



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 3 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 3 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-3-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

CRITICAL ANALYSIS OF ROLE OF PUBLIC PARTICIPATION IN INDIAN ADMINISTRATIVE LAW

AUTHOR – A.H.HAROON NADHEEM, STUDENT AT THE TAMILNADU DR.AMBEDKAR LAW UNIVERSITY

BEST CITATION – A.H.HAROON NADHEEM, CRITICAL ANALYSIS OF ROLE OF PUBLIC PARTICIPATION IN INDIAN ADMINISTRATIVE LAW, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (3) OF 2024, PG. 300-302, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

This research critically examines the role of Public participation in Indian Administrative Law. Public participation in Indian administrative law is a pivotal element in fostering transparency, accountability, and inclusiveness within governance structures. As India grapples with complex socio-economic challenges, the role of citizen engagement has become increasingly significant in shaping effective and equitable public policy. This abstract explores the integration of public participation within the Indian administrative framework, highlighting its impact on decision-making processes and legal reforms. The Indian Constitution enshrines principles of democratic governance, and public participation serves as a mechanism to actualize these principles by involving citizens in administrative decision-making. Key legislative frameworks such as the Right to Information Act, 2005, and the National Environmental Policy, 2006, exemplify the legal mandates for public engagement. These laws provide avenues for citizens to access information, voice concerns, and contribute to policy development, thereby enhancing governmental transparency and responsiveness. Despite these advancements, challenges remain in fully realizing the potential of public participation in India.

INTRODUCTION:

In many advanced democracies, the power of lawmaking has shifted significantly from the legislative to the executive branch. Delegated by the legislature, the executive can make regulations with the same legal force as enabling statutes. As the delegation of legislative authority to executive agencies is broad, leaving large room for discretion, public participation and citizen engagement in rulemaking have emerged as a source of democratic legitimation.

This study not only contributes to an emerging literature that studies administrative law through methods of comparative policy analysis but also highlights the paradox that political systems are more likely to adopt rulemaking to enhance democratic legitimacy.

OBJECTIVES OF STUDY:

- To analyze the legislative and regulatory frameworks that mandate and facilitate public

participation in India.

- To assess how effectively public participation mechanisms are implemented in practice.
- To identify and analyze the challenges and barriers to effective public participation in administrative processes.

ROLE OF PUBLIC PARTICIPATION IN INDIAN ADMINISTRATIVE LAW:

Definition:

People's participation means participation of people of a country in the administrative process. The people's participation in administration can be studied under two heads, namely:

- a. Participation in general administration, and
- b. Participation in development administration.

Participation in general administration:

The people, being ignorant and unorganized, cannot generally have a definite and regular influence on administration. Hence, the public influence on the administrative process is mainly indirect and informal. However, there are certain formal modes of people's participation in administration. They are election, recall, pressure groups, advisory committees, and public opinion. Each element is analyzed separately as follows:

Election:

Representative democracy is classified into two kinds, namely, the Presidential Government and the Parliamentary Government.

People's confidence in a democracy, whether presidential or parliamentary, is tested when the government becomes insensitive, unresponsive, corrupt, irresponsible, and inefficient. It can be removed from office by means of periodic elections. Elections are the medium through which people express their confidence in the popular government. This is a characteristic attribute of Western democratic systems of government.

Recall:

It is a direct democratic device. It is used in Switzerland and thirteen states of the USA, where the administrative officials are directly elected by the people. The system of recall enables the people to remove the elected official from office before the expiry of his tenure, when he fails to represent their will. In other words, the official has to vacate office before the completion of his tenure if he is defeated in a recall poll. The device of recall can be used when the people are not satisfied with the performance of the elected official while in office, and it does not require any charges of illegal actions.

Pressure groups:

The term "pressure group" originated in USA. These groups are also called as interest groups or vested groups. They exert pressure on the administration to promote their objectives. They

influence the policymaking and policy-implementation in government through legal and legitimate methods like publicity, propagandizing, petitioning, and public debating, maintaining contacts with their legislators and so forth.

Advisory committees:

These are also called Advisory Councils or Boards. They are attached to the administrative system at all levels, from top to bottom. They consist of expert citizens and representatives of special interests. They act as a link between the administration and the public and provide advice to the government on administrative policies, problems, and procedures. The recommendations made by these agencies are only advisory in nature and are not binding on the department to which they are attached.

Public opinion:

Unlike the above formal modes, public opinion is an informal mode of people's participation in administration. Public opinion is expressed in relation to government policies and actions. It is expressed through various agencies like:

Press, Public platforms, Political parties, Radio, television, cinema, Pressure groups, educational, institutions, and so on. Of these, the independent press is the most effective agency of public opinion. It is described as the "fourth estate" of democracy. The importance of public opinion as a mode of people's participation in government and administration is highlighted by the following points:

- a) It influences the policies and programs of the government.
- b) It keeps the administration responsive and acts as a watchdog on it.
- c) It acts as a source of laws and facilitates their successful implementation.
- d) It safeguards individual liberty by keeping a check on unpopular and undemocratic activities of the government.

Participation in development administration:

People's participation in development administration means direct involvement of people in the process of administering development programs meant for bringing about socio-economic changes in society.

People participate in development administration through various mechanisms like Panchayati Raj institutions, cooperative institutions, mahila mandals, farmers service societies, yuvak kendras, and other voluntary/non-governmental organizations.

• People's participation in development administration is beneficial in various respects in that it:

- Provides administration a wealth of information on local socio-cultural, economic, ecological, and technical conditions. This information is highly useful in the process of planning, programming, and implementation of development programs.
- Leads to the selection of projects that are of direct relevance to the people.
- Facilitates mobilization of local resources in the form of cash, labor, materials, and so on, which are very essential for the program's success.

SUGGESTION:

- Here's the revised and expanded text with proper word splitting:
- Revise and expand existing legal frameworks to mandate more comprehensive and systematic public participation.
- Develop strategies to ensure that public participation mechanisms are accessible to all segments of society, including marginalized and underrepresented groups.
- Increase transparency by making information about administrative processes and decisions readily available to the public.

REFERENCE:

- Alexander, A.S. and Bhide,
- Arnstein, S.A. (1969). A Ladder of Citizen Participation. *Journal of American Institute of Planners*, Vol. 35(4), pp. 216-224.
- Baker, H.W., Admas, L.H., and Davis, B. (2005). Critical Factors for Enhancing Municipal Public Hearings. *Public Administration Review*, Vol. 65, No. 4, pp. 490-499.
- Burby, R.J. (2003). Making Plans that Matter: Citizen Involvement and Government Action. *Journal of the American Planning Association*, Vol. 69, No. 1, pp. 33-49.
- Delhi High Court (2002). *Delhi Science Forum vs. Delhi Development Authority*, CWP 4978 of 2002, 16 September 2002.
- Friedman, J. (1987). *Planning in the Public Domain: From Knowledge to Action*. Princeton University Press, U.S.