirmative lay, Negative lay*
- **Parliamentary Committees**
 - **Committee on Subordinate Legislation (Lok Sabha & Rajya Sabha)**
- **Power to suspend/modify rules**
- **Questions and debates in legislature**

2. Judicial Control

Courts can strike down delegated legislation on grounds of:

Grounds

Explanation

Ultra-vires

**Beyond the legislative
power**

Violates Constitution

**Contradicts Fundamental
Rights**

Contrary to parent Act

**Goes beyond the scope of
original law**

**Arbitrariness /
Unreasonableness**

**Against natural justice /
public interest**

**** Mala fide****

**Bad intention or abuse of
power**

Case Laws

Case

Principle

Delhi Laws Act Case (1951)

**Validated delegation but not essential
legislative functions**

A.K. Roy v. Union of India

Rules must conform to the Act

**Hamdard Dawakhana v.
Union of India**

Excessive delegation not allowed

Vasu Dev Singh v. Union of India

Reasonableness is required

✓ 3. Procedural Control

- **Publication of rules**
 - **Prior consultation**
 - **Public participation**
 - **Rule-making guidelines**
-

Importance in Administrative Law

Delegated legislation is essential for modern governance because it makes administration efficient, flexible, and responsive. But it must always operate under the rule of law and be subject to proper checks.

Delegated legislation is a necessary feature of modern administrative states, enabling specialized and rapid rule-making. However, to avoid misuse and ensure governance remains democratic and fair, strong legislative, judicial, and procedural controls are essential. India follows a balanced system where delegation is allowed but excessive delegation and arbitrariness are prohibited.

Legislature makes the law, Executive fills in the details, and Judiciary keeps a check.

Q.4) Concept of Judicial Review in Administrative Law and Reviewable Administrative Actions

Introduction

Judicial Review is the power of the judiciary to examine actions of the executive and legislature and declare them invalid if they violate the Constitution, law, principles of natural justice, or fundamental rights. In administrative law, judicial review ensures that public authorities act fairly, reasonably, and within the scope of their powers.

Meaning of Judicial Review

Judicial Review refers to the authority of courts to:

- **Examine the legality of administrative actions**
- **Check abuse or misuse of power**
- **Ensure fair procedure**
- **Protect rights of citizens**

It is a basic principle to maintain Rule of Law in a democratic system.

Constitutional Basis in India

Judicial Review flows from:

1. **Article 32 – Supreme Court power to enforce fundamental rights**
2. **Article 226 – High Courts' power to issue writs**

3. **Article 13 – Laws inconsistent with fundamental rights are void**
4. **Basic Structure Doctrine – Judicial review is a basic feature of the Constitution (Kesavananda Bharati case)**

Thus, judicial review cannot be removed by any law or amendment.

Objectives of Judicial Review

- **Prevent arbitrariness in administration**
- **Ensure fairness and natural justice**
- **Protect fundamental rights**
- **Maintain separation of powers**
- **Uphold the rule of law**

Courts do not evaluate policy merits, only legal validity and fairness.

Grounds for Judicial Review

Judicial review in administrative law arises on following grounds:

1. **Illegality**
Acting beyond legal authority (Ultra vires)
2. **Irrationality / Unreasonableness**
Decision so unreasonable that no reasonable authority would take it (Wednesbury principle)
3. **Procedural Impropriety**
Violation of natural justice

4. **Malafides (Bad Faith)**
Improper purpose or corrupt motive
 5. **Error of Law or Fact**
Misinterpretation of law or ignoring relevant evidence
 6. **Proportionality**
Action must not be excessive compared to its objective
-

Reviewable Administrative Actions

The following actions are subject to judicial review:

1. **Administrative orders affecting rights**
 2. **Quasi-judicial decisions**
 3. **Disciplinary proceedings**
 4. **Licensing and permit decisions**
 5. **Government tenders and contracts**
 6. **Taxation and revenue matters**
 7. **Delegated legislation (rules, regulations)**
 8. **Public employment matters**
 9. **Violation of natural justice**
 10. **Actions violating fundamental rights**
-

When Courts Do Not Interfere

Courts generally do not interfere in:

- **Pure policy matters**
- **National security and defence decisions**
- **Economic and financial policies**
- **Political matters**
- **Administrative discretion, unless misused**

Important Case Laws

Case	Principle
Kesavananda Bharati v. State of Kerala	Judicial review is part of basic structure
Maneka Gandhi v. Union of India	Administrative actions must be fair, just, and reasonable
A.K. Kraipak v. Union of India	Natural justice applies to administrative decisions
R.D. Shetty v. International Airport Authority	Govt contracts must follow Article 14

Conclusion

Judicial review is the cornerstone of administrative law in India. It ensures that administrative authorities act lawfully, reasonably, and fairly, protecting citizens against arbitrary exercise of power. While courts respect administrative discretion and policy decisions, they intervene to maintain rule of law, constitutional supremacy, and public justice.

Q.5) Liability of State in Contractual and Tortious Matters – Explained

Meaning of State Liability

State liability means the responsibility of the government for wrongful acts or breach of obligations committed by its officials. In modern law, the State is not fully immune; it can be held liable like a private person in many cases.

A) Liability of State in Contractual Matters

Constitutional Basis

- **Article 299 of the Indian Constitution governs government contracts.**
- **Contracts must:**
 1. **Be expressed in the name of the President/Governor**
 2. **Be executed by an authorized person**
 3. **Follow prescribed procedures**

If these conditions are not fulfilled, the contract is void and unenforceable.

When State is Liable

- **When a valid contract exists and procedural requirements are followed**

- The government must act fairly, reasonably, and in good faith
- Arbitrary termination can be challenged in court

Case Law

- Bihar Eastern Gondna Co. v. State of Bihar
Valid contracts with the State are legally enforceable.
-

B) Liability of State in Tortious Matters

Meaning

Tortious liability refers to liability for wrongful acts, negligence or misconduct of government employees.

Historical Rule

- Derived from P & O Steam Navigation Co. v. Secretary of State
- Distinction between:
Sovereign functions (no liability)
Non-sovereign functions (State liable)

Important Case

- Kasturi Lal v. State of UP
Government not liable for acts done during sovereign functions (police powers).

Modern View

Courts increasingly hold State liable, especially where fundamental rights are violated.

Examples where State is held liable:

1. **Illegal detention**
2. **Police brutality**
3. **Custodial deaths**
4. **Negligence in public duty**

Leading Case

- **Nilabati Behera v. State of Orissa**
Compensation awarded for custodial death – State responsible for protection of life under Article 21.
-

C) Importance of State Liability in Governance

State liability ensures:

- **Rule of law**
 - **Accountability and transparency**
 - **Protection of citizens' rights**
 - **Prevention of arbitrary actions**
 - **Responsibility in public administration**
 - **Public trust and confidence in government**
-

Conclusion

The law on State liability in India has evolved from rigid sovereign immunity to greater accountability. While some sovereign functions still enjoy protection, the modern trend emphasizes justice, equality, and protection of citizens' rights. The

State must be held responsible for wrongful acts and breach of valid contracts to ensure a fair and democratic system of governance.

1. Seminar Topic: Principles of Natural Justice

Introduction

Natural justice is a fundamental principle of administrative law that ensures fairness in decision-making. It protects individuals from arbitrary exercise of power by administrative and quasi-judicial authorities. The core idea is that every person must be given a fair opportunity to present their case and decisions affecting rights must be just, reasonable and unbiased.

Natural justice is not defined in any statute, but it is recognized by Indian Constitution and judicial decisions as an essential requirement of fair procedure under Articles 14 and 21.

Meaning of Natural Justice

Natural Justice refers to **basic procedural fairness** guaranteed by law. It is based on the concept of *fair play in action* and aims to prevent miscarriage of justice.

It includes:

- Fair hearing
 - Absence of bias
 - Reasoned decision making
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Principles of Natural Justice

1. Audi Alteram Partem (Right to Fair Hearing)

This means *hear the other side*. No person shall be condemned unheard.

Key elements:

- Notice of hearing
- Opportunity to present evidence and arguments
- Right to cross-examine witnesses

- Right to legal representation (when required)

A fair hearing ensures transparency and protects individuals from unjust and arbitrary decisions.

2. Nemo Judex in Causa Sua (Rule Against Bias)

No one shall be a judge in their own cause. Decision-makers must be impartial and free from bias.

Types of bias:

- Personal bias
- Pecuniary (financial) bias
- Official or departmental bias

Even the **likelihood of bias** is sufficient to invalidate a decision.

3. Reasoned Decision (Speaking Order)

Authorities must record reasons for their decisions. A reasoned order shows:

- Application of mind
- Basis of decision
- Transparency and fairness

It also helps appellate authorities and promotes accountability.

Exceptions to Natural Justice

Natural Justice may not apply in cases of:

- Emergency situations
- Public safety and national security matters
- Legislative actions

- Confidential matters
- Where statute expressly excludes natural justice

However, courts strictly interpret exceptions to prevent misuse.

Judicial Interpretation and Important Cases

1. **A.K. Kraipak v. Union of India**
Natural justice applies to both judicial and administrative actions.
 2. **Maneka Gandhi v. Union of India**
Fair procedure is part of Article 21; administrative actions must be just, fair, and reasonable.
 3. **Ridge v. Baldwin**
Any decision taken without giving the affected person a hearing is void.
-

Importance of Natural Justice

Natural justice ensures:

- Protection of individual rights
- Transparency in administration
- Prevention of arbitrariness
- Promotion of public confidence in justice system
- Rule of law and fairness in governance

It strengthens democratic administration and prevents abuse of power.

Conclusion

Principles of natural justice form the foundation of fair governance and judicial system. They uphold the constitutional promise of equality and fairness. In India, through judicial creativity, these principles have evolved into a powerful mechanism to safeguard citizens' rights against arbitrary administrative actions. Therefore, natural justice remains an essential pillar for maintaining justice, rule of law, and faith in public authorities.

2. Seminar Topic: Administrative Discretion

Introduction

Administrative discretion refers to the power given to administrative authorities to make decisions according to their judgment in situations where the law does not prescribe a specific action. In a modern welfare State, government functions are increasing, and strict rules cannot cover every situation. Therefore, administration needs discretionary power to act efficiently and respond to changing needs of society.

However, this discretion must be exercised **fairly, reasonably, and without arbitrariness**, because uncontrolled discretion may lead to abuse of power and violation of citizens' rights.

Meaning of Administrative Discretion

Administrative discretion is the authority granted to government officials to make decisions based on their understanding of facts and circumstances when the law provides options rather than fixed rules.

In simple terms:

When law allows a government authority to choose among several possible decisions, the choice is called *administrative discretion*.

Example:

Granting a passport, issuing a license, suspension of an employee, police action during an emergency.

Need for Administrative Discretion

1. **Complexity of modern government functions**

Laws cannot cover every situation; discretion helps fill gaps.

2. **Public welfare activities**

Planning, social schemes, public health, and safety require flexible decisions.

3. **Emergencies and urgent situations**

War, epidemics, natural disasters require immediate action.

4. **Expert and technical decisions**

Tax assessment, education, environment, and industrial regulation need expert judgment.

5. **Efficient administration**

Helps avoid delay by not seeking legislative permission every time.

Dangers of Administrative Discretion

1. Possibility of **arbitrary decisions**
2. **Misuse of power** and corruption
3. Violation of **fundamental rights**
4. **Discrimination** based on personal bias
5. Lack of transparency and accountability

Therefore, discretion must be controlled and monitored.

Controls on Administrative Discretion

To prevent misuse, the following controls exist:

1. Judicial Control

Courts ensure discretion is not exercised arbitrarily.

Grounds for review:

- Abuse of power

- Mala fide intention (bad faith)
- Unreasonableness
- Violation of natural justice
- Acting beyond authority (ultra vires)

Case:

Maneka Gandhi v. Union of India

Court held that discretionary power must be fair, just, and reasonable under Article 21.

2. Legislative Control

- Clear guidelines in statutes
- Parliamentary committees
- Question hour and debates

3. Administrative Control

- Departmental supervision
- Internal appeals and review systems

4. Public Control

- Media and public opinion
- RTI Act ensuring transparency

Difference Between Discretion and Arbitrary Power

Administrative Discretion	Arbitrary Power
Guided by law	Without legal basis
Reasonable and fair	Unfair and biased

Subject to judicial review

Subject to
challenge

Serves public interest

Misuse of authority

Landmark Case Laws

1. **Maneka Gandhi v. Union of India**
Administrative powers must follow fairness and not violate fundamental rights.
 2. **Ram Manohar Lohia v. State of Bihar**
Unreasonable detention struck down; discretionary power must not be misused.
 3. **State of Punjab v. Khan Chand**
Discretion cannot be exercised on personal whims.
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Conclusion

Administrative discretion is a necessary instrument for effective governance in a democratic welfare State. Without discretionary power, administration would become rigid and inefficient. However, discretion must be exercised with **fairness, reasonableness, transparency, and accountability.**

3. Seminar Topic: Doctrine of Separation of Powers

Introduction

The Doctrine of Separation of Powers is a fundamental principle of constitutional law which divides the functions of government among three organs — **Legislature, Executive, and Judiciary**. The purpose of this division is to prevent concentration of power in one authority and ensure checks and balances in governance.

This doctrine promotes **rule of law, independence of judiciary, and fair administration.** Although absolute separation does not exist in India, the Constitution incorporates this doctrine with necessary flexibility suited to a welfare democracy.

Meaning of Separation of Powers

The Doctrine means:

- **Law-making power** with the Legislature
- **Law-enforcing power** with the Executive
- **Law-interpreting power** with the Judiciary

In simple terms:

Each organ of the government must perform its **own functions**, and none should exercise the powers of another.

Purpose and Objectives

1. **Prevent concentration of power**
 2. **Protect liberty and rights of citizens**
 3. **Ensure fairness and accountability**
 4. **Maintain efficiency in government functions**
 5. **Provide checks and balances among organs**
-

Application in India

India does not follow **absolute** separation but follows **functional separation**.

Legislature

- Makes laws
- Controls the Executive through questioning, debates, and no-confidence motions

Executive

- Implements laws
- Exercises certain legislative powers (e.g., **ordinance making** under Article 123)
- Performs administrative functions

Judiciary

- Interprets laws
- Exercises **judicial review** under Articles **32 and 226**
- Checks abuse of power

Thus, India has **separation of functions** and **checks and balances**, not strict separation.

Important Case Laws

1. **Kesavananda Bharati v. State of Kerala (1973)**
Separation of powers is part of the **Basic Structure** of Constitution.
 2. **Indira Nehru Gandhi v. Raj Narain (1975)**
Parliament cannot exercise judicial power; doctrine protected as constitutional principle.
 3. **State of Rajasthan v. Union of India (1977)**
Doctrine recognized as essential for proper functioning of the Constitution.
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Position in the United States and France (Short Note)

- **United States:** Strict separation; President cannot sit in legislature and judiciary independent.
- **France:** Absolute separation not followed; administrative courts exist.

India follows a **middle path**, ensuring flexibility and coordination among organs.

Doctrine of Checks and Balances

Even with separation, each organ controls the other to prevent misuse:

- Judiciary checks laws and executive actions through **judicial review**
- Legislature controls executive through **budget and debates**
- Executive influences legislature through **ordinances and policy proposals**

This prevents dictatorship and ensures balanced administration.

Conclusion

The Doctrine of Separation of Powers is essential for democratic governance. It prevents concentration of power, upholds the rule of law, and safeguards individual liberty. In India, this doctrine operates with a system of **checks and balances**, allowing cooperation among organs while preventing abuse of power.

Thus, it remains a vital constitutional principle ensuring fair, accountable, and efficient government.

5. Seminar Topic: Lokpal and Lokayukta

Introduction

Corruption undermines democracy, weakens public trust, and affects development. To fight corruption and ensure transparency and accountability in government functioning, the Lokpal and Lokayuktas Act, 2013 was enacted in India. This Act created a central-level anti-corruption body called **Lokpal** and state-level ombudsmen called **Lokayukta** to inquire into allegations against public officials.

Meaning

Lokpal:

An independent statutory authority at the national level to investigate corruption cases against public servants, including the Prime Minister, Ministers, Members of Parliament, and government officials.

Lokayukta:

A similar institution established at the state level to investigate complaints against state ministers and officials.

Background and Evolution

1. The concept was first suggested by the **Administrative Reforms Commission (1966)**.
 2. Several bills introduced since 1968 but not passed.
 3. Public movement led by **Anna Hazare in 2011** increased demand for anti-corruption law.
 4. **Lokpal and Lokayuktas Act passed in 2013** and became operational from 2019.
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Composition of Lokpal

The Lokpal consists of:

- **Chairperson**

- **Up to 8 members** (50% must be judicial members)
- **50% members must be women, SC, ST, OBC, or minorities**

Chairperson Eligibility:

- Former Chief Justice of India or Supreme Court Judge, or
 - Eminent person with expertise in anti-corruption law
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Jurisdiction of Lokpal

Lokpal can inquire into complaints against:

1. Prime Minister (with certain restrictions)
 2. Central Ministers
 3. Members of Parliament
 4. Group A, B, C, and D government officials
 5. Employees of public sector undertakings
 6. NGOs receiving government funds
-

Powers and Functions

1. Conduct inquiries and investigations into corruption charges
2. Order seizure of property and assets acquired illegally
3. Recommend prosecution or disciplinary action
4. Direct CBI and other agencies for further investigation
5. Power to search, seize, and summon witnesses

Lokpal has powers similar to a civil court while conducting inquiries.

Lokayukta at the State Level

- State governments must establish Lokayukta under the Act
- Powers and structure vary from state to state
- Deals with corruption cases relating to state ministers and officers

Some states like Karnataka and Maharashtra had Lokayukta even before the 2013 Act and are considered strong models.

Significance of Lokpal and Lokayukta

1. Strengthens fight against corruption
 2. Ensures government accountability and transparency
 3. Builds public trust in democracy
 4. Independent mechanism outside political influence
 5. Faster investigation and fair inquiry
-

Challenges and Limitations

1. Delay in operationalizing Lokpal after legislation
2. Dependence on other agencies like CBI
3. Lack of strong whistleblower protection
4. Political pressure and bureaucratic resistance
5. Variation in strength and powers of Lokayuktas among states

Recent Developments

- Lokpal office started functioning formally in 2019
- Investigations initiated against several high-ranking officials
- Increased demand for stronger Whistleblower Protection Law

Conclusion

The establishment of Lokpal and Lokayuktas is a major step toward fighting corruption and improving governance in India. However, their success depends on independence, resources, and support from government and public. Strengthening the Lokpal system will help build a transparent, accountable, and corruption-free administration, essential for a strong democracy.

C) Select and rewrite the correct answer.

1. Delegated Legislation cannot be controlled by
a) Judiciary b) Parliament c) Executive **d) Press**
Correct Ans: Press

2. Personal Bias means
a) When the person sits as a judge and one of the parties is his relative.
Correct Ans: a)

3. Montesquieu propounded the theory of Separation of Power based on the model of
a) United Kingdom **b) France** c) United States of America d) India
Correct Ans: France

4. A.K. Kraipak vs Union of India, is a landmark judgment in relation to
a) Bias c) Delegated legislation b) Corporations d) Rule of law
Correct Ans: Bias

5. Speaking Orders are the orders which are issued by
a) Administrative authorities
Correct Ans: Administrative authorities

6. Under Right to Information Act:
a) Information is furnished on payment of fees as may be prescribed
Correct Ans: a)

7. Which of these is not a public corporation:
a) N. G. O. for disabled persons
Correct Ans: NGO for disabled persons

8. Whether employees of public corporations are government servants:
a) No
Correct Ans: No

9. In central services categories like sweepers, gardeners, peons, etc. are classified as:
a) Class IV service
Correct Ans: Class IV service

10. The Chairman or any member of the Public Service Commissions in India can be removed:
d) Only if he is guilty of misbehaviour.
(Based on President acting after Supreme Court inquiry)
Correct Ans: Only if he is guilty of misbehaviour

